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PREM 19/1551

PART 10

MT

SECRET

Confidential Filing

Meetings with the Taoiseach.

Anglo - Irish Summit.

Anglo - Irish Relations.

IRELAND

Part 1: May 1979

Part 10: October 1985

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~4.10.85~~							
~~10.10.85~~							
~~13.10.85~~							
~~17.10.85~~							
~~29.10.85~~							
~~30.10.85~~							
~~1.11.85~~							
~~7.11.85~~							
31.10.85							
ENDS							

PREM 19/1551

PART 10 ends:-

MEA to PM 31.10.85

PART 11 begins:-

CDP to RTA 1-11-85

Cabinet / Cabinet Committee Document

The following document, which was enclosed on this file, has been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES.

Reference: CC(85) 30th Conclusions, Minute 5

Date: 31 October 1985

Signed A Wayland Date 20 May 2014

PREM Records Team

PRIME MINISTER

Charles Powell has told me that we need to fix a further meeting to discuss the Anglo/Irish Agreement one day next week, and that the meeting needs to take place before Wednesday lunch time.

This is, of course, very difficult from your point of view because of your speech on Wednesday afternoon. It is complicated further by the fact that the Foreign Secretary is away in Hanover on Tuesday and Sir Robert Armstrong is in Paris on Monday. The only possibility I can see at present is to schedule the meeting for 0900-0945 hours on Wednesday morning. But this would only be sensible if you are content that the speech will be effectively sorted out by then. The only alternative seems to be Sunday evening after your return from Chequers - which is probably even less desirable.

Content that I should fix the meeting for first thing on Wednesday?

No

Lillian G/R.

p.p. MARK ADDISON

31 October 1985

ADVANCE COPIES 21

NORTHERN IRELAND

SENT 1 OCT 1985

PS
PS/LADY YOUNG
PS/PUS
MR GOODALL

HD/RID
HD/PUSD (2)
HD/INFO DEPT
HD/NEWS DEPT

PS/ S of S
PS/MR R ANDREW, OAB 1/56
MR BRENNAN
MR BURNS
MR PN BELL
NIO

SIR R ARMSTRONG
DIO
CABINET OFFICE

PS/ NO 10 DOWNING STREET (3)

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ANGLO-IRISH TALKS

SUMMARY

1. DR FITZGERALD SAYS THAT AN AGREEMENT MUST INVOLVE DUBLIN SUFFICIENTLY TO REALLY AFFECT ALIENATION FELT BY THE MINORITY IN NORTHERN IRELAND.

DETAIL

2. IN AN INTERVIEW ON THE RTE TV CURRENT AFFAIRS PROGRAMME ''TODAY TONIGHT'' YESTERDAY EVENING , THE TAOISEACH SAID THAT THERE HAD TO BE A SUFFICIENT ELEMENT OF INVOLVEMENT OF IRISH GOVERNMENT IN ANY AGREEMENT WORKED OUT BETWEEN THE BRITISH AND IRISH GOVERNMENTS FOR THE MINORITY IN NORTHERN IRELAND TO FEEL THAT THE SYSTEM THAT OPERATED THERE WAS ONE THEY COULD IDENTIFY WITH: JUST AS THE UNIONISTS COULD IDENTIFY WITH IT BECAUSE OF THE BRITISH ELEMENT IN THE SYSTEM OF GOVERNMENT. HE HOPED THAT, ARISING FROM A SUCCESSFUL AGREEMENT WITH MRS THATCHER, THEY COULDMOVE RAPIDLY TO THE DESIRABLE POSITION WHERE POLITICAINS IN NORTHERN IRELAND WOULD BE ABLE TO SIT DOWN AND WORK OUT A DEVOLVED GOVERNMENT TOGETHER. HE SAID THAT WHAT CAME OUT OF THE AGREEMENT WOULD HAVE TO BE SUFFICIENT

[A totally false parallel]

TO REALLY AFFECT THE ALIENATION FELT BY THE MINORITY IN NORTHERN IRELAND AND TO MAKE IT EASIER FOR THEM TO ACCEPT THE POLITICAL SYSTEM THE SYSTEM OF AUTHORITY AND THE JUDICIAL SYSTEM. HE SAID THAT IF HE AND MRS THATCHER REACHED AGREEMENT ON NORTHERN IRELAND IN THE NEXT FEW WEEKS ''POLITICAL WILL WON'T BE IN DOUBT - I SPEAK FOR MYSELF. IF MRS THATCHER PUTS HER NAME TO AN AGREEMENT AND BELIEVES IT WORTHWHILE AND BELIEVES IT WORTH PURSUING, I BELIEVE SHE WILL SUPPORT IT FULLY AND THERE WILL BE NO BACKING DOWN'' ON THE QUESTION OF VIOLENCE FROM THE UNIONIST SIDE IN THE FACE OF ANY AGREEMENT , DR FITZGERALD SAID ''I BELIEVE THERE IS A GOOD CHANCE WE WILL COME OUT OF IT WITHOUT THAT PROBLEM MANIFESTING ITSELF.'' AND HE ADDED ''WE MUST MAKE THE ATTEMPT. IT INVOLVES SOME RISK. I BELIEVE THE RISK IS NOT AS GREAT AS SOME PEOPLE WOULD LIKE US TO BELIEVE''. HE OFFERED TO BRIEF THE OPPOSITION LEADER MR HAUGHEY

THE RISK IS NOT AS GREAT AS SOME PEOPLE WOULD LIKE US TO BELIEVE''. HE OFFERED TO BRIEF THE OPPOSITION LEADER MR HAUGHEY CONFIDENTIALLY BEFORE ANY AGREEMENT WAS ANNOUNCED. ''EVERY EFFORT SHOULD BE MADE TO GET BIPARTISANSHIP - IT IS IMPORTANT. WE MAY NOT SUCCEED IN THIS, BUT WE HAVE TO WTTEMPT IT. IF THE LEADER OF THE OPPOSITION WISHES TO HAVE CONSULTATIONS AND WISHED TO BE INFORMED IN ADVANCE OF DISUCSSIONS I WOULD BE PREPARED TO TALK TO HIM ON A CONFIDENTIAL BASIS.'' QUESTIONED ABOUT THE REMARKS ATTRIBUTED TO THE CHIEF CONSTABLE OF THE RUC SIR JACK HERMON IN THE UNITED STATES RECENTLY DR FITZGERALD SAID HE FELT THE CHIEF CONSTABLE HAD BEEN MISREPRESENTED. HE WAS NOT SAYING THAT THERE HAD NOT BEEN PROBLEMS BUT THE TWO GOVERNMENTS WERE NOT GOING TO BE PUT OFF COURSE BY ANY PROBLEM OF THAT KIND WHEN THERE WAS SOMETHING SO VITAL AT STAKE.

GOODISON

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DLLNAN 0393

NNNN

TKS

SECRET AND PERSONAL

PRIME MINISTER

ANGLO/IRISH RELATIONS: NORTHERN IRELAND

You will wish to consider Sir Robert Armstrong's minute about his latest meeting with Mr. Nally.

Most of the points in it are satisfactory. Ones which cause difficulty are:

i) paragraph 5: You have made clear that you are not prepared to have language on unification in the communique;

ii) paragraph 7: the Irish refusal to accept reference to "achieving a significant and lasting improvement in the policy of border areas" raises doubts about their intentions. Mr. King is anxious to discuss this with Mr. Barry and will let you have a recommendation. The wording tentatively agreed by RTA is actually not bad. But it is important to get a clear idea of what will actually happen, and this requires discussion at political level;

iii) paragraph 9: are we content with Irish assurances on the Convention? They seem ready to accept our request.

I have told RTA that postponing a further meeting with Nally until 11/12 November is leaving things too late if there are still problems to resolve. He will try to get him over here next Wednesday.

I think we shall need a further discussion with the Northern Ireland Secretary and the Home Secretary early next week.

Yes ok

C.D.P.

CHARLES POWELL

31 October 1985

32

Ref. A085/2770

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

This is a report on the main developments in the latest round of Armstrong-Nally talks.

Draft Agreement

2. The title "Intergovernmental Conference" was agreed.

3. On the various amendments we were instructed to seek, we ended up as follows:

Article 2(a): The Irish side were reluctant to lose the reference to Northern Ireland entirely. They asked us to consider:
"an Intergovernmental Conference (hereinafter referred as "the Conference") concerned with Northern Ireland and with relations between the two parts of Ireland, to deal, as set out in this Agreement, on a regular basis with: "
or "an Intergovernmental Conference (hereinafter referred to as "the Conference"), concerned with relations between the two parts of Ireland, to deal, as set out in this Agreement, on a regular basis and mainly in relation to Northern Ireland, with: "
As Ministers had agreed that we had some room for maneouvre on, and need not in the final analysis insist upon, the amendment

NOIAAR

that we had proposed, we undertook to consider the revised amendments proposed by the Irish side, and report back after discussion with Ministers.

Article 2(b): Deletion of first sentence agreed.

Article 3: In order to make it clear that the Conference could if necessary and agreed meet at Ministerial level with other Ministers than the two named joint Chairman, the sentence which reads: "Other British and Irish Ministers shall attend meetings as appropriate" is amended by agreement to read "Within the framework of the Conference other British and Irish Ministers may hold or attend meetings as appropriate."

The amendments to the last sentence, to delete "permanent" and add "on a continuing basis" were agreed.

Article 4(a)(ii): "throughout the island of Ireland" agreed.

Article 4(c): Our amendments, to delete "If full devolution has not taken place" and to add "the modalities of bringing about devolution", were agreed.

Article 7(d): The substitution for "explanations can be given" of "information can be provided" was agreed.

Article 8: The Irish were not keen on "The two Governments agree on the desirability of maintaining public confidence in the

NOIAAR

administration of justice".
We eventually agreed upon:
"The two Governments agree on the importance of public confidence in the administration of justice."

Joint Press Release

4. We agreed upon the following amendments:

Paragraph 3: To be amended in line with whatever amendment is agreed for Article 2(a) of the Agreement.

Paragraph 6: Delete "permanent"; remove square brackets round "on a continuing basis". Agreed.

Paragraph 12: First sentence to read "Both Governments recognise the importance of public confidence in the administration of justice". Agreed.

Joint Communiqué

5. We had a considerable discussion about how you and the Taoiseach could deal with questions about the status of Northern Ireland without affronting the susceptibilities either of the unionists or of the Irish constitution or of the Taoiseach's likely opponents in the Dail. We concluded that the best way of doing this might be to include in paragraph 4 of the communiqué an expanded reference to Article 1 of the Agreement, suitably drafted so that both you and the Taoiseach could refer back to it in all subsequent questions about status. We agreed, ad referendum, that the expanded reference should read as follows:

NOIAAR

"4. In the Agreement the two Government recognise as matters of fact that Ireland is not united and that Northern Ireland is part of the United Kingdom. Under the first Article the two Governments agree that any change in that situation would only come about with the consent of a majority of the people of Northern Ireland; recognise that the present wish of the majority is for no change; and declare that, if such consent were to be formally given, they would introduce and support legislation accordingly. This means that the unification of Ireland envisaged in the Irish Constitution would only come about if a majority of the people of Northern Ireland consented to it; and that consent does not now exist."

There would then be a new paragraph, incorporating the rest of the old paragraph 4, beginning:

"5. Succeeding Articles of the Agreement establish an Intergovernmental Conference..."

6. The reordering of the indents in paragraph 7 which we proposed was agreed. The new third (old second) indent was amended to read:

"- seeking measures which would give substantial expression to the aim of underlining the importance of public confidence in the administation of justice".

7. We proposed that the last clause in paragraph 9 shoudl be amended to read: "will give particular attention to achieving a significant and lasting improvement in the policing of border areas". This proposal led to a heated discussion in which the Irish adamantly refused to accept this amendment, or any amendment which implied criticism of the level of Irish policiing on the border. They pointed out that they had accepted an amendment of ours designed to remove any suggestion

that there was not full public confidence in the administration of justice in Northern Ireland. We made it clear that we had not been greately impressed, by the measures they had recently taken temporarily to strengthen Garda policing on the border. They said that their paper had not sought to be and should not be read as a comprehensive account of their long-term plans for policing the border: it was concerned only with the short-term reinforcement now in hand as a precaution against the possibility of an increase in terrorism as an immediate reaction to the signature of an agreement. We made it clear that, if an agreement was signed, we should be pressing them to make "significant and lasting" improvements in this area. In terms of the communiqué the furthest they were prepared to go was to amend the last part of paragraph 9 of the communiqué to read:

> "...consider how the two Governments can most effectively and durably develop their joint commitment to combat terrorism, giving particular attention to the policing of border ares".

We said that we had no authority to agree to anything other than the amendment we had proposed, and would have to report back to Ministers.

Presentation

8. I made it clear that, in presenting the reference to mixed courts, you would have to say that you had made our position clear to the Taoiseach in the terms used in your letter of 4 October. Mr Nally said that there was no objection to this.

9. On the European Convention on the Suppression of Terrorism, I said that Ministers here had wondered whether the Irish Government might prefer to say, in the communiqué that the "would introduce legislation in the Dail enabling them to accede to the Convention, rather than saying that they "intended

to accede" to the Convention. We could accept either formulation. What was important for us, whichever formulation was used, was that it should not then or subsequently be qualified by any condition attached to performance or progress in the matters covered in the Agreement or any specific matter in the Agreement. It would be acceptable to say no more than that "having regard to" or "in the context of" the Agreement, the Irish Government intended to accede to the Convention"; or of course to quote the actual words of the communiqué. Mr Nally said that this was acceptable, and undertook to discuss with the Taoiseach the alternative form of wording we had suggested.

10. I attach copies of the texts as they now stand, showing the amendments agreed or proposed in manuscript.

11. I am sending copies of this minute to the Secretaries of State for Foreign and Commonwealth Affairs and for Northern Ireland

ROBERT ARMSTRONG

31 October 1985

31

PRIME MINISTER

CABINET: NORTHERN IRELAND AFFAIRS

The note by Sir Robert Armstrong suggests that you might introduce the discussion briefly yourself. You will no doubt want to do so in a balanced way. We have not been able to achieve everything we want. The Irish Government have declined to repeal Articles 2 and 3 of their Constitution. The value of improved security cooperation no longer looks as clear cut as it did. We have no firm commitment from the SDLP to participate in moves towards devolved local government. The risk of misunderstanding between us and the Irish Government over the agreement will be quite high: they will claim that it gives them more than it really does: we are inhibited from spelling out publicly how little it gives them. The key factor to emphasise above all is that decisions about Northern Ireland remain the responsibility of HMG. On the positive side, the agreement concedes nothing significant and is an honest attempt to improve the present situation. It may be better to try and to fail than not to try at all. Unionist agitation so far is rather less than we might have expected. (You could refer to your meeting with Mr Molyneaux and Dr Paisley today.) Above all, failure to go ahead now would be a great disappointment to the Americans. Members of Cabinet will want to decide how the balance of advantage looks to them but you are convinced that it is on balance right to go ahead.

The Northern Ireland Secretary has raised an important point which is how we deal with questions from the press and from Unionists if Cabinet does reach agreement tomorrow. We shall no longer be able to say honestly that negotiations are still in progress. It might be better to avoid a formal decision in Cabinet this week and put it back on the Agenda for 7 or even 14 November for final decision so that we could truthfully say that no decisions have yet been reached

C.D.P.

C D POWELL

30 October 1985

CONFIDENTIAL

file

SLH

cc PC

10 DOWNING STREET

From the Private Secretary

Subject ce[illegible]

Master.

30 October 1985

Dear Jim,

NORTHERN IRELAND: CALL ON THE PRIME MINISTER BY THE RT. HON. JAMES MOLYNEAUX M.P. AND THE REVEREND IAN PAISLEY M.P

The Prime Minister saw Mr Molyneaux and Dr Paisley for nearly an hour this morning. The Secretary of State for Northern Ireland was also present. Both visitors seemed to me intent on displaying restraint and moderation in their remarks, in contrast to their subsequent press conference. The enclosed note which they left with the Prime Minister at the end of the meeting - Fair Play for Northern Ireland - purports to set out the points they made. In practice the tone of the meeting was much less sharp.

Mr Molyneaux opened by saying that in his judgment there had been a significant change since their last meeting with the Prime Minister in the background against which the Government's negotiations with the Republic were being conducted. It was now clear that the prospect of improved security cooperation was a chimera. The Irish side, whatever their intentions, would not be able to deliver on any commitments they made. This had been borne out not only by Sir John Hermon's comments but by remarks by the Irish Ambassador in London to the effect that the Garda and Irish Army were unable even to cooperate among themselves. Dr Paisley added that if the Republic were a civilised government, it would offer such improved cooperation without seeking any quid pro quo. They should not ask a price for doing the decent thing. The Northern Ireland Secretary said that violence in the North was on a plateau, indeed rising slightly. The only way to make a dent in it was through improved cooperation across the border. Such cooperation existed at present but could be improved.

Mr Molyneaux continued that neither his party nor Dr Paisley's wanted to see the United Kingdom and the

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Republic at loggerheads. Indeed they wanted closer and normal relations, so that the Irish Government would not haul the United Kingdom off to the European Court or lead the pack against us as over the Falklands. But they did not see any need to make special arrangements, within this broader move towards better relations, for six counties of the United Kingdom. Dr Paisley elaborated on this. The idea of a role for the Republic in the affairs of Northern Ireland was totally repugnant to the majority in the North. If there was to be an agreement with the Republic, people in the North should at least be consulted about it, whether by election or referendum. Northern Ireland had a special form of government and wished to preserve it. The Prime Minister said that she did not yet know whether an agreement would be reached with the Republic. If it was, it would not alter the fact that decisions about Northern Ireland would continue to be made by the United Kingdom alone (and decisions in the South by the Republic). The Assembly would of course remain, and could become the focus for devolved local government if arrangements which commanded widespread acceptance could be devised. Dr Paisley said that there was no reason to introduce the Republic into Northern Ireland's government, particularly when it had designs on the territory of Northern Ireland. So far as the Assembly was concerned, proposals would shortly be reaching the Government. The Prime Minister said that she did not see progress towards devolved local government as an alternative to agreement with the Republic but as complementary to it.

Mr Molyneaux said that people in the North were particularly worried about reports of a consultative role for the Republic. This would not be consistent with the guarantees given in the Northern Ireland Constitution Act 1973. Moreover, if whatever arrangement might be reached with the Republic had the status of an international agreement, there was always the risk that the Republic would claim that it had not been fully consulted about a particular decision of the Northern Ireland Secretary, or that its views had not been adequately taken into account. He recalled Appendix 6 to the Joint Declaration of 1969 (copy enclosed) under which the United Kingdom Government affirmed that responsibility for affairs in Northern Ireland was entirely a matter of domestic jurisdiction. He thought this might strengthen the Government's hand in negotiations with the Republic. The Prime Minister repeated that no agreement would affect HMG's responsibility for decisions in the North. But she would look closely again at the draft texts being discussed with the Republic to make sure that nothing would be conceded which conflicted with the Government's statutory obligations.

Dr Paisley said that people in the North were being unsettled by statements about the negotiations being made by

politicians in the South. He and Mr Molyneaux did not want a confrontation with the Government. There were signs at long last of an economic dawn in the North and they wanted to build upon it. But the secrecy of the current negotiations inevitably aroused fears. It also reduced his credibility and that of Mr Molyneaux when John Hume was kept fully briefed by the Republic while they were told nothing. The Prime Minister said that she had hoped her remarks at her press conference following the Chequers Summit had provided all the reassurance which people in the North required. She stood by everything she had said then, and it was on this basis that discussions with the Republic were proceeding. The Northern Ireland Secretary acknowledged the difficulty for the Unionist leaders: but there had to be strict confidentiality about negotiations between sovereign governments. All the Government could do was repeat the pledges and the assurances which they had given. An agreement with the Republic would not be a slippery slope. Dr Paisley said that the Prime Minister's statements gave hope and comfort to people in the North. But if something were to happen which looked like a sell-out, the Government would find itself dealing not any longer with him and with Mr Molyneaux but with men of violence. The Prime Minister recalled that she had pledged a full debate in Parliament. Dr Paisley said that he was not aiming for anarchy or stirring people up, provided that Unionists were satisfied with the outcome.

Mr Molyneaux said that both he and Dr Paisley accepted the assurances given by the Prime Minister. The problem hinged on the legal consequences of giving the Republic a consultative role. He was glad that the Prime Minister had given an undertaking to look closely at this. A consultative mechanism affecting the North alone would set Northern Ireland apart from the normal processes of consultation between sovereign governments. The Prime Minister repeated that she would look at the wording of the draft agreement closely. The Northern Ireland Secretary added that regular consultation with the Republic might help clear up the misunderstandings, often based on misinformation, which bedevilled relations with the Republic. The greater part of the work of any consultative mechanism would be in dealing with this sort of problem. If the Government were able to reach an agreement with the Republic which recognised that the border could not be changed without the consent of the majority, there could be real benefits for the North. One had to ask whether it was better to accept paralysis or seek a way through. Dr Paisley commented that the way through lay in an internal settlement in Northern Ireland. The Northern Ireland Secretary said that the Government hoped that an agreement with the Republic would encourage, not obstruct, progress towards devolution.

The Prime Minsiter asked why the Sinn Fein vote in the North was increasing. Mr Molyneaux said that people had the impression that the SDLP was in a rut and a spent force. The Government should urge them to concentrate on delivering the goods to their electors rather than on a high-wire act with the Dublin Government. Dr Paisley added that the SDLP could not be given a veto over devolution. And in his view the Government should look again at banning Sinn Fein.

Mr Molyneaux concluded that he and Dr Paisley and their supporters did not object to the Government discussing matters of common concern with the Republic. But they should try to avoid provision for structured consultations about Northern Ireland. That was where the problem would lie. Dr Paisley handed over a note of what he and Mr Molyneaux had been seeking to convey.

I enclose a transcript of the Northern Ireland Secretary's remarks to the press after the meeting.

I am copying this letter and enclosures to Len Appleyard (Foreign and Commonwealth Office) and Michael Stark (Cabinet Office).

yours sincerely,

Charles

CHARLES POWELL

J A Daniell, Esq.,
Northern Ireland Office

for the attention of Jim Molyneaux.

Appendix 6 : Joint Declaration of August 1969

(1) The United Kingdom Government re-affirm that nothing which has happened in recent weeks in Northern Ireland derogates from the clear pledges made by successive United Kingdom Governments that Northern Ireland should not cease to be a part of the United Kingdom without the consent of the people of Northern Ireland or from the provision in Section 1 of the Ireland Act 1949 that in no event will Northern Ireland or any part thereof cease to be part of the United Kingdom without the consent of the Parliament of Northern Ireland. The Border is not an issue.

(2) The United Kingdom Government again affirm that responsibility for affairs in Northern Ireland is entirely a matter of domestic jurisdiction. The United Kingdom Government will take full responsibility for asserting this principle in all international relationships.

(3) The United Kingdom Government have ultimate responsibility for the protection of those who live in Northern Ireland when, as in the past week, a breakdown of law and order has occurred. In this spirit, the United Kingdom Government responded to the requests of the Northern Ireland Government for military assistance in Londonderry and Belfast in order to restore law and order. They emphasise again that troops will be withdrawn when law and order has been restored.

(4) The Northern Ireland Government have been informed that troops have been provided on a temporary basis in accordance with the United Kingdom's ultimate responsibility. In the context of the commitment of these troops, the Northern Ireland Government have re-affirmed their intention to take into the fullest account at all times the views of Her Majesty's Government in the United Kingdom, especially in relation to matters affecting the status of citizens of that part of the United Kingdom and their equal rights and protection under the law.

(5) The United Kingdom Government have welcomed the decisions of the Northern Ireland Government in relation to Local Government franchise, the revision of Local Government areas, the allocation of houses, the creation of a Parliamentary Commissioner for Administration in Northern Ireland and machinery to consider citizens' grievances against other public authorities which the Prime Minister reported to the House of Commons at Westminster following his meeting with Northern Ireland Ministers on May 21 as demonstrating the determination of the Northern Ireland Government that there shall be full equality of treatment for all citizens. Both Governments have agreed that it is vital that the momentum of internal reform should be maintained.

(6) The two Governments at their meeting at 10 Downing Street today have re-affirmed that in all legislation and executive decisions of Government every citizen of Northern Ireland is entitled to the same equality of treatment and freedom from discrimination as obtains in the rest of the United Kingdom irrespective of political views or religion. In their further meetings the two Governments will be guided by these mutually accepted principles.

(7) Finally, both Governments are determined to take all possible steps to restore normality to the Northern Ireland community so that economic development can proceed at the faster rate which is vital for social stability.

Appendix 7 : Joint Communique of 29 August 1969

(1) During his visit to Belfast, the Home Secretary, Mr James Callaghan, was invited to attend two meetings with the Northern Ireland Cabinet, on 27th and 29th August: at the second meeting the Home Secretary was accompanied by the Minister of State, Home Office, Lord Stonham.

(2) Her Majesty's Government in the United Kingdom [illegible] affirmed the pledges previously given that Northern Ireland should not cease to be part of the United Kingdom without the consent of the people of Northern Ireland or from the provision in Section 1 of the Ireland Act 1949 that in no event will Northern Ireland or any part thereof cease to be part of the United Kingdom without the consent of the Parliament of Northern Ireland. The Border is not an issue.

(3) The Home Secretary and the Northern Ireland Government have agreed that the Northern Ireland Government will take full responsibility for asserting this principle in all international relationships.

(4) The Home Secretary and the Northern Ireland Government have agreed that the Northern Ireland Government have ultimate responsibility for the protection of those who live in Northern Ireland when, as in the past week, a breakdown of law and order has occurred. In this spirit, the Northern Ireland Government responded to the requests of the Northern Ireland Government for military assistance in Londonderry and Belfast in order to restore law and order. They emphasise again that troops will be withdrawn when law and order has been restored.

(5) The Home Secretary and the Northern Ireland Government have agreed that the Northern Ireland Government have taken into the fullest account at all times the views of Her Majesty's Government in the United Kingdom, especially in relation to matters affecting the status of citizens of that part of the United Kingdom and their equal rights and protection under the law.

(6) The Home Secretary and the Northern Ireland Government have welcomed the decisions of the Northern Ireland Government in relation to Local Government franchise, the revision of Local Government areas, the allocation of houses, the creation of a Parliamentary Commissioner for Administration in Northern Ireland and machinery to consider citizens' grievances against other public authorities which the Prime Minister reported to the House of Commons at Westminster following his meeting with Northern Ireland Ministers on May 21 as demonstrating the determination of the Northern Ireland Government that there shall be full equality of treatment for all citizens. Both Governments have agreed that it is vital that the momentum of internal reform should be maintained.

(7) The Home Secretary and the Northern Ireland Government have re-affirmed that in all legislation and executive decisions of Government every citizen of Northern Ireland is entitled to the same equality of treatment and freedom from discrimination as obtains in the rest of the United Kingdom irrespective of political views or religion. In their further meetings the two Governments will be guided by these mutually accepted principles.

(8) Finally, both Governments are determined to take all possible steps to restore normality to the Northern Ireland community so that economic development can proceed at the faster rate which is vital for social stability.

(9) The Home Secretary and the Northern Ireland Government have discussed the question of legislation to provide for the investigation of citizens' grievances against local authorities or other public authorities. This legislation would embody, as an ulimate sanction, provision for remedies in the courts. They explained that the points scheme for the allocation of local authority houses was now in operation in all local authority areas pending consideration by the Minister of Development of the comments of particular authorities on the application of such schemes in their areas. Thereafter the Minister would approve permanent

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(c) to provide a small cash
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INTERVIEW GIVEN BY SECRETARY OF STATE FOR NORTHERN IRELAND ON DOORSTEP OF NO 10, WEDNESDAY, OCTOBER 30, 1985

TK: We had a very full and frank discussion. Mr Molyneaux and Dr Paisley made very clear their concerns about the discussions taking place between the Government of the United Kingdom and the Government of the Republic and we discussed the issues and they discussed the importance that they attach to seeing more development internally and possibly more devolution. And the Prime Minister and I confirmed that any discussions that are taking place aren't an alternative to devolution, I certainly hope that we can develop that as well.

Q: They have said that Mrs Thatcher has undertaken to consider the points which they have made to her. Do you think that in consideration of those points that anything will change in the way the negotiations are coming out?

TK: Well we don't know at the moment whether they will come out. I don't yet know whether we will have an agreement, but what was clear at the meeting and both the Prime Minister and I were able to confirm again that if we do get an agreement it will in no way affect the sovereignty state of Northern Ireland as part of the United Kingdom. We confirmed that again and I hope that was a clear reassurance to both the party leaders.

Q: Do you think they will eventually accept some role for the Irish Government?

Well obviously at the moment we have a difficult situation in which it is not possible to give the full details of the agreement. I hope that when they see the agreement, if we do reach it, it will be clear that the pledges we have given have been fully honoured and as I have frequently stated to the people of Northern Ireland, I have made absolutely clear

my own personal position that we stand absolutely by the position of Northern Ireland as part of the United Kingdom, no change whatsoever in that situation or the responsibility of Ministers and that I hope is quite clear and quite well understood by everybody in the Province.

Q: And the negotiations are continuing?

TK: They are indeed.

Q: Why are you so pessimistic about whether or not they might materialise?

TK: Until you have an agreement you can't be certain that you will actually get an agreement, and obviously in the final stages there can be detailed points which can present real difficulties. There are difficult issues involved but I hope because of the benefits that could flow and one of the interesting things that Mr Molyneaux and Dr Paisley said is that they recognise as everybody does in the North of Ireland the advantages of a better relationship and the advantages of talking to the Republic about a whole range of different issues, not least the issue of security.

Q: So today's meeting does not in any way obstruct the prospect of an agreement?

TK: No. We've taken note of the points that they made. I've made it my business to try and understand the issues in the Province and I think that the points that they put were very fairly the views held by many Unionists at the present time, the concerns that they have, and I hope that the meeting with the Prime Minister, as I said more than an hour of discussion, may have been helpful to them in making absolutely clear that there is no question of the Prime Minister or I changing the position on the pledges that we have given to the people of Northern Ireland.

Q: But that's not going to affect the course of the Anglo/Irish talks?

TK: Well we have made quite clear that these are continuing at the present time and that we hope that the agreement, if it is reached, will fully meet the concerns that have been expressed by Mr Molyneaux and Dr Paisley.

Q: If the talks don't in fact reach an agreement what are the consequences? What are your major concerns?

TK: I think it would be very unfortunate if we were not able to reach agreement on what are steps to try and improve and deepen the relationship with the Republic of Ireland. We both share a common interest, for example most obviously in defeating terrorism. We know that the particular problem that terrorism poses, not just north of the border but south of the border as well, and that would be one obvious loss if we weren't able to achieve that as well. Of course we want good cooperation anyway, but a closer relationship could improve that still further.

Q: Has this changed anything this morning?

TK: Its confirmed the concerns, and I hope that it has reassured the Unionist leaders of both the Prime Minister and my position and the position of the Government in the assurances that we've given about the pledges about the position of Northern Ireland.

Q: Your predecessor, Douglas Hurd, said several months ago on several occasions that the chances at that stage of an agreement with the Republic of Ireland and the UK were fifty-fifty. Would you care to put a figure on that?

TK: I've never entered into the betting stakes on that.

You can't tell until you actually know whether or not there will be an agreement just what the chances now are. There are still some difficulties to be resolved and obviously reaching agreement of this kind between two sovereign governments has to go before Parliaments in both countries. I can't at this stage tell whether we will get agreement, but I am hopeful that we may be able to do that.

Q: Are we fairly close to the point where decisions will be taken on whether or not there will be an agreement?

TK: That depends whether we do well over the final stages of discussions which we are in now; whether they come to a successful conclusion.

Q: Are troop levels being increased in Northern Ireland to deal with a possible Loyalist backlash to an Anglo/Irish deal? Would you care to comment on that?

TK: That's not true.

Q: Nevertheless are you concerned there might be a violent Protestant backlash were your proposals to go ahead?

TK: It would only happen if there was very wide misunderstanding what the proposals actually are. That's why I am most anxious, and why I welcomed the opportunity today to make clear again to leaders of two of the main parties in the Province just what is involved in the agreement, because there is nothing in that agreement that would justify the sort of backlash or concerns that some have expressed. A lot of misleading stories have been put about, some of those have caused concern and I have been anxious to put those straight.

Q: Nevertheless Dr Paisley has actually warned publicly that were there to be no political solution here, it could

be left to the men of violence, obviously on both sides, was the Prime Minister able to say anything directly to Dr Paisley on the dangers of violence?

TK: Well I think the Prime Minister reassured Dr Paisley, but they must obviously speak for themselves, but I got the impression that they may have thought the discussions with the Republic of Ireland were some alternative to trying to encourage more devolution within the Province and we were able to assure them that far from being an alternative, we we regard them as two desirable ends in themselves, and I certainly hope that the agreement may actually help to encourage the parties in Northern Ireland, the parties that have no part in violence, the constitutional parties, to be able to come together and see they can together work out a solution in which more of the responsibility for the administration of the Province is in the Province and not a direct rule situation that we have to have at the moment.

Q: What is your reaction to the devolution document that was presented to the Assembly yesterday?

TK: I haven't seen it yet, I'm waiting for further details and understand they are sending it to me.

Q: Secretary of State will one of the elements in the agreement be some form of devolution in Northern Ireland

TK: That's quite a separate matter because we are talking about relations with another sovereign government and ways in which we might improve that relationship. The quite separate matter, but very important matter is whether we can get some way in which we can get agreement on administration of the Province on the basis of widespread acceptability of the people of the Province. I am very keen to see progress in that, I very much hope the people of goodwill and as I

say the parties who foreswear violence can come together and achieve that sort of working together. It would be very much for the benefit of the Province if we could achieve that.

Q: And notwithstanding an Anglo/Irish agreement you would be looking for some form of devolution?

TK: I very much hope we can achieve that because the question of decisions, at the moment they are entirely in the hands of Ministers of the United Kingdom government and they will remain like that unless we get some agreement on devolution in which more decisions can be taken by the people elected within the Province in that way.

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Ref. A085/2767

PRIME MINISTER

Cabinet: Northern Ireland Affairs

Flag A

The Cabinet discussed this subject on 25 July. Since signature of the Anglo-Irish Agreement is now planned for mid-November, the purpose of this week's discussion in Cabinet is to reach a decision on whether to go ahead. The meeting will have before it a memorandum by the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland (C(85) 25), to which the draft Agreement and the draft Summit Communiqué are annexed. For security reasons, this does not mention the likely date and place of signature of the Agreement, and I suggest that you should if possible avoid these matters in the discussion.

Flag B

HANDLING

2. I suggest that it would greatly aid the discussion if you were to introduce the subject briefly yourself. You could say that the negotiations have produced a package which in certain respects - notably the fact that the Irish Government is no longer prepared to envisage an amendment to Articles 2 and 3 of the Irish Consitution - falls short of what we originally wanted but which still offers definite advantages, notably the formal reassurance by the Irish Government as well as the British Government to the unionists in Article 1 of the Agreement that the status of Northern Ireland would only change if a majority there so wished, and also the prospect of improved co-operation with the Irish Republic against terrorism; and that efforts have been made through drafting amendments to minimise the potential disadvantages, notably the creation of any impression that the new Intergovernmental Conference could share in decisions in

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Northern Ireland. You may wish to add that the proposed package offers the political advantage that the Government would be seen to be making a serious attempt to achieve progress on one of the most agonising problems that have faced this country.

3. You could then invite the Secretary of State for Northern Ireland and the Foreign and Commonwealth Secretary to speak, I suggest in that order.

4. You could then structure the discussion to cover the main issues in turn -

a. Mixed Courts. You could say that we have been extremely explicit to the Irish at every level (including your own and the Taoiseach's) about our unwillingness and inability to commit ourselves to the establishment now or in the future of mixed courts, and that the mention of the subject in Article 8 of the draft Agreement, which would involve us only in discussion without commitment in the Intergovernmental Conference, has been watered down since the Cabinet last discussed the draft Agreement and is the least that the Irish will wear. The Lord Chancellor will wish to speak.

b. European Convention on the Suppression of Terrorism. When we finally convinced the Irish that we would not undertake any commitment on mixed courts, they said that they could not maintain their decision to accede to the European Convention on the Suppression of Terrorism. In further discussion, we brought them back to a willingness to announce, when the Agreement was concluded, their intention to accede to the Convention (paragraph 7 of the draft Communiqué). The preparation and passing of the legislation needed to pave the way for accession would take 12 to 18 months. The implication is that they would then decide on accession to the Convention, taking account of

progress meanwhile regarding relations between the security forces and the nationalist community and regarding the latter's confidence in the administration of justice. Officials have been instructed to make it clear to the Irish Government that, while it would be acceptable for the Irish Government to say that their intention to accede was "in the context of" or "having regard to" the Anglo-Irish Agreement, it would not be acceptable for them to say that a decision to accede would be in any way conditional upon progress or performance on matters contained in the Agreement (or any part of it on the introduction of mixed courts). You should invite the Solicitor General who has been invited to attend the discussion in the absence of the Attorney General, to speak.

c. The Role of the Intergovernmental Conference and the Secretariat. The Agreement now makes absolutely clear, notably at the end of Article 2(b), that the Intergovernmental Conference would not take decisions. The Irish wish for a Secretariat with a certain power to act off its own bat has been rejected. It is agreed that the Conference would as a rule meet in Belfast, and that the Secretariat would be located there; but the location for the first meeting of the conference and the timetable for the establishment of the Secretariat in Belfast will be for further discussion with the Irish Government, having regard to considerations of security (there is some danger that the Irish side of a Secretariat could become a focus for the attention of loyalist paramilitary groups).

d. The Security Forces. The Irish were earlier pressing us for significant changes, especially regarding the Ulster Defence Regiment. We have resisted, and the very limited steps which we are taking - the initial training of recruits to the part-time cadre of the UDR to be increased from 8 to 14 days; the regular army and RUC to play a

greater part in training the UDR; new recruits to the UDR not normally to make arrests - have been approved by the Secretary of State for Defence as intrinsically worthwhile. They would be implemented unilaterally and would not be part of the Agreement.

e. The debate in Parliament. When the Cabinet discussed this subject in July, it was decided that there should be a debate in Parliament before the Agreement entered into force. Article 13 now provides for the Agreement to enter into force after the two Governments have exchanged notifications of their acceptance of it. The draft Summit Communiqué states the two Governments would not exchange such notifications until the two Parliaments had approved the Agreement. You may wish to ask the Lord Privy Seal and the Chief Whip to speak.

f. Publicity. You may wish to inform colleagues that your own personal commitment to the Agreement would be made publicly clear from the moment of signature, through your joint press conference with the Taoiseach, your initial statement in Parliament and your opening of the debate in Parliament.

g. Likely reactions in Northern Ireland. The intelligence assessments are reasonably reassuring. See in particular JIC(85) (IA) 57 of 28 October. You should ask the Secretary of State for Northern Ireland to comment.

h. Likely international reactions. You should ask the Foreign and Commonwealth Secretary to comment. A particular point of interest is that an Anglo-Irish Agreement concluded in the coming weeks could significantly increase the chances that the United States Congress will

approve the supplementary extradition treaty between the United Kingdom and the United States. The Home Secretary should be asked to comment.

CONCLUSIONS

5. I suggest that you should lead the Cabinet to decide that the proposed Agreement, while far from being a "final solution" to the problems of Northern Ireland, would be a modest but useful step forward in Northern Ireland, offering gains which on balance outweigh the risks. Moreover, a decision at this stage not to go ahead would offer no gains and as great or greater risks. You could invite the Cabinet to agree that, unless the situation in Northern Ireland should sharply deteriorate in the near future, you should be prepared to sign the Agreement at a meeting with the Taoiseach in the coming weeks.

6. Please could you ask colleagues to leave all copies of the memorandum on the Cabinet table for collection after the discussion.

for ROBERT ARMSTRONG

29 October 1985

BRIAAF

CC/81

Given to the PA by Dr. Paisley CPN.

FAIR PLAY FOR NORTHERN IRELAND

The people who will be most affected by an Anglo-Irish deal on Northern Ireland will be those British subjects who inhabit the Province. Yet, astonishingly, the one group of people who are completely - and deliberately - excluded from information as to what is being devised by representatives of the British and Irish Governments is the majority unionist community in Ulster. Representatives of the minority community have been briefed regularly by the Dublin Government. Yet the Unionist people of Northern Ireland have been kept in the dark. Why?

The Prime Minister is on record in stating that 'confidentiality' is essential to the talks. She has not adequately explained why this is so. In such an atmosphere of secrecy Unionists can hardly be criticised for concluding that whatever has to be kept under such close wraps until after the deal has been struck (at a summit meeting between Mrs. Thatcher and Dr. Fitzgerald in November) must be profoundly damaging to Unionism.

In spite of the obstacles, Unionists have been able to discover the main component of the likely deal. If they are accused of dealing in rumour and speculation, this is only because it is the position that they have been driven into by the British Government.

ANGLO-IRISH JOINT MINISTERIAL COMMITTEE AND SECRETARIATE.

This is a mechanism to give the Republic of Ireland Government a say in all areas of British policy and administration in Northern Ireland. The

machinery itself could look rather like the EEC Council of Ministers wherein Ministers from each Member state meet to make joint decisions about Community policy. In addition, the Committee would be serviced by a secretariate made up ob both British and Irish civil servants. Although designed eventually to be based in Belfast, the secretariate may initially be accommodated in either London or Dublin until (it is hoped) Unionist opposition has subsided. Such machinery would be attractive to Dublin as it could be sold in the Republic as not unlike the "joint authority" option contained in the report of the New Ireland Forum.

BRITISH SOVEREIGNTY OVER NORTHERN IRELAND.

Such joint machinery would constitue a clear infringement of British sovereignty over the Province. It is one thing for a country to discuss its problems with another and there is nothing objectionable in two governments setting up permanent machinery to keep the full spectrum of mutual difficulties under review. But it is quite different for the British Government to separate Northern Ireland from the rest of the United Kingdom and give the Republic of Ireland, which claims the territory of Northern Ireland in its constitution, a say on how the Province is run.

If Cornwall were to be claimed by France, no-one in the United Kingdom would have any difficulty in seeing a fundamental infringement of British sovereignty if France were to be granted a right to have a say on how that county was governed. Such a concession would be no less objectionable simply because a minority in Cornwall were to seek union with France, but it would be bitterly resented by British people if it was granted in face of terrorist outrages perpetrated by a Cornish equivalent of the IRA.

A FINAL SOLUTION

It is clear that even though the concession by the British Government of a joint ministerial committee treating Northern Ireland as separate and distinct from the rest of the United Kingdom would be regarded by Unionists as betrayal it would not be accepted as final or definitive by Irish nationalists.

The Irish Republic's Minister for Foreign Affairs has already been recorded as indicating that such an arrangement would simply be one step in the general direction of a United Ireland. The Republic's Government has been at pains to reassure its electorate that the objective of a United Ireland has not been abandoned. On the Irish nationalist side, the current negotiations are described as part of a process which nationalists will insist must continue after a deal is struck at the 1985 summit. Nationalists believe that once the principle of the Republic's intervention in Northern Ireland has been conceded by Britain, the task of hiving Northern Ireland off from the rest of the U.K. becomes all the easier. On the other hand, many British politicians fail to realise that in terms of the nationalist aspiration for a United Ireland there can be no such thing as a permanent compromise position short of unity.

THE TROJAN HORSE

A subsidiary objection to a joint ministerial committee and secretariate is the scope for mischief inherent in such machinery. For example, if the I.R.A. were to engineer controversial security incidents will the Irish side of the joint machinery accept the British approach?

Or, will the British side be under pressure to react in a particular way to placate the Irish side? How will those charged with the administration of Northern Ireland cope with institutionalised intrusion from people who are from another State and whose declared aim is for the annexation of Northern Ireland by the Republic? Will they feel constrained to make concessions at the expense of the loyal British subjects of the Province?

The Northern Irish judiciary has been the target of a sustained campaign by the present Irish Government. If the 1985 summit deal does not include changes in the Northern Irish judiciary will the Government of the Republic through its side of the joint committee continue its campaign against certain of the Northern Irish judges?

THE VALUE OF A DEAL TO BRITAIN.

Although a deal of the type outlined would be viewed by Unionists as striking at the foundation of their position in the United Kingdom, a deal with the Republic would be of limited value to Britain.

It may be designed to placate vociferous Irish nationalist opinion in the United States. But such opinion will not be content with anything short of a United Ireland.

The Prime Minister herself is on record as putting forward improved security co-operation with the Republic as a major attraction of a deal. This very attraction underlines the unscrupulousness of the Republic's Government. If it can improve security co-operation it should do so to save the lives and property of the people of Northern Ireland - whom it claims the right

to govern - without any quid pro quo from the United Kingdom. To hold back on security co-operation in order to pressurise the British Government into concessions on Northern Ireland is nothing short of disgraceful.

THE SOCIAL DEMOCRATIC AND LABOUR PARTY.

Another alleged objective of the planned Anglo-Irish deal is to induce Mr John Hume's S.D.L.P. to participate in the administration of Northern Ireland. His party not only continues to boycott the Northern Ireland Assembly (set up by the present British Government), it also refuses to support the security forces and the judicial system.

The question has to be posed now - for it will certainly arise after the deal is struck - In return for the British Government agreeing to a weakening of Northern Ireland's position within the United Kingdom, will the Government be certain that the S.D.L.P. will publicly lend its support to the Royal Ulster Constabulary, the British Army and the courts in dealing with terrorism?

THE RIGHT OF SELF-DETERMINATION

Like all free peoples, the citizens of Northern Ireland claim the right of self determination. In a sense this right is reflected in the Northern Ireland Constitution Act 1973. This Act purports to guarantee Northern Ireland's place within the U.K. and permits change only with the consent of the people of Northern Ireland voting in a poll. However, it is clearly implicit in a right to remain part of the U.K., that membership is to be enjoyed on a basis of equality with the other countries making up the Union.

There is no such constitutional animal as a second class member.

Unionists contend that if Northern Ireland is separated from the rest of the Kingdom, by giving a foreign state a quite exceptional influence over a part of Her Majesty's dominions then the right of self-determination has been clearly infrigned unless this intrusion has the consent of the majority in Northern Ireland.

Such a right to give - or withhold - consent is all the more vital when it is remembered that Article 2 of the Constitution of the Republic of Ireland reads:

"The national territory consists of the whole island of Ireland, its islands and territorial seas".

The removal of this claim to the territory of Northern Ireland has not been stated by the British Government to be a condition precedent to the Republic having a formal say as to how Northern Ireland is to be governed. A country which refuses to withdraw what is tantamount to a claim to annex the Province is to be given a right of interference. How in the name of justice can the people of Northern Ireland be denied the right to have their say on the acceptability of such a deal?

Yet the Prime Minister seems to be determined that the British Parliament alone will decide. The Conservative Party will be required to support the Government. The British Labour Party is already on record as supporting any deal that suits "the Irish" - without knowing what is in the deal and apparently unconscious of the irony that its own definition of "the Irish" includes Unionists whom the deal very definitely will not suit.

There are only fifteen Unionists in a parliament of 650 Members.

The Government's attitude is in stark contrast to its position on devolved government for Northern Ireland. This, the Prime Minister has said, can only be restored "on a basis that is acceptable to both sides of the Community". Thus, when it comes to a deal with the Irish Republic which Unionists regard as a sell-out, their voice is to be swamped in a decision taken by the British Parliament as a whole. But when it comes to devolved government, Mr John Hume's S.D.L.P. with one member of parliament has a veto. Is the phrase "fair play" still part of the English language?

The people of Northern Ireland have not forgotten that when constitutional changes were proposed for Scotland and Wales in the nineteen seventies, the people of each country were consulted by referendum. In neither case did the changes involve the intrusion of another state. On this basis alone the claim of the people of Northern Ireland to be consulted - by referendum or election - on the acceptability of the Anglo-Irish proposals is surely unanswerable.

And if the deal is, as is argued, innocuous, what has the British Government to fear? If unionist politicians are wrong in alleging that the joint committee of ministers and its secretariate is of no constitutional significance, will it be beyond the resources of the Government to correct this misinterpretation? Or is the reason why no such test is proposed is because Unionist politicians are not wrong?

CONFIDENTIAL

From: THE PRIVATE SECRETARY

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

Prime Minister
CDP
29/X.

Charles Powell Esq
10 Downing Street
London
SW1

29th October 1985

Dear Charles,

MEETING WITH MR MOLYNEAUX AND DR PAISLEY ON 30 OCTOBER

There have been indications in the press that Mr Molyneaux and Dr Paisley will raise the possibility of a referendum to test the acceptability of an Anglo-Irish Agreement to the people of Northern Ireland. They may argue that this would be in line with the referenda by which in 1979 the peoples of Scotland and Wales were consulted on the devolution proposals contained in the Scotland and Wales Act 1978.

Mr King's minute of 25 October put the arguments against testing the acceptability of an Agreement to Unionists. The argument against holding a referendum on the analogy of the 1979 referenda in Scotland and Wales is similar. If the question of a referendum is raised the Prime Minister should say that the Anglo-Irish talks are concerned with finding ways in which the United Kingdom Government can better conduct its relations with the Government of the Republic of Ireland, and that such matters are for the Government and Parliament to determine. The Scotland and Wales referenda, on the other hand, were not about international relations but about arrangements for regional Government. There is a parallel requirement for determining the acceptability of any such devolved arrangements in Northern Ireland. Any future devolved administration in Northern Ireland must be widely acceptable throughout the community - that is to both parts of the community - if it is to be acceptable to the Government and Parliament. (There are some obvious differences of detail between the Scottish and Welsh referenda and the requirement that new devolved arrangements in Northern Ireland should be acceptable to both sides of the community. In Scotland and Wales the two referenda required a majority, and at least 40% of the whole electorate in favour of change. In Northern Ireland the formal requirement is one of "widespread acceptance throughout the community". Ultimately this would be for Parliament to decide. But the Northern Ireland Act 1982 provides that proposals from the Assembly which have the support of at least 70% of Assembly Members, or a majority in favour and the Secretary of State is satisfied that they would command widespread

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acceptance throughout the community, would go before Parliament for consideration. Nevertheless in both cases there is a common principle: that the form of local administration should be acceptable to local people - with, in Northern Ireland, the arrangements adjusted to the existence of the two communities).

There have also been further developments on Sir Frederick Catherwood's proposals, which are mentioned in Annex A to Mr King's minute of 25 October. The full Assembly is to debate Sir Frederick's proposals, which it has been reported have been agreed with the Assembly Report Committee, this afternoon. I am writing separately on this.

I am copying this letter to Len Appleyard and Michael Stark.

Yours Sincerely

Neil Ward

N D WARD

CONFIDENTIAL

From: THE PRIVATE SECRETARY

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

Prime Minister
CDP 29/X.

Charles Powell Esq
Private Secretary
10 Downing Street
London SW1

29th October 1985

Dear Charles,

MEETING WITH DR PAISLEY AND MR MOLYNEAUX

At the meeting tomorrow morning, Dr Paisley and Mr Molyneaux are likely to raise the question of devolution to the Northern Ireland Assembly.

The background is as follows. Earlier this month, the Assembly's Devolution Report Committee asked Sir Frederick Catherwood MEP to help them reach agreement on arrangements for devolved government. He began work on 22 October and, after a series of meetings with all four main parties, including the SDLP, reported to the Committee that he had reached agreement on a scheme. Under his plan, the majority in the Assembly would consent to the formation pro term of a minority Executive consisting of SDLP and Alliance members led by Mr Hume (with a clear understanding that this arrangement would only last for one term). There is also provision for a Bill of Rights to protect individual civil liberties.

Sir Frederick's proposals have been adopted by the Report Committee and were debated in the Assembly today. The participating parties (the Official Unionists, the DUP and Alliance) endorsed the proposals 'as a basis for further negotiation' and will be sending them to Mr King in due course. They will however present the proposals not as the formal submission envisaged by the Northern Ireland Act 1982 but as a context for urging my Secretary of State to enter into negotiations with the Report Committee and the SDLP.

On the face of it, Sir Frederick's proposals seem unlikely to be acceptable to the parties despite the Assembly's endorsement, which we believe to be largely tactical. The SDLP have so far made no public comment at all (and we are sceptical about the extent to which they are associated with the scheme). We believe the two unionist parties have gone along with the scheme in order to demonstrate their moderation and flexibility but do not seriously contemplate operating it. In the Assembly today, spokesmen for the UUP and DUP made it clear that they will only support the scheme if there is no Anglo-Irish agreement which seems to them to threaten Northern Ireland's constitutional position. At the meeting with the Prime Minister, we expect Dr Paisley and

Mr Molyneaux to refer to their support for Sir Frederick's ideas as evidence of their willingness to reach agreement with the SDLP but to insist that they will only back the scheme if the Anglo-Irish talks are halted.

If the unionist leaders do adopt this approach the Prime Minister may wish to say that we should naturally consider very seriously any proposals which the Assembly might put to us for a devolved administration which would command widespread acceptance throughout the community. However better Anglo-Irish relations and political progress within Northern Ireland are not alternatives which can be traded against each other. The Government wants both.

I am copying this letter to Len Appleyard and Michael Stark.

Yours Sincerely
Neil Ward.

N D WARD

PM 8 5

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PERSONAL

29

Copy 7 of 9

PS/Secretary of State

c.c. PS/Mr. Scott (B)
PS/PUS (B)
Mr. Brennan
Mr. Bell
Mr. Ehrman
Mr. Clark

ANGLO-IRISH AGREEMENT: DRAFT CABINET PAPER

In the light of the Secretary of State's discussion with officials after his meeting with the Prime Minister this morning I attach a revised draft of a Cabinet memorandum. I understand that the FCO are anxious to see the new draft as soon as possible in the hope that they can put it before the Foreign Secretary this evening and an agreed memorandum can be circulated tomorrow morning.

D. CHESTERTON
29 October 1985

SECRET PERSONAL

SECRET AND PERSONAL

Overtaken
CP(85)71.

CMO until 30 November 1985

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CABINET

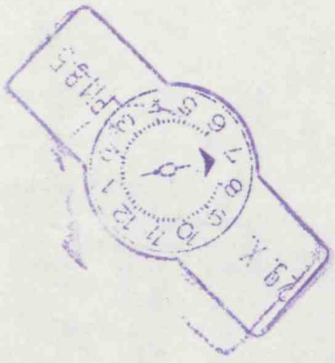
ANGLO-IRISH RELATIONS: NORTHERN IRELAND

Joint Memorandum by the Secretary of State for Foreign and Commonwealth Affairs and the Secretary of State for Northern Ireland

INTRODUCTION

1. As colleagues know from Cabinet discussion on 16 February 1984 and 25 July 1985, protracted talks have been taking place with the Irish Government about an Anglo-Irish Agreement. The talks were initiated at a time when the prospects for Northern Ireland under a prolonged period of direct rule were bleak. Deadlock persisted on the political front, the only beneficiaries being Sinn Fein with their "ballot box and Armalite" approach. In the absence of political movement polarisation of the two communities was growing. There was little prospect of making further inroads into terrorism. And international opinion was becoming increasingly restless at our failure to make progress. The situation seemed certain to get steadily worse without some effort by us to change course.

2. The purpose of an Anglo-Irish Agreement has been to offer some easement of those problems. We have had two sets of objectives. First, we have been seeking some reassurance for unionists through formal recognition from the Irish that the constitutional status of Northern Ireland cannot change without majority consent, and through a firmer commitment by them to cross-border security. Secondly, we have sought to bring the minority to readier acceptance of the apparatus of government in Northern Ireland through offering the Irish a formalised consultative (though not executive) role in respect of Northern Ireland affairs that affect the nationalist community.



E.R.

3. The attached draft agreement, though now set out in legal form, which seeks to make progress towards these objectives - is the same in substance as the one discussed by the Cabinet on 25 July, save for two points - the mention of mixed courts, discussed in paragraph below, and the provision for entry into force of the agreement, discussed in paragraph below.

4. The draft agreement thus retains these key features: clear condemnation of terrorism in the Preamble on page 1; firm and binding recognition by the Irish Republic in Article 1 on page 3 that any change in the status of Northern Ireland would only come about with the consent of a majority there and that such consent does not at present exist; provision in Articles 2-8 for the establishment of an Intergovernmental Committee (the title is still undecided), where the Irish Republic may put forward views and proposals on stated aspects in Northern Ireland and where determined efforts would be made in discussion to resolve differences but which would have no executive or decision-making authority; and provision in Article 9 and 10 for greater cooperation between North and South in Ireland, notably on security matters.

5. In various places the text has been tightened up to remove any implication that the Intergovernmental Committee could have an executive role. At the end of Article 2(b) the reservation of decision-making power to the British Government has been made even more explicity than before.

Legal Matters

6. Article 8 raises several major difficulties. The Irish Government have attached great importance to the inclusion in the agreement of a reference to a possibility of mixed courts. Following the discussion in Cabinet on 25 July, Ministers agreed that the sentence could be allowed to stand in its present form, which maintains the UK Government's position that we can give no commitment to the establishing now or in the future of mixed courts but are willing to discuss the question in the Intergovernmental Committee. It has been made clear repeatedly to the Irish at Ministerial as well as at official level that the UK Government sees great difficulties, especially political difficulties, about the proposition that there should be mixed courts (in which a judge from the Republic will sit with the judges from Northern Ireland for the trial of certain terrorism-related offences), and does not see how or when these difficulties might be overcome. The Article now also makes clear that the Committee would seek the advice of experts, who in our view would include leading members of the NI judiciary; and that mixed courts, if ever established, would have to be introduced in the Republic as well as in Northern Ireland.

E.P.

7. Although the Irish have so far rejected our suggestions that mixed courts should not be mentioned at all in the agreement, it is, however, necessary to reconsider the issue since the wording of Article 8 (and paragraph 7 of the draft Communique) is likely to be taken to imply that there is not confidence in the administration of justice in Northern Ireland at present. Not only will this create problems with the judiciary and unionists generally in Northern Ireland, there are likely to be others who would see mixed courts as an infringement of sovereignty.

8. The issue is linked with Irish accession to the European Convention on the Suppression of Terrorism. Irish officials have told us, in a recent session of the talks, that, in view of our clearly expressed doubts about the possibility of establishing mixed courts in the foreseeable future, they felt unable to maintain their willingness, in the context of the proposed agreement, to announce their decision to accede to the European Convention on the Suppression of Terrorism. Their accession to the Convention would ease extradition of terrorist offenders from the Republic to the North and would do much to disarm unionist criticism of their attitude to terrorists. The Irish have argued correctly that their Courts who are already less restrictive on extradition than in the past; and that for them to go further by acceding to the Convention at this time would expose them to criticism on the lines that persons would be handed over for trial in Northern Ireland by courts in which the minority there have little confidence, and which we were refusing to make into mixed courts. Moreover, the Irish have intimated that if and when they legislated on the Convention they would probably come under strong pressure to introduce a "prima facie case" requirement which does not at present exist in the extradition arrangements between the Republic and the UK.

9. We will report orally on the possible resolution of these difficulties, and the outcome of the most recent official discussion.

Implementation of an Agreement

10. Earlier in the negotiations the Irish were pressing for "associated measures" which both sides would take in the context of an agreement, to show that things were changing on the ground as well as on paper through the agreement itself. We persuaded them that we could not take steps which would provoke unionist reactions to an agreement to a point where the agreement itself might be in danger. The negotiations then concentrated on measures which the two Governments might rake 'in rapid implementation' of the agreement. The Irish have already begun to redeploy task forces of the Garda in the border areas - a step which is welcome to the Royal Ulster Constabulary (RUC) so far as it goes, although it will be necessary to press them to commit themselves not only to significant but also to lasting improvements in their security arrangements on the border.

E.R.

11. The Irish pressed us for changes regarding the Ulster Defence Regiment (UDR), and we have considered these in consultation with the Secretary of State for Defence. We resisted significant changes and all changes not justified on their own merits. We said that the RUC would increasingly accompany the UDR (and the regular army) on patrols and at vehicle check-points. This development, which, as existing policy, is already being implemented and should be welcome to the minority community. We also told the Irish that we are taking some other useful steps concerning the UDR: that the initial training undergone by recruits to the part-time cadre of the UDR should be increased from eight to 14 days; that the regular army and the RUC would play a greater part in the training of the UDR; and that new recruits to the UDR would not normally make arrests. These steps cannot be announced as being a result of the Anglo-Irish talks or at the Summit to conclude an agreement, but can clearly be included in the debate in the House of Commons on the agreement.

12. In addition, we have told the Irish that the Chief Constable of the RUC is working on a new Code of Conduct for the RUC, following the example of the Metropolitan Police, which will, inter alia, underline the principle of even-handedness as between the unionists and nationalist communities in Northern Ireland. We have told the Irish that suitable elements of this Code would be considered for incorporation into the training and standing instructions of the regular army and the UDR in Northern Ireland.

The Secretariat of the Intergovernmental Committee

13. The Irish were arguing a month or so ago that the British and Irish Secretaries in the small Secretariat of the Intergovernmental Committee should not only have the confidence of their Governments but should also be able when necessary to act in anticipation of Ministers' wishes. We have insisted that the Secretariat, apart from carrying out normal secretarial duties as prescribed in Article 3 of the draft agreement, should be no more than a channel of communication when the Intergovernmental Committee is not meeting. The two Secretaries could confer and report each other's views, with recommendations as appropriate. In this way, it should be possible to consult closely while retaining full authority where it rests at present. The Irish seem to have accepted this position. But they may still want to give their element in the Secretariat a higher profile than we would wish, and they would like the Secretariat to be established in Belfast with effect from the first meeting of the Intergovernmental Committee. These points are still under discussion. Our officials are stressing that the Irish element could be a focus of unionist, and possible violent attack. It may be possible to persuade the Irish that the first meeting of the Intergovernmental Committee should take place in London and only the second in Belfast; and that the Secretariat should be located in Belfast after the second meeting and then only with a very small staff.

E.R.

The Timing and Manner of Conclusion of an Agreement

14. In accordance with the wishes of Cabinet on 25 July, the two Governments have in mind a Summit meeting at a time in November which would allow the two Parliaments to debate the agreement as soon as possible after signature. Article 13 of the agreement provides that it will not enter into force until the two Governments exchange notifications - equivalent to ratifications - of their acceptance of the agreement. It is clearly agreed with the Irish, and would be announced at a Summit, that these notifications would be exchanged only after the two Parliaments had approved the agreement. In this way, we should maximise the chance that early unionist reactions to an agreement will focus on the channel of Parliament.

LIKELY REACTIONS IN NORTHERN IRELAND

15. From our contacts and those of the Irish Government with the SDLP, we believe the latter will support the proposed Agreement as a modest but useful step. They may also, in the wake of an Agreement be prepared to talk to the unionists about arrangements for a devolved government (so ending their refusal to participate in the Northern Ireland political process) but only, it seems clear, if the unionists will agree to some form of power-sharing.

16. The unionist reactions to the proposed Agreement will be very negative. There is no prospect that, in the immediate aftermath of an Agreement, they will countenance a power-sharing arrangement with the SDLP. There is a possibility that, given time, they will see such an accommodation, which would take a wide range of matters out of the scope of an Anglo-Irish Agreement, as serving their interests, but they will first have to learn to live with the processes instituted by the Agreement itself. Although the Agreement will not justify some of their worst fears - for instance, that it will undermine the RUC - they are likely to greet it in the first instance with large-scale protests, perhaps including withdrawals from Northern Ireland district councils and administrative boards. We cannot rule out some paramilitary activity. However, our contacts with unionist politicians, as well as intelligence analysis, suggest that while there may be some acts of violence and perhaps one-day strikes, widespread violence and industrial action are not very likely. Intelligence suggests that the loyalist paramilitaries are being markedly cautious about their role.

17. The Provisional Irish Republican Army will no doubt engage in acts of terrorism designed in part to provoke violent reaction among the unionists. But, on all the evidence, our best assessment is that adverse reactions to an Agreement from both unionists and PIRA should be containable. We have reviewed our contingency plans for dealing with them.

LIKELY REACTIONS IN THE REPUBLIC

18. The Irish are confident that they will be able to secure approval of the Agreement in the Dail provided that the SDLP endorse it. Dr. FitzGerald will be able to count on the support of his Labour coalition partners and probably of the two Workers Party Deputies. He will present the Agreement as providing a major opportunity for reconciliation in Ireland, and will stress that it is the natural result of the process launched by Mr. Haughey when he was Taoiseach in 1980-81 and of the New Ireland Forum whose final report appeared in May 1984. Mr. Haughey himself has already attacked as 'unreal' any Agreement which does not show promise of leading to the unification of Ireland, but he is choosing his words with care, and we believe will be constrained by the support which we hope the Agreement will receive from the SDLP, although we expect him to remain critical. The present standing of Dr. Fitz-Gerald's coalition government in the opinion polls is low, and Mr. Haughey could well be returned to power at the next general election (due by the end of 1987). If this happens, we believe that he is more likely to pocket any gains he may see in the Agreement and seek to improve it by further negotiation than to repudiate it.

INTERNATIONAL REACTIONS: A POSSIBLE FUND

19, Contacts with the United States show that there is a high probability that the Administration and Congress will warmly welcome an Agreement. Our visible effort to make progress over Northern Ireland through the Agreement will also be welcomed in many countries and will enhance our international standing.

20. We have indications that the United States, and perhaps some members of the European Community, might wish to express their support for an Agreement by financial means. We and the Irish are agreed that this should be so arranged that American generosity should appear as a reaction to the Agreement and not as an inducement to persuade us to conclude the Agreement. Our hope is that the United States, in welcoming the Agreement, would state its willingness to provide a considerable but unspecified sum of money and that we, in response, would announce our willingness to establish a Fund for the purpose. If American money is to be forthcoming, the Fund will have to be additional to existing public expenditure in Northern Ireland and we understand that the Chief Secretary recognises this. Our preliminary idea is that the Fund would be spent on economic and social advance in both parts of Ireland and on measures to increase contact between them, in line with the policies of the two Governments. We envisage that a considerable part of the money would go to a new venture capital fund to stimulate private investment. It has been agreed with the Irish Government that three-quarters of the money would be spent in Northern Ireland.

LEGAL CHALLENGE

21. It is possible that opponents of the agreement in the United Kingdom and the Irish Republic may attempt to prevent its coming into effect by mounting legal actions in the courts. The Irish Government believe that such action in the courts would not prevent the holding of the debate in the Dail on the agreement or the implementation of the Agreement. On the British side, officials are also satisfied that the institution of proceedings, should it occur, need not prevent the Parliamentary debate or the implementation of the agreement; but it might be desirable for the Government's spokesmen to indicate that the Government will act in a manner consistent with the outcome of the legal proceedings. Officials are in fact confident, on the basis of an opinion given by the Attorney General some weeks ago, that any legal challenge to the agreement in this country would fail, and the Irish Government take the same views as to courts in the Republic.

CONCLUSIONS

22. For the Irish, while stopping well short of even the least of the three possibilities ("joint authority") canvassed in the Report of the New Ireland Forum, it provides an institutional recognition that many of the minority in the North aspire to a unitary State, and look to Dublin to represent their views. It provides reinforcement, both directly and through Dublin, for the position of those among the minority, represented by the Social Democratic and Labour Party, who pursue their political aims without resort to violence, thus striking at the appeal of Sinn Fein and PIRA. While, without conceding joint authority, we could not secure removal of the Irish constitutional claim to Northern Ireland, we have bound them by the Agreement to de facto recognition of its existing status and to the continuation of that status for the foreseeable future. We have also secured that, through the mechanism of the proposed Intergovernmental Committee, the Irish can be brought into a dialogue on the important need to improve security co-operation, and have been able to do this without conceding Irish pressure for radical changes in the security forces and system of criminal justice in the North. Both points offer something to the Unionists.

23. From our own point of view, the balance of advantage is a fine one. On the one hand we will have to contend with an initial hostile Unionist reaction in both political and possibly paramilitary terms. They will resent our formal recognition of the interest of the Republic in the affairs of part of the United Kingdom. And in the short term we may find that our acknowledgement of the Irish Government's special role as a spokesman for the nationalist community will provoke a unionist response that will hinder rather than assist the process of reconciliation.

24. However, particularly in the longer term, the Agreement does offer considerable prizes. A closer, deeper relationship with the Republic is essential if they are to work with us for a resolution of the problems of Northern Ireland - on both the political and the security fronts. The establishment of a new Anglo-Irish structure allows the SDLP to end their refusal to consider political movement (even though they will continue to insist on some form of power-sharing). To the extent that the new arrangements reconcile the minority to the institutions of Northern Ireland, everybody in the province will benefit. And there will also be clear international benefits from the favourable reaction that the Agreement will attract from the United States and elsewhere. Furthermore, a decision not to proceed with an Agreement would return us to the dangerously negative situation from which we sought to escape when we opened negotiations with the Irish.

25. On balance we believe that, although there will be difficulties to be faced, the likely benefits from the Agreement to the United Kingdom as a whole justify our acceptance of it. We invite colleagues to agree that, subject to resolution of minor drafting points, the proposed Agreement should be concluded at an Anglo-Irish summit in November and should enter into force after approval by Parliament.

SECRET & PERSONAL

SUBJECT
cc Master

Ref
28

FLB

10 DOWNING STREET

29 October, 1985

From the Private Secretary

Dear Jim,

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

The Prime Minister held a meeting this morning with the Northern Ireland Secretary and the Foreign Secretary to discuss issues in the current negotiations with the Irish Government, summarised in Sir Robert Armstrong's minute of 28 October; and a number of matters connected with the arrangements for concluding and presenting an agreement set out in Sir Robert Armstrong's minute of 25 October. Sir Robert Armstrong and Sir Percy Cradock were also present.

Issues in the negotiations

The following points were agreed:

- the reference to the possibility of mixed courts in Article 8 of the draft agreement should remain. But the Irish Government should be forewarned that in presenting the agreement to Parliament and the press, the Prime Minister would spell out the various caveats which she had put to the Taoiseach in her letter of 4 October.

- as regards Irish accession to the European Convention on the Suppression of Terrorism, it must be made clear to the Irish that a firm commitment to accession was required as evidence of their bona fides in tackling terrorism. Alternative formulations would be either: "The Irish Government will introduce and support legislation ..." or "Having regard to the Agreement, the Irish Government intend to accede ..." We could not accept any further qualification or conditions about changes in the administration of justice in Northern Ireland.

- the changes proposed in Sir Robert Armstrong's minute to Articles 2(a) and (b), Article 3, Article 4(a)(iii) were accepted.

- it was

- it was agreed that the formulation preferred by the Northern Ireland Secretary for Article 4(c) should be pursued vigorously with the Northern Ireland government. As a fallback, the formulation proposed by Sir Robert Armstrong could be accepted.

- the amendment proposed by the Northern Ireland Secretary to Article 7(d) should be put to the Irish Government, as should his amendments to paragraphs 7,8 and 9 of the draft Communique.

- the term "Intergovernmental Conference" was accepted.

Procedure and Presentation

It was agreed that there should be a joint summary of the Agreement and a joint press conference. The Prime Minister will herself make a Statement in the House on 18 November. This will require a change in the date of the Anglo-French Summit, about which I have written to you. A White Paper containing details of the Agreement should be laid before the House on the day the Agreement is signed. The Prime Minister will herself open the debate in the House. It was recognised that there might be problems over briefing the Leaders of the Labour, Liberal and Social Democrat Parties the day before the Agreement is signed but the Leaders of the Northern Ireland parties only on the day itself. This requires further thought. Finally as regards the location of the Anglo/Irish Summit, it was agreed that Sir Robert Armstrong should put to the Irish government the advantages from the security point of view of RAF Aldegrove. The Prime Minister specifically ruled out Shannon as a possible site.

Cabinet will discuss the point reached in the negotiations on 31 October, with the possibility of a further round of discussion on 7 November.

I am copying this letter to Len Appleyard (Foreign and Commonwealth Office) and to Sir Robert Armstrong.

yours ever,

(C.D. Powell)

J. Daniell, Esq.,
Northern Ireland Office.

AR

SECRET AND PERSONAL

Prime Minister CCPC
Mr. King has belatedly proposed a large number of amendments. Most of them are manageable: but the main one – deletion of any reference to mixed courts – is very difficult. Yes – I should probably go to Cabinet.

Ref. A085/2735

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

In paragraph 2 of my minute of 25 October, I said that I would submit a further note about points concerning the draft Agreement and other texts.

2. The Secretary of State for Northern Ireland has proposed that we should suggest to the Irish that a number of further amendments to the texts of the draft Agreement and the draft communiqué, designed mainly to ease the task of presenting the agreement to unionist opinion. CDP 20/4.

3. His major suggestion is the deletion of the reference to mixed courts in Article 8 of the Agreement. The Foreign and Commonwealth Secretary is seriously concerned at this suggestion; he has pointed out that we have brought the Irish with great difficulty to accept that there is no question of our committing ourselves to the establishment of mixed courts, and that the wording of this part of Article 8 has been approved by yourself and the two Secretaries of State and the square brackets consequently removed. The Irish side are of course aware of that. The Foreign and Commonwealth Secretary and others have assured Irish Ministers that the sentence in question means what it says: ie that, although we see serious practical and political difficulties about the idea of mixed courts, and do not see how or when these difficulties could be overcome, we are prepared to examine it in good faith in the Intergovernmental Committee, along with other possible ways for increasing public confidence in the administration of justice. I have no doubt that insistence upon the deletion of the reference to mixed courts and the addition of "in both

jurisdictions" at the end of the third sentence of Article 8, which the Northern Ireland Secretary has also suggested, would at least call into question Irish willingness to declare their intention to accede to the European Convention on the Suppression of Terrorism, and could well put the whole Agreement at risk. After all that has passed, we would make ourselves vulnerable to charges of bad faith, if we proposed these further changes to the Irish at this very late stage.

4. The Secretary of State for Northern Ireland has also suggested the following further changes to the draft Agreement:

a. Articles 2(a) and (b). The Secretary of State for Northern Ireland considers that there is too much emphasis on the role of the Intergovernmental Committee in relation to Northern Ireland, and that the words "and in relation to Northern Ireland" should be deleted from the middle of Article 2(a), leaving in Article 2(b) the reference to the Committee being mainly concerned with Northern Ireland. I see force in this suggestion; and, as Article 2(a) is now drafted, the words "and in relation to Northern Ireland" are arguably inconsistent with the rest of it. I recommend that I should be authorised to put this suggestion to Mr Nally on 29-30 October, but should have authority not to insist on the change if the Irish strongly prefer the retention of the present text.

b. Article 3. The Secretary of State for Northern Ireland, like yourself and the Foreign and Comonwealth Secretary, considers it important that the word "permanent" should not appear before "Secretariat". I have already suggested in paragraph 4 of my minute of 14 October that the sentence should read -

"A Secretariat shall be established by the two Governments to service the Committee on a continuing

basis in the discharge of its functions as set out in this Agreement".

I understand that this may be acceptable to the Secretary of State for Northern Ireland.

c. Article 4(a)(iii). The Secretary of State for Northern Ireland suggests that "throughout Ireland" should be replaced by "throughout the island of Ireland", as elsewhere in the text. I suggest that I should put this change to the Irish as an improvement in the interests of consistency, but that it is not an essential change.

d. Article 4(c). The Secretary of State for Northern Ireland has pointed out that the prospects for devolution soon after the conclusion of an Agreement look bleak and that the words "if full devolution has not taken place" are therefore inappropriate and should be deleted; and that the sentence should read:

> "The Committee shall be a framework within which the Irish Government may put forward views and proposals on the modalities of bringing about devolution in Northern Ireland, insofar as they relate to the interests of the minority community."

The Irish side have seen the reduction in the role of the Committee if devolution took place as a means of exerting pressure on the unionists to accept devolution. They may therefore suggest that the sentence should read something like -

only as [illegible]

> "So long as full devolution has not taken place, the Committee shall be a framework within which the Irish Government may put forward ..."

I suggest that we should be willing to accept such a formulation.

e. Article 7(d). The Secretary of State for Northern Ireland has suggested that the word "explanations" sounds too apologetic and that the sentence should read: "Individual cases may be raised as appropriate, so that information can be provided or inquiries instituted". I think that this change is an improvement and I believe that the Irish could be brought to accept it; and I recommend that I should propose it accordingly.

5. The Irish side have meanwhile suggested that the first sentence of Article 2(b) of the draft agreement ("The Committee shall meet on a regular rather than an ad hoc basis") is superfluous, since the third sentence of Article 3 incorporates the same point. I see no substantive disadvantage in this, and it would be an editorial improvement. I suggest that I should acquiesce in it, in the context of securing as many as possible of the changes we shall be suggesting.

6. The Secretary of State for Northern Ireland has suggested the following changes to the draft communiqué -

i. Paragraph 7. Since improved security co-operation will be a major selling point with the unionists, the sub-paragraph on this subject should come no lower than second in the list of three subjects. I would expect the Irish to resist this change, since they attach more importance to the other two subjects in the list. But I suggest that I should try it on them.

ii. Paragraphs 8 and 9. The Secretary of State for Northern Ireland sees an imbalance in these two paragraphs between the attention that is paid to what we shall be doing about the UDR and the RUC and the attention that is

paid to what the Garda will be doing. I fully understand this concern. We shall need to apply steady pressure on the Irish in the Intergovernmental Committee to improve the performance of the Garda in the border areas. Our position for this would be improved if the reference to the policing of border areas at the end of paragraph 9 were expanded on the following lines -

✓ "... and will give attention to achieving a significant and lasting improvement in the policing of border areas".

I suggest that I should propose this to Mr Nally.

7. I am sending copies of this minute to the Secretary of State for Foreign and Commonwealth Affairs and the Secretary of State for Northern Ireland.

RNS

for ROBERT ARMSTRONG

Approved by Sir Robert and signed in his absence

28 October 1985

NOIAAX

SECRET AND PERSONAL

10 DOWNING STREET

From the Private Secretary

26

SIR ROBERT ARMSTRONG

ANGLO/IRISH RELATIONS: NORTHERN IRELAND

The Prime Minister has looked at your minute of 25 October ahead of tomorrow's meeting with the Northern Ireland Secretary and Foreign and Commonwealth Secretary. You may find it useful to know that she has already expressed a view on some of the detailed points. These are:

- Cabinet discussion should be on 31 October;
- that she should make the initial statement to the House;
- that a White Paper should be laid before Parliament with the text of the agreement immediately after the meeting with the Taoiseach;
- that she should herself offer to brief Northern Ireland Party leaders immediately after signature;
- and that she will probably have to open the Debate, though she is not completely convinced on this point.

The Prime Minister does not see, however, how she will be able to brief Mr. Utley.

I am copying this minute to Mr. Appleyard (Foreign and Commonwealth Office) and Mr. Daniell (Northern Ireland Office).

CHARLES POWELL

28 October 1985

SECRET AND PERSONAL

SECRET AND PERSONAL

250

PRIME MINISTER

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

You are to meet on Tuesday with the Northern Ireland Secretary and the Foreign Secretary to review the Anglo-Irish discussions: and to decide in what terms to present the resulting package to Cabinet, probably on 31 October.

Sir Robert Arstrong's minute attached sets out the issues. I have reduced them to a check-list (attached) for the meeting.

His minute does not deal with how you should present the issue to Cabinet. In the last Cabinet discussion in July (minutes in folder) the only serious doubts were voiced by the Lord Privy Seal. His views now seem to be a matter of public knowledge. At the same time, the Law Officers were unhappy with the reference (Article 8) to considering the possibility of mixed courts, though accepted that the prize of Irish accession to the European Convention on the Suppression of Terrorism justified a conditional and non-committal reference to mixed courts.

The following are some of the differences between the situation in July and the background against which Cabinet now has to decide:

(i) in July, Cabinet considered only an interim report. Now there is actually a decision to be made. Those with lingering doubts may be expected to voice them more strongly;

(ii) in July the then Northern Ireland Secretary was intellectually convinced by the case for an agreement. My impression is that Mr. King's views are less stable;

SECRET AND PERSONAL

(iii) Unionist opposition is more vocal than in July (but see below);

(iv) in two important aspects the package being offered to Cabinet has deteriorated. The Irish Government's commitment to accede to the Convention on the Suppression of Terrorism has been pushed into the future and become conditional; and the value of improved security cooperation looks less clear-cut;

(v) we still have no commitment from the SDLP on participation in moves towards devolved local government;

(vi) there is the risk of misunderstanding between us and the Irish Government. We regard the agreement as consultative only, but are not allowed to say so. They will present it as something more than it is. There are dangers - to quote your UN speech - in saying one thing and meaning another;

(vii) finally, and for the sake of completeness, there may be political factors to be taken into account concerning the need for Unionist support at some future date.

On the other hand:

(i) the agreement is a defensible one. It concedes nothing significant, though we shall be honour bound not to make this too obvious;

(ii) it is an honest attempt to improve the present situation. It may be better to try and to fail rather than not to try at at all;

(iii) if it succeeds, real benefits for Northern Ireland will be felt in the long term;

(iv) Unionist opposition although vocal has so far been less than expected, and the intelligence assessment is that

they will have greater difficulty than in the past in getting their supporters out on the streets or out on strike.

(v) failure to go ahead with an agreement will be a great disappointment to the Americans in particular. You told President Reagan last week that an agreement was likely.

It seems to me that Cabinet should be told the pros and cons very clearly, either in the paper or in an oral introduction (perhaps by you). You may also think it worth while giving them a week to think it over, although this increases the risk of a leak.

A final thought: if Cabinet decides not to go ahead with the agreement, we must leave ourselves with a good reason for terminating the negotiations (I don't think the option of spinning them out is feasible). In that case the Irish Government's attitude to acceding to the European Convention on the Suppression of Terrorism offers the best break-point.

C.D.P.

CDP

27 October, 1985.

SECRET AND PERSONAL

SPC

25
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ANGLO-IRISH RELATIONS: NORTHERN IRELAND
CHECK-LIST FOR MEETING

1. Date and Location of Summit

The proposal is 15 November at Hillsbrough.

2. Date of Cabinet discussion

The choices are 31 October or 7 November (or both). 31 October means more risk of a leak. But 7 November will be preoccupied with public expenditure. A first discussion on 31 October with a chance for a second round if necessary on 7 November may be best. It's a very important decision.

3. Paper for Cabinet

It is proposed that the Northern Ireland Secretary and the Foreign Secretary should circulate a joint memorandum, together with the text of the agreement.

4. European Convention on the Suppression of Terrorism

The Irish Government want to say only that it is their "intention" to accede; that to do so would take at least eighteen months; and that their decision would be conditional upon progress meanwhile in improving security cooperation and in strengthening nationalist confidence in the administration of justice. Is this enough?

5. Title of the New Body

You have been doggedly sticking out for "~~Intergovernmental Committee~~". Others are ready to accept "Intergovernmental Conference" (I am sure this is wrong.) Sir Robert Armstrong now suggests "Intergovernmental Panel".

SECRET AND PERSONAL

6. Presentation of the agreement

(i) Should we have an agreed summary? joint ✓

(ii) Should you give a joint press conference with the Taoiseach? Essential

(iii) Will you make the initial statement in Parliament? Yes

(vi) Should a White Paper be laid before Parliament with the text of the agreement immediately? Yes

(v) Will you open the debate? If necessary - but if I make the statement I wonder if I need to open the debate?

(vi) Should you offer to brief Northern Ireland party leaders immediately after signature? Yes but the Chancellor will expect me to. MT

(vii) Should you brief Mr. Utley of the Daily Telegraph? Don't see how I can. Someone else will have to do it. MT

18th Nov

CDP

27 October, 1985.

SECRET AND PERSONAL

25B

Prime Minister

You may like to glance at this over the week-end.

I have sent a copy to the Taoiseach.

2. I think you ought also to see Mr. Hume before 15 November. Agree?

CF 25/X.

PRIME MINISTER

ANGLO-IRISH TALKS - MEETING WITH MR MOLYNEAUX AND DR PAISLEY

The Meeting

You and I are to meet Mr Molyneaux and Dr Paisley on 30 October. You met them on the same subject with my predecessor on 30 August. The occasion of this meeting is an exchange of letters about the .... Anglo-Irish negotiations. (I attach copies). In the last letter you expressed your willingness to see Mr Molyneaux and Dr Paisley together to listen to any proposals they might have for a new devolved administration which would be acceptable to the Northern Ireland community as a whole. The offer was taken up, but the meeting is likely to be principally about Anglo-Irish Relations.

Aim of the Meeting - Mr Molyneaux and Dr Paisley

2. Mr Molyneaux and Dr Paisley are resolutely opposed to any Anglo-Irish Agreement and will see any Agreement as undermining Northern Ireland's position as part of the United Kingdom. It seems likely that they will wish to use this meeting to put their points to you, and to be seen to have done so publicly; there are unlikely to be any histrionics. They are also likely to stress the strength of likely Unionist reaction; and to put various detailed arguments against the Agreement. The latter are covered in a detailed brief at Annex A. It reflects the points made in correspondence and in the Northern Ireland Assembly debate.

Our Aim

3. Our aim at the meeting must be to demonstrate, privately and publicly, that we are prepared to listen to Unionist views; that we understand their legitimate concerns; and that if an Agreement is

achieved it will be on a basis that absolutely maintains the position and status of Northern Ireland as part of the United Kingdom on the clear basis already many times stated by you, but which also recognises the interests that we have in better relations with the Republic and the benefits that could flow for all in Northern Ireland from improved co-operation in many fields including particularly security.

Confidentiality of the Talks

4. Mr Molyneaux and Dr Paisley have not been made aware of the details of our negotiations with the Irish, and it rankles that the latter have had no such scruples in relation to the SDLP, although Mr Molyneaux was offered the briefing on a Privy Council basis and declined. (If he were to seek further briefing on that basis it would be hard to refuse, but it seems unlikely that he would wish a briefing which would effectively tie his hands). They have gleaned much from leaks in the newspapers. Nevertheless there can be no question of now briefing Mr Molyneaux and Dr Paisley on the details of the talks at this meeting, because they would leak. Any detailed points in the Agreement should therefore be answered on the basis that the Agreement must remain confidential and that we cannot comment on newspaper speculation. What we can do is confirm that there will be no derogation from our sovereignty over Northern Ireland; nor would there be any impediment to devolution at a future date. What we hope to achieve is closer co-operation, particularly in the area of security, and by giving recognition to both identities in Northern Ireland, greater peace and stability.

Other Points

5. The meeting is ostensibly about devolution and Mr Molyneaux and Dr Paisley may raise some points on it, if only as an alternative to Anglo-Irish developments. Briefing is included at Annex A. We should also bear in mind that the substance of the meeting may well be reported to the media shortly afterwards. We should therefore avoid any implication of differences between ourselves and the Irish. We must also avoid saying anything which might be repeated publicly

by Mr Molyneaux and Dr Paisley and which might affect Irish sensibilities (eg referring to the Agreement as "consultative"). There can be no doubt that the Irish will listen carefully to any statements they make and are in a mood to take offence because of the .... Hermon remarks. I attach at Annex B a short brief on phrases to avoid, which I have found very helpful as an aide-memoire and which you may like to have.

7. I am copying this minute to Geoffrey Howe and Sir Robert Armstrong.

N Sheinwald
Private Secretary
for T K

(Approved by the Secretary of State and signed in his absence)

25 October 1985

ssd

ANNEX A

(a) THE ANGLO-IRISH AGREEMENT - DETAILED POINTS

(i) SOVEREIGNTY

Argument

Mr Molyneaux and Dr Paisley may argue that any arrangement which applied to Northern Ireland alone, or even any arrangement that allows a "foreign" country influence over the United Kingdom's internal affairs is a derogation from sovereignty.

Response

The Government is certain there will be no derogation from the United Kingdom's sovereignty.

Background

While we do not accept Mr Molyneaux's and Dr Paisley's view of sovereignty, the Secretary of State would hope to avoid an academic debate on the nature of sovereignty. The Agreement makes it clear in Article 2(b) that there is no derogation from sovereignty.

(ii) CONSTITUTIONALITY

Argument

Mr Molyneaux and Dr Paisley may well refer to the possible challenge they may mount against Anglo-Irish Agreement in the courts.

Response

We believe that any Agreement would be wholly consistent with the law including the 1973 Northern Ireland Constitution Act.

(iii) ACCEPTABILITY TO THE UNIONISTS

Argument

Mr Molyneaux and Dr Paisley may well put the argument that the acceptability of any Anglo-Irish Agreement to Unionists should be tested. They will argue that the Government is committed to this by the Communique to the November 1984 Summit in which the Prime Minister and the Taoiseach agreed that:-

"The identities of both the majority and minority communities in Northern Ireland should be recognised and respected and reflected in the structure and processes of Northern Ireland in ways acceptable to both communities".

Response

This passage in the 1984 Communique referred to a possible devolved Government, not to inter-governmental arrangements. The Government has consistently made it clear that any devolved Government would have to be acceptable to both sides of the community, most notably in the 1982 White Paper which preceded the 1982 Northern Ireland Act. It is right that arrangements for devolved Government should require the support of both sides of the community and if they are to be equitable and durable they must be subject to this test. But relations with the Republic, whose significance goes much wider than Northern Ireland, have always been a matter for Westminster and, through Parliament, for the people of the United Kingdom as a whole.

Background

This is obviously a key point on which we must insist, and Unionists of all people, must respect the sovereignty of the United Kingdom Parliament.

(iv) THE REPUBLIC'S CONSTITUTIONAL CLAIM

Argument

Mr Molyneaux and Dr Paisley may argue that the Government should insist on the Republic deleting Articles 2 and 3 from their Constitution (these lay claim to Northern Ireland as part of the Republic of Ireland). They will argue that unless this is done the Republic's de jure claim will remain in force.

Response

The Taoiseach made the commitment in the 1984 Summit Communique that any change in the status of Northern Ireland as part of the United Kingdom would only come about with the consent of the majority of the people of Northern Ireland. This recognises the principle of consent, which lies at the heart of the guarantee to the Unionists.

Background

If possible we should avoid getting into Article 2 and 3 'de jure' arguments, not least because it drags us into detail on the Agreement.

(v) CONFIDENTIALITY

Argument

Mr Molyneaux and Dr Paisley will certainly argue that they should have been fully briefed on the discussions; and that the confidentiality of the discussions has been damaging in Northern Ireland.

Response

We must accept that this is a problem, but confidentiality of the discussions is essential if they are to

succeed; diplomatic discussions cannot succeed in the glare of publicity. We have attempted to treat all parties alike. The Irish Government's contacts with the SDLP are not for us to comment on.

Background

What the Secretary of State has actually done is that while he has not been able to disclose any details of the Agreement, he has tried to make clear both in private and in public what is not in the Agreement to avoid unnecessary alarms. He thinks this has given some general reassurance, although Messrs Paisley and Molyneaux are unlikely to admit this.

(b) DEVOLUTION AND INTERNAL POLITICAL DEVELOPMENT

Points to Make

(i) Better Anglo-Irish relations, and political progress with Northern Ireland, are not alternatives which can be traded against each other. The Government wants both.

(ii) Mr King will be seeking ways of making progress towards a devolved government in Northern Ireland which will be widely acceptable throughout the community. Any new arrangements must meet this criterion if they are to be stable and to survive.

(iii) We remain ready to consider any proposals which they wish to put forward in the light of this criterion.

Defensive Notes

(i) SDLP Veto: If a new local administration is to promote greater stability and to help heal the divisions between both parts of the community, it must be accepted by the constitutional representatives of the minority.

(ii) Sir Frederick Catherwood: Sir Frederick Catherwood acts in an entirely private capacity. The Assembly Report Committee is entitled to choose anyone it wishes to help its work.

Background

The Unionist leaders are at present keen to show an accommodating face in relation to political development within Northern Ireland in an attempt to persuade the Government to abandon their discussions with the Irish Government. In their joint letter of 28 August to the Prime Minister they indicated a willingness to participate as members of a devolved government in Anglo-Irish discussions. They also offered "short of seats in Cabinet, to consider any reasonable proposals for the protection of minority interests in a new Parliament of Northern Ireland". They protested at the SDLP's continuing "veto" over internal political development.

This offer appears to differ little from the positions advanced last year by the UUP in "The Way Forward" and in the DUP's submission to the Assembly Devolution Report Committee. These documents made clear that the DUP would not oppose a minority role in Committees in the event of a return to majority devolved government on the Stormont model: and that the UUP would be prepared to contemplate additional statutory protection for the minority - perhaps going as far as a Bill of Rights - if greater executive powers were given to the Northern Ireland Assembly. These proposals did not go far enough for the SDLP nor did they meet the Alliance Party's requirement for partnership and proportionality in government. There is no chance of them commanding the widespread acceptance which the Government and Parliament require for any new devolved administration .

Devolution Report Committee

The Report Committee (UUP, DUP, Alliance) on 30 september asked Sir Frederick Catherwood, MEP, to be an interlocutor among them in a renewed effort to reach agreement on arrangements for

devolved government. This may be a genuine attempt by the Committee, conscious that the Assembly's last year has begun, to make progress. But it is more likely that the invitation was an attempt by the Unionist parties to appear constructive and willing to involve the minority in Government in the concluding stages of the Anglo-Irish discussions.

Sir Frederick Catherwood discussed the parties' offer with the Secretary of State on 17 October. Mr King expressed reservations, but made it clear that the final decision must be for Sir Frederick; and that he was not acting for the Government. Sir Frederick travelled to Belfast on 21 October and has informed the Secretary of State that he believes he is making progress.

Mr King has now seen him again on Friday 25 October at which Sir Frederick announced that he had now reached agreement with UUP, DUP and Alliance, was on his way to meet John Hume and was confident that he would also accept, and that he would therefore be able to put forward a totally agreed proposal for the future devolved Government of the Province. As Mr King saw Mr Molyneaux the previous evening who told him privately that he had not in any way agreed the Catherwood proposals, and Mr Hume also said that he would not be agreeing to anything in advance of an Anglo-Irish Agreement, the Secretary of State thinks Sir Frederick Catherwood's illusions may be rather shortlived.

ANNEX B

WORDS AND PHRASES TO BE AVOIDED

"We are discussing consultative arrangements with the Irish".	The Irish are sensitive about the idea that they will merely be consulted. It would be better to say "we will listen to the views of the Irish" or some other formulation.
"Joint authority" or even "Jointly"	The Forum Report proposed "joint authority" between the Irish and British Governments as a way of administering Northern Ireland. But anything which is a joint exercise of power will be seen as derogating from our sovereignty.
"Security co-operation" without mentioning other forms of co-operation.	The Irish are sensitive about the idea that we are only interested in security co-operation, an idea which can cause them difficulties domestically. We should therefore always mention other forms of co-operation, but without being specific.
"The Forum Report was rejected....."	It is essential to the Irish that they can present their actions as part of the Forum Report progress. It is therefore important to them that the British Government is not seen to be rejecting the Forum Report as a whole. HMG welcomes its commitment to non-violence, its recognition of the Unionist identity, the importance it attaches to consent.

ssd

C&PC

25A

Ref. A085/2721

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

This minute deals with certain matters for discussion and decision at your meeting with the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland at 10.00 am on 29 October. Our next session with Mr Nally begins that evening.

Draft texts

2. There may be a number of further points to be discussed on the draft texts. I will submit a further note after the weekend on these.

Date and Location of a Summit

3. You will wish to discuss what I should say on these points, and on the need for secrecy, to Mr Nally.

Discussion in Cabinet

4. The further discussion, which you have promised the Cabinet, is at present pencilled in for the meeting on 31 October. You may wish to consider, given the likely date of the Summit, whether it would be better delayed until 7 November. There are two reasons for preferring to avoid delay:

i. there will be quite a lot to do by way of last-minute preparations for a Summit, on which it would be better not to embark until we have a Cabinet decision to proceed;

NOIAAU

ii. Cabinet on 7 November is likely to be preoccupied with the outstanding problems of the public expenditure round.

5. Whether the Cabinet meeting were on 31 October or 7 November, the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland would put round after your meeting on 29 October a joint memorandum on the package that has emerged in the negotiations, with the draft Agreement, and perhaps the draft communiqué, appended. The memorandum would not cover the specific date or place of a Summit. Copies would be collected after the Cabinet meeting.

European Convention on the Suppression of Terrorism

6. You will wish to discuss with the Secretaries of State the position which the Irish have adopted on accession to the European Convention on the Suppression of Terrorism. For the "commitment" to accede to the Convention they have now, in response to pressure from the British side, substituted an "intention" to accede. They have told us that preparing and getting through the necessary legislation would take 12 to 18 months; and the implication of their position, reflected in paragraph 7 of the draft communiqué, is that their final decision would take account of progress meanwhile regarding the improvement of relations between the security forces and the nationalist community, and the confidence of the nationalist community in the administration of justice. As I reported after the last round of Armstrong/Nally talks, they have also intimated that, were they to legislate on the Convention, they might come under irresistible pressure, in the wake of the McGlinchey case and others, to require a prima facie case before they extradite offenders to the United Kingdom: so, in effect, ending the "backing of warrants" procedure which has existed for many years and bringing extradition arrangements between the United Kingdom and the Republic into line with normal United Kingdom practice in other extradition agreements. We shall need

to probe the Irish further to establish whether this is in fact the considered position of the Irish Government. I suspect that it was an immediate and partly tactical reaction to the McGlinchey decision, and I think that we shall be able to indicate to the Irish that, if the agreement were to go ahead, it would hardly be consistent with the general policy of improving co-operation and harmonisisng the systems of criminal justice to make the process of extradition between Northern Ireland and the Republic more difficult. For the rest, we have given the Irish no reason to suppose that we could agree within 12 to 18 months to radical changes in the administration of justice or the security forces; in particular, our position on mixed courts should now be very clear to them. But it may be possible to make progress within 18 months on other legal matters, for instance towards harmonisation of some aspects of the criminal law in Northern Ireland and the Republic.

The Title of the New Body

7. The position remains deadlocked as reported in paragraph 5 of my minute of 14 October. We could no doubt settle with the Irish upon "Intergovernmental Conference". The only other possibility we have been able to think of is "Intergovernmental Panel". The word "Panel" is dull and bland but these are not necessarily disadvantages; and the word is free of executive overtones.

Presentation of an Agreement

8. Officials continue to believe that the draft Joint Press Release summarising the Agreement would be a useful tool. It would reduce the risk that the two Governments, in presenting the Agreement, would diverge seriously. By providing the media with a ready-made and accurate summary, we should also reduce the extent to which they produce their own inaccurate summaries.

You may wish now to discuss with the Secretaries of State whether the Joint Press Release should be issued at the end of a Summit.

9. Officials have been giving further thought to presentation of the Agreement. It will be essential for your personal authority to be invested in the Agreement from the start. This can be achieved through your joint press conference with the Taoiseach, which Mr Ingham believes should last about 30 minutes including initial statements by Dr FitzGerald and yourself. Mr Ingham believes that, if the press conference were televised, you and the Taoiseach could justifiably decline to undertake individual radio or television interviews about the Agreement on the same day. Your personal authority could be further stressed by your making the initial statement in Parliament about the Agreement and by your opening the debate a few days later. A further suggestion by officials is that the Agreement and the communiqué should appear as a Command Paper laid before Parliament within hours of the Summit. This is a usual procedure, but on this occasion officials believe that the paper should be presented by you and the two Secretaries of State together, not just by the Foreign and Commonwealth Secretary. You will want to consider whether the leaders of the Labour Party, the Liberal Party and the Social Democratic Party should be briefed about the Agreement in confidence under Privy Council rules on the day before the Summit; and if so by whom. You may also wish to consider whether any former Prime Ministers should be briefed. You may wish to consider whether, as soon as practicable after the Summit - perhaps even on the same day - you should offer the four Northern Ireland party leaders (Messrs Molyneaux, Paisley, Hume and Cushnahan) briefings on the Agreement, although we have to reckon with the possibility that Molyneaux and Paisley would refuse to come or insist on being briefed together.

10. As regards public presentation, the main role in Northern Ireland will fall to the Secretary of State for Northern Ireland. Both he and the Foreign and Commonwealth Secretary will have a role to play regarding the overseas media. You might, however, wish to consider seeing Mr Utley of the Daily Telegraph yourself. What he writes about the Agreement will be influential, especially in Parliament. Although he cannot be expected to welcome an Agreement, a briefing personally from you would be likely to moderate his views.

11. I am sending copies of this minute to the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland.

MS

for ROBERT ARMSTRONG

(Approved by Sir Robert and signed in his absence)

25 October 1985

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UUZ OCTOBER 85AND TO NORTHERN IRELAND OFFICE, BELFAST
INFORMATION IMMEDIATE WASHINGTON

ANGLO-IRISH AGREEMENT: PRIME MINISTER'S REMARKS

1. FOLLOWING ARE EXTRACTS FROM A VERBATIM TRANSCRIPT OF A PRESS CONFERENCE GIVEN BY THE PRIME MINISTER IN NEW YORK ON THURSDAY 24 OCTOBER 1985.

ANGLO-IRISH AGREEMENT

A MORE PAROCHIAL SUBJECT. DID YOU DISCUSS WITH PRESIDENT REAGAN THE PRESENT STATE OF ANGLO-IRISH TALKS AND WHAT PROGRESS THEY ARE MAKING?

(PM) I TOLD THE PRESIDENT OF THE TALKS THAT WERE CONTINUING: THAT WE HAD NOT YET REACHED FINAL CONCLUSIONS, BUT I HOPED THAT WE SHALL SOON BE IN A POSITION TO DO SO. BUT YOU WILL ALREADY BE AWARE THAT ANY FINAL CONCLUSIONS WOULD BE IN THE SPIRIT WITH PREVIOUS PRONOUNCEMENTS, NAMELY THAT ANY DECISIONS AFFECTING NORTHERN IRELAND WOULD OF COURSE BE MADE BY THE UNITED KINGDOM. ANY DECISIONS AFFECTING THE REPUBLIC OF IRELAND WOULD OF COURSE BE MADE FROM DUBLIN.

(Q) ON MONDAY, IRISH PRIME MINISTER GARRETT FITZGERALD TOLD THE UNITED NATIONS THAT THE TIME WAS COMING IN THE IMMEDIATE FUTURE TO DECIDE WHETHER THERE WAS A SUFFICIENT BASIS FOR AN AGREEMENT ON NORTHERN IRELAND. HE SEEMED TO BE INDICATING THAT IT IS

POSSIBLE

POSSIBLE THAT IF THERE WAS NO AGREEMENT THE TALKS COULD END WITHOUT ANY KIND OF REAL PROGRESS BEING MADE. FIRST OF ALL, I WOULD LIKE TO KNOW IF YOU HAVE THAT FEEL YOURSELF?

(PM) WELL, THE TALKS CONTINUE AND WE ARE NOT YET IN A POSITION TO SAY WHETHER AN AGREEMENT WILL RESULT OR WHAT KIND OF AN AGREEMENT WILL RESULT. WE ARE ONLY IN A POSITION TO SAY THAT IF AN AGREEMENT DOES RESULT, IT WILL BE IN ACCORDANCE WITH PREVIOUS - 'DECLARATIONS' IS PERHAPS TOO BIG A WORD - IN PREVIOUS THINGS THAT WE HAVE SAID, THAT DECISIONS AFFECTING MATTERS IN NORTHERN IRELAND WOULD OF COURSE BE MADE BY THE UNITED KINGDOM: DECISIONS AFFECTING MATTERS IN THE REPUBLIC OF IRELAND WOULD OF COURSE CONTINUE TO BE MADE BY THE REPUBLIC OF IRELAND, AND THEREFORE WHAT WE ARE SEEKING IS FAR FAR GREATER COOPERATION. BUT I AM NOT ABLE TO SAY WHETHER THE PRESENT TALKS WILL RESULT IN AGREEMENT. I HOPE SO, AND I HOPE THAT WE SHALL BE ABLE TO DECIDE SOON.

(Q) IS THE PURPOSE OF THOSE TALKS NOT TO FIND SOME WAY OF SHARING POWER ACROSS THAT BORDER?

(PM) WELL, AS I HAVE INDICATED, ALL DECISIONS NORTH OF THE BORDER - THAT IS IN NORTHERN IRELAND - WOULD CONTINUE TO BE MADE BY THE UNITED KINGDOM. ALL DECISIONS SOUTH OF THE BORDER WOULD CONTINUE TO BE MADE BY THE REPUBLIC OF IRELAND. WITHIN THAT, THERE IS A VERY GREAT DEAL WE CAN DO WITH MUCH HEIGHTENED COOPERATION.

(Q) DO YOU THINK YOU CAN SHARE SECURITY FORCES ...

(PM) I CANNOT GO FURTHER THAN I HAVE SAID BECAUSE YOU ARE ASKING QUESTIONS WHICH I CANNOT ANSWER AT THE MOMENT. I HAVE INDICATED HOW THE DECISIONS WILL CONTINUE TO BE TAKEN.

SIR JOHN HERMON

(Q) MRS THATCHER, DO YOU STILL HAVE COMPLETE CONFIDENCE IN MR JACK HERMON, HEAD OF THE RUC POLICE FORCE AFTER RECENT DEROGATORY COMMENTS HE MADE ABOUT THE IRISH REPUBLIC POLICE FORCE WHICH ANGERED IRISH PRIME MINISTER GARRETT FITZGERALD?

(PM) MAY I ASK YOU WHAT THOSE DEROGATORY COMMENTS WERE?

(Q) WELL THEY WERE REPORTED WIDELY IN IRELAND AS BEING DEROGATORY ABOUT THE IRISH POLICE FORCE.

(PM) WHAT WERE THE COMMENTS DIRECTLY QUOTED FROM THE LECTURE THAT WERE ALLEGED TO BE DEROGATORY? NO, AND I ASK IT FOR A VERY VERY GOOD REASON. THE SPEECH WAS SERIOUSLY MISREPRESENTED IN THE MEDIA. INDEED, THE REPORTER CONCERNED, IN AN INTERVIEW ON BBC RADIO, SUBSEQUENTLY MADE IT CLEAR THAT THE ARTICLE WHICH HE WROTE WAS AN EXPRESSION OF OPINION AND INCLUDED SOME EXTRACTS, NOT NECESSARILY VARBATIM, FROM THE CHIEF CONSTABLE'S ADDRESS. WE NOTED THAT WHILE THE CHIEF CONSTABLE HAD EXPRESSED CONCERN AT THE SCALE OF RESOURCES AVAILABLE TO THE GARDA, HE HAD PAID TRIBUTE TO THE FORCES, SPECIFICALLY - SPECIFICALLY, HE HAD SAID IT WAS AN EXCELLENT FORCE OF FINE MEN, THAT THE RUC AND THE GARDA HAD A GOOD RELATIONSHIP ALONG THE BORDER AT WORKING LEVEL, AND THERE WAS NO LACK OF WILL BY THE GARDA TO COMBAT TERRORISM.
WILL YOU NOW TELL ME WHAT WAS THE BASIS OF YOUR QUESTION?
(Q) ITS BASIS WAS THE REPORTS THAT APPEARED IN IRELAND CONCERNING THOSE STATEMENTS.
(PM) I THINK YOU HAVE NOW HEARD THAT THE REPORTS ARE VERY VERY FAR FROM ACCURATE AND I THINK IT DOES NOT HELP TO REPEAT THINGS..
(Q) WOULD YOU HAVE THE SAME CONFIDENCE IN MR HERMON THEN?
(PM) I HAVE SAID EXACTLY WHAT THE POSITION IS, BUT IT DOES NOT HELP IF REPORTS ARE INACCURATE, THEN QUESTIONS ARE FOUNDED ON INACCURACIES, WHEN THOSE HAVE BEEN CORRECTED AND THE FULL LECTURE IS AVAILABLE FOR PEOPLE THERE TO SEE.
ENDS

HOWE

NORTHERN IRELAND	PS/MR EGGAR	
LIMITED	PS/PUS	
RID	MR DEREK THOMAS	ADDITIONAL DISTRIBUTION
NAD	SIR W HARDING	NORTHERN IRELAND
INFO D	MR GOODALL	
WED	MR BARRINGTON	
MAED	MR O'NEILL	
NEWS D	MR SAMUEL	
PUSD	MR D C THOMAS	
SCD	MR LONG	
RES D	BUCKINGHAM PALACE	
PS		
PS/LADY YOUNG		

SECRET AND PERSONAL

25

CC PE

WBM

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Tom King MP
Secretary of State
Northern Ireland Office
Whitehall
London
SW1P 3AJ

17 October 1985

Dear Tom,

ANGLO-IRISH TALKS: AN INTERNATIONAL FUND

See FLAP PT 9

Thank you for sending me a copy of your minute of 30 September and the note about the proposed Fund drafted in agreement with the Irish.

This is an exercise without precedent. I accept in the circumstances that there are difficulties about applying strict non-additionality rules to the Fund. The Anglo-Irish agreement is more important.

Equally, I know you will recognise that over time, the implications of a possibly very substantial Fund cannot simply be ignored in considering each year the appropriate size of the Northern Ireland block. This is something we can discuss in future Surveys.

I welcome your undertaking that your officials will consult mine as appropriate as plans for the Fund develop.

I am sending copies of this letter to the Prime Minister, members of OD(I) and Robert Armstrong.

Yours ever,

JOHN MacGREGOR

SECRET AND PERSONAL

IRELAND

ANGLO/IRISH

RELATIONS

PT 10

CC MASTER

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Mtg Record

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG

ANGLO-IRISH TALKS: NORTHERN IRELAND

The Taoiseach telephoned the Prime Minister this afternoon about the dates for the proposed Anglo-Irish Summit.

The Taoiseach said that good progress had been made in the negotiations and only a couple of points were still outstanding. They were basically presentational and he felt they could be resolved. His concern was that unless the Agreement was completed soon, there would be leaks which would make it progressively more difficult for both Governments to finalise the negotiations. He was particularly concerned that the Agreement should be signed before the forthcoming SDLP Conference on 8-10 November. He feared that otherwise resolutions might be passed at the Conference which would make it more difficult for the SDLP to support the Agreement.

The Prime Minister explained the difficulties for her in finding a date before 15 November, although she was prepared to consider the possibility of the late afternoon or evening of Wednesday 13 November if this would help. The Taoiseach said that this would not meet the problem over the SDLP Conference. He pressed the Prime Minister strongly to agree to Friday 8 November. The Prime Minister said that the problem with this was that it would mean signing the Agreement only 48 hours after she had delivered her speech for the Debate on the Address, in which she would not be able

to mention the forthcoming Agreement. It might expose her to charges of bad faith. There was also the consideration that Friday was not an ideal day since there could be no Statement in the House until the following Monday, with the danger that the Unionists' dissatisfaction would break out on to the streets rather than be channelled through Parliament. However, she would talk to her colleagues before departing for CHOGM and let the Taoiseach know her conclusion.

After talking to the Northern Ireland Secretary and Chief Whip (the Lord President was not available), the Prime Minister telephoned the Taoiseach to say that she and her colleagues now saw a fresh difficulty with 8 November, and that was its proximity to Remembrance Sunday. The Government would be accused of insensitivity if it signed an agreement immediately beforehand; and the unionists would find it easier to stir up emotions against the agreement in the context of Remembrance Day. She really saw no option, therefore, but to revert to 15 November. She wondered whether the SDLP could not postpone its conference.

The point about Remembrance Day evidently carried weight with the Taoiseach. He doubted whether it would be possible for the SDLP to change its conference dates. But he agreed that there seemed to be no other option than 15 November.

I am copying this minute to the Private Secretaries to the Northern Ireland Secretary and the Foreign and Commonwealth Secretary.

C.D. POWELL

15 October 1985

SECRET AND PERSONAL

23 fa 46

L03AMQ

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

The Prime Minister has considered your minute of 14 October about your latest round of discussions with Mr. Nally. She was grateful for your efforts to secure inclusion of "decisions and" in Article 2(b) and the omission of "permanent" in Article 3. She notes the continuing difference of opinion about the title of the new body.

We shall need a meeting following the Prime Minister's return from CHOGM and New York to consider proposed paragraphs 7 and 8 of the communique and also to discuss how the draft agreement should be presented to Cabinet. Mrs. Ryder will be in touch to set a date for this.

I am copying this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Secretary of state for Northern Ireland.

CHARLES POWELL

15 October 1985

SECRET AND PERSONAL

10 DOWNING STREET

Prime Minister

Two letters for signature please:

"Dear Dr. Paisley"

"Dear Jim"

There is really nothing you can add to your earlier letter. I suggest therefore that you simply repeat the main point, & offer to see them at the end of the month.

CDP

14/10

FILE

LPO

cc NIO

10 DOWNING STREET

THE PRIME MINISTER

14 October 1985

Dear Dr. Paisley,

Thank you for your further joint letter of 30 September about the Anglo-Irish talks.

I can only repeat my assurance that, whatever emerges from our negotiations with the Irish Government, there is no threat whatsoever to the Union, nor any question of compromising the sovereign responsibility of the Government and Parliament of the United Kingdom for the affairs of Northern Ireland.

I am certainly willing to see you again and to listen to any proposals you may have for a new devolved administration that would be acceptable to the Northern Ireland community as a whole. Unfortunately, my attendance at the Commonwealth Heads of Government Meeting and subsequently at the 40th Anniversary celebrations of the United Nations mean that this can only be towards the end of the month. My office will be in touch to propose a date.

Yours sincerely

Margaret Thatcher

The Reverend Ian Paisley, M.P.

FILE

CF

Do you wish to keep?

15.10

LPO

cc NIO

10 DOWNING STREET

THE PRIME MINISTER

14 October 1985

Dear Jim,

Thank you for your further joint letter of 30 September about the Anglo-Irish talks.

I can only repeat my assurance that, whatever emerges from our negotiations with the Irish Government, there is no threat whatsoever to the Union, nor any question of compromising the sovereign responsibility of the Government and Parliament of the United Kingdom for the affairs of Northern Ireland.

I am certainly willing to see you again and to listen to any proposals you may have for a new devolved administration that would be acceptable to the Northern Ireland community as a whole. Unfortunately, my attendance at the Commonwealth Heads of Government Meeting and subsequently at the 40th Anniversary celebrations of the United Nations mean that this can only be towards the end of the month. My office will be in touch to propose a date.

Yours ever

Margaret

The Rt.Hon. James Molyneaux J.P., M.P.

22

Prime Minister

At least we now have a big game with RTA attends Chogm! CDP

Ref. A085/2634

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

We had a further meeting with Mr Nally and his team in London on the evening of 13 October and on 14 October. This minute reports the outcome of our discussions.

Draft Agreement

2. On the proposed amendment to Article 2(a), we argued for "between the Republic of Ireland and Northern Ireland". This was not acceptable to the Irish side; and we agreed (ad referendum) to use the formulation adopted in Article 2(b), so that the amendment would now read: "concerned with relations between the two parts of the island of Ireland". This ensures that the reference to "Ireland" is purely geographical.

?

3. On the last sentence of Article 2(b) we persuaded the Irish side with some difficulty to accept the inclusion of the words "decisions and".

4. On the last sentence of Article 3, the Irish side sought to reinstate the word "permanent". The reason for this was that they wanted it to be clear on the face of the Agreement that the Secretariat would not exist just when the Committee was meeting but would have a continuing existence. I said that we had no authority to accept the inclusion of the word "permanent"; but I agreed to put to Ministers the suggestion that the sentence might read: "a Secretariat shall be established by the two Governments to service the Committee on a continuing basis in the discharge of its functions as set out in this Agreement".

Agree?

NOIAAZ

5. We had a long and inconclusive discussion about the title of the new body. The Irish side maintained their objection to "Committee", and have promised to prepare a note setting out their objections in greater detail. I made it clear that "Commission" would not be acceptable to British Ministers. A number of other possibilities were floated including "Conference", "Panel" and "Group". The matter remains unresolved.

6. Some minor discrepancies between the United Kingdom text and the Irish text of the draft Agreement were resolved.

--- 7. I attach a copy of the revised draft Agreement in its present form. The only outstanding point is now the last sentence of Article 3.

Joint Press Release

8. A number of minor amendments were agreed, to bring the press release even more closely into line with the draft Agreement. The only outstanding difference is now the last sentence of paragraph 6, relating to the reference to the Secretariat: that is the same point of difference as on the draft Agreement.

--- 9. I attach a copy of the revised draft press release.

Joint Communiqué

10. Two changes were proposed to paragraph 7 of the draft communiqué:

a. For the words "in the first instance" substitute "at its initial meeting".

b. For "in the interests of all the people of Northern Ireland the two sides look for early progress in these matters" substitute "in the interests of all the people of

Northern Ireland the two sides are committed to work for early progress in these matters".

The British side made it clear that, while we were prepared to look for measures to improve confidence in the administration of justice in Northern Ireland, our position on mixed courts remained unchanged from what had been said in your message of 4 October to the Taoiseach.

--- 11. I attach a copy of the revised draft communiqué.

Security

12. We left with the Irish side a "non-paper" summarising the changes which we had made or were in the process of making in relation to the UDR. This note had been agreed with the Ministry of Defence and the Northern Ireland Office.

13. The Irish side left with us a "non-paper" about the increased activity of the Irish security forces in border areas.
--- I attach copies of both these notes.

14. We had a considerable further discussion with the Irish side about the role and functions of the proposed Secretariat. They did not seek to contest the suggestions put to them in the Northern Ireland Office's note of illustrative examples in the way in which the Committee and the Secretariat would work, though they stressed the need for flexibility of operation particularly in the early months.

Presentation

15. Considerable work has been done on the preparation of a comprehensive study of questions and answers for the use of British and Irish Ministers after the signature of an Agreement. The most difficult issue is likely to relate to the "present status of Northern Ireland". The Irish side are satisfied that Article 1 of the draft Agreement, as at present drafted,

minimises the risk of constitutional challenge in Ireland. It is accepted that the present status of Northern Ireland is that it is part of the United Kingdom, and that that will not change unless and until a majority of the people of Northern Ireland consent to a change. They will want to try to protect the Taoiseach from the risk of constitutional challenge in respect of anything that may be said in questions and answers following the signature of an Agreement. This is to be the subject of further discussion.

16. I am sending copies of this minute to the Secretaries of State for Foreign and Commonwealth Affairs and Northern Ireland.

RA

ROBERT ARMSTRONG

14 October 1985

DRAFT AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF IRELAND.

As at 14 Oct

(changes from last draft underlined)

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland;

Wishing further to develop the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Community;

Recognising the major interest of both their countries and, above all, of the people of Northern Ireland in diminishing the divisions there and achieving lasting peace and stability;

Recognising the need for continuing efforts to reconcile and to acknowledge the rights of the two major traditions that exist in Ireland, represented on the one hand by those who wish for no change in the present status of Northern Ireland and on the

other hand by those who aspire to a sovereign united Ireland achieved by peaceful means and through agreement;

Reaffirming their total rejection of any attempt to promote political objectives by violence or the threat of violence and their determination to work together to ensure that those who adopt or support such methods do not succeed;

Recognising that a condition of genuine reconciliation and dialogue between unionists and nationalists is mutual recognition and acceptance of each other's rights;

Recognising and respecting the identities of the two communities in Northern Ireland, and the right of each to pursue its aspirations by peaceful and constitutional means;

Reaffirming their commitment to a society in Northern Ireland in which all may live in peace, free from discrimination and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government;

Have accordingly agreed as follows:

A

STATUS OF NORTHERN IRELAND

ARTICLE 1

The two Governments

(a) affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland;

(b) recognise that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland;

(c) declare that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish.

B

THE INTERGOVERNMENTAL [COMMITTEE]

ARTICLE 2

(a) There is hereby established, within the framework of the Anglo-Irish Intergovernmental Council set up after the meeting between the two Heads of Government on 6 November 1981, an Intergovernmental [Committee] concerned with relations between the two parts of the island of Ireland (hereinafter referred to as "the [Committee]"), to deal, as set out in this Agreement, on a regular basis and in relation to Northern Ireland with

(i) political matters;

(ii) security and related matters;

(iii) legal matters, including the administration of justice;

(iv) the promotion of cross-border co-operation.

(b) The [Committee] shall meet on a regular rather than an ad hoc basis. The United Kingdom Government accept that the Irish Government will put forward views and proposals on matters relating to Northern Ireland within the field of activity of the [Committee] in so far as those matters are not the responsibility of a devolved administration in Northern Ireland. In the interest of promoting peace and stability, determined efforts shall be made through the [Committee] to resolve any differences. The [Committee] will be mainly concerned with Northern Ireland; but some of the matters under consideration will involve co-operative action in both parts of the island of Ireland, and possibly also in Great Britain. Some of the proposals considered in respect of Northern Ireland may also be found to have application by the Irish Government. There is no derogation from the sovereignty of either the United Kingdom Government or the Irish Government, so that each retains responsibility for the decisions and administration of government within its own jurisdiction.

ARTICLE 3

The [Committee] shall meet at Ministerial or official level, as required. The business of the [Committee] will thus receive attention at the highest level. Regular and frequent Ministerial meetings shall be held; and in particular special meetings shall be convened at the request of either side. Officials may meet in subordinate groups. Membership of the [Committee] and of sub-groups shall be small and flexible. When the [Committee] meets at Ministerial level the Secretary of State for Northern Ireland and an Irish Minister designated as the Permanent Irish Ministerial Representative shall be joint Chairmen. Other British and Irish Ministers shall attend meetings as appropriate: when legal matters are under consideration the Attorney Generals may attend. Ministers may be accompanied by their officials and their professional advisers: for example, when questions of security policy or security co-operation are being discussed, they may be accompanied by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana; or when questions of economic or

social policy or co-operation are being discussed, they may be accompanied by officials of the relevant Departments. A [permanent] Secretariat shall be established by the two Governments to service the Committee [on a continuing basis] in the discharge of its functions as set out in this Agreement.

ARTICLE 4

(a) In relation to matters coming within its field of activity, the [Committee] shall be a framework within which the United Kingdom Government and the Irish Government work together

(i) for the accommodation of the rights and identities of the two traditions which exist in Northern Ireland; and

(ii) for peace, stability and prosperity throughout Ireland by promoting reconciliation, respect for human rights, co-operation against terrorism and the development of economic, social and cultural co-operation.

(b) It is the declared policy of the United Kingdom Government that responsibility in respect of certain matters within the powers of the Secretary of State for Northern Ireland should be devolved within Northern Ireland on

a basis which would secure widespread acceptance throughout the community. The Irish Government support that policy.

(c) Both Governments recognise that devolution can be achieved only with the co-operation of constitutional representatives within Northern Ireland of both traditions there. If full devolution has not taken place, the [Committee] shall be a framework within which the Irish Government may put forward views and proposals on the modalities of devolution in Northern Ireland, in so far as they relate to the interests of the minority community.

C

POLITICAL MATTERS

ARTICLE 5

(a) The [Committee] shall concern itself with measures to recognise and accommodate the rights and identities of the two traditions in Northern Ireland, to protect human rights and to prevent discrimination. Matters to be considered in this area include measures to foster the cultural heritage of both traditions, changes in electoral arrangements, the use of flags and emblems, the avoidance of economic and social discrimination and the advantages and disadvantages of a Bill of Rights in some form in Northern Ireland.

(b) The discussion of these matters shall be mainly concerned with Northern Ireland, but the possible application of any measures pursuant to this Article by the Irish Government in their jurisdiction shall not be excluded.

(c) If it should prove impossible to achieve and sustain devolution on a basis which secures widespread acceptance in Northern Ireland, the [Committee] shall be a framework within which the Irish Government may, where the interests of the minority community are significantly or especially affected, put forward views on proposals for major legislation and on major policy issues, which are within the purview of the Northern Ireland Departments and which remain the responsibility of the Secretary of State for Northern Ireland.

ARTICLE 6

The [Committee] shall be a framework within which the Irish Government may put forward views and proposals on the role and composition of bodies appointed by the Secretary of State for Northern Ireland or by departments subject to his direction and control including

the Standing Advisory Commission on Human Rights

the Fair Employment Agency

the Equal Opportunities Commission

the Police Authority for Northern Ireland

the Police Complaints Board.

D

SECURITY AND RELATED MATTERS

ARTICLE 7

(a) The [Committee] shall consider

(i) security policy;

(ii) relations between the security forces and the community;

(iii) prisons policy.

(b) The [Committee] shall consider the security situation at its regular meetings and thus provide an opportunity to address policy issues, serious incidents and forthcoming events.

(c) The two Governments agree that there is a need for a programme of special measures in Northern Ireland to improve relations between

the security forces and the community, with the object in particular of making the security forces more readily accepted by the nationalist community. Such a programme shall be developed, for the [Committee's] consideration, and may include the establishment of local consultative machinery, training in community relations, crime prevention schemes involving the community, improvements in arrangements for handling complaints, and action to increase the proportion of members of the minority in the Royal Ulster Constabulary. Elements of the programme may be considered by the Irish Government suitable for application within their jurisdiction.

(d) The [Committee] may consider policy issues relating to prisons. Individual cases may be raised as appropriate, so that explanations can be given or inquiries instituted.

E

LEGAL MATTERS, INCLUDING THE ADMINISTRATION OF JUSTICE

ARTICLE 8

The [Committee] shall deal with issues of concern to both countries relating to the enforcement of the criminal law. In particular it shall consider whether there are areas of the criminal law applying in the North and in the South respectively which might with benefit be harmonised. The two Governments agree on the desirability of ensuring that there is public confidence in the administration of justice. The [Committee] shall seek, with the help of advice from experts as appropriate, measures which would give substantial expression to this aim, considering inter alia the possibility of mixed courts in both jurisdictions for the trial of certain offences. The [Committee] shall also be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South.

F

CROSS-BORDER CO-OPERATION ON SECURITY, ECONOMIC, SOCIAL AND CULTURAL MATTERS

ARTICLE 9

(a) With a view to enhancing cross-border co-operation on security matters, the [Committee] shall set in hand a programme of work to be undertaken by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana and, where appropriate, groups of officials in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel, and operational resources.

(b) The [Committee] shall have no operational responsibilities; responsibility for police operations shall remain with the heads of the respective police forces, the Chief Constable of the Royal Ulster Constabulary maintaining his links with the Secretary of State for

Northern Ireland and the Commissioner of the Garda Siochana his links with the Minister for Justice.

ARTICLE 10

(a) The two Governments shall co-operate to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years, and shall consider the possibility of securing international support for this work.

(b) If it should prove impossible to achieve and sustain devolution on a basis which secures widespread acceptance in Northern Ireland, the [Committee] shall be a framework for the promotion of co-operation between the two parts of Ireland concerning cross-border aspects of economic, social and cultural matters in relation to which the Secretary of State for Northern Ireland continues to exercise authority.

(c) If responsibility is devolved in respect of certain matters in the economic, social or cultural areas currently within the responsibility of the Secretary of State for Northern Ireland, machinery will need to be

established by the responsible authorities in the North and South for practical co-operation in respect of cross-border aspects of these issues.

G

ARRANGEMENTS FOR REVIEW

ARTICLE 11

At the end of three years from signature of this agreement, or earlier if requested by either Government, the working of the [Committee] shall be reviewed by the two Governments to see whether any changes in the scope and nature of its activities are desirable.

H

INTERPARLIAMENTARY RELATIONS

ARTICLE 12

It will be for Parliamentary decision in Westminster and in Dublin whether to establish an Anglo-Irish Parliamentary body of the kind adumbrated in the Anglo-Irish Studies Report of November 1981. The two Governments agree that they would give support as appropriate to such a body, if it were to be established.

I

FINAL CLAUSES

ARTICLE 13

This Agreement shall enter into force on the date on which the two Governments exchange notifications of their acceptance of this Agreement.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in two originals at.... on the..... day of 1985

For the Government of the United Kingdom of Great Britain and Northern Ireland

For the Government of the Republic of Ireland

(Note: each original would be signed on behalf of both Governments. In the Title, in the names of parties at the start of the Agreement, and in the signature blocks above, the original retained in London would be as typed, whereas, in the original retained in Dublin, "of Great Britain and Northern Ireland" and "the Republic of" would be omitted, and the Irish signature block would be on the left side.)

Draft as of 14 October 1985

(changes from last draft underlined)

Summary of the Anglo-Irish Agreement

Joint Press Release

(Note: This summary has no legal status)

1. The Agreement begins with a Preamble incorporating a joint statement of objectives.

The Status of Northern Ireland

2. The Agreement commits the two Governments to the view that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland; that the present wish of a majority there is for no change in that status; and that, if in the future a majority there clearly wished for and formally consented to a united Ireland, the two Governments would introduce and support legislation in the respective Parliaments to give effect to this. (Article 1)

Framework and Objectives of the Intergovernmental [Committee]

3. The Agreement establishes, within the framework of the Anglo-Irish Intergovernmental Council, an Intergovernmental [Committee] which, subject to the terms of the Agreement, will deal on a regular basis and in relation to Northern Ireland, with:

- political matters;

- security and related matters;

- legal matters, including the administration of justice;

- the promotion of cross-border co-operation. (Article 2(a))

The Agreement provides for a review of the working of the [Committee] after three years, or earlier if either side desires. (Article 11)

4. The [Committee] will proceed on the basis that:-

- the United Kingdom Government accepts that the Irish Government will put forward within the [Committee] views and proposals on certain matters relating to Northern Ireland as provided for in the Agreement;

- in the interest of promoting peace and stability, determined efforts will be made in the [Committee] to resolve any differences;

- there will be no derogation from the sovereignty of either Government, so that each retains responsibility for the decisions and administration of government within its own jurisdiction. (Article 2(b))

5. The [Committee] will be a framework within which the two Governments work together for the accommodation of the rights and identities of the two traditions in Northern Ireland and for peace, stability and prosperity throughout Ireland by promoting reconciliation, respect for human rights, co-operation against terrorism and the development

of economic, social and cultural co-operation. (Article 4(a))

Procedures and Membership of the Intergovernmental [Committee]

6. There will be regular and frequent meetings of the [Committee] at Ministerial level as well as meetings at official level, and in particular special meetings may be convened at the request of either side. The Irish Government will be represented by a Minister designated as the Permanent Irish Ministerial Representative and the United Kingdom Government by the Secretary of State for Northern Ireland. Other Ministers and advisers will participate as appropriate. There will be a [permanent] Secretariat to service the [Committee] [on a continuing basis]. (Article 3)

7. The Irish Government declare their support for the United Kingdom Government's policy of seeking devolution in Northern Ireland on a basis which would secure widespread acceptance throughout the community. (Article 4(b)). The [Committee] will be a framework in which the Irish Government can put forward views and proposals on the modalities

of devolution, in so far as they relate to the interests of the minority community. (Article 4(c)). Should a devolved administration be established, the devolved matters would not be for consideration by the [Committee]. (Article 2)

Political Matters

8. The [Committee] will concern itself with measures to recognise and accommodate the rights and identities of both traditions in Northern Ireland in such areas as cultural heritage, electoral arrangements, use of flags and emblems, the avoidance of economic and social discrimination and the advantages andd disadvantages of a Bill of Rights for Northern Ireland. (Article 5(a))

9. Should it prove impossible to achieve and sustain devolution, proposals for major legislation and major policy issues where the interests of the minority community are significantly and especially affected and which come within the administrative responsibility of the Northern Ireland Departments will be for consideration by the [Committee]. (Article 5(c))

10. The [Committee] will be a framework within which the Irish Government may put forward views on the role and composition of certain bodies appointed by the Secretary of State for Northern Ireland. (Article 6)

Security and Related Matters within Northern Ireland

11. The [Committee] will consider security policy issues as well as serious incidents and forthcoming events. A programme of action will be developed with the particular object of improving the relations between the security forces and the nationalist community. Some of the proposals in these areas may be considered by the Irish Government for application in the South. It may also consider policy issues relating to prisons, and individual cases may be raised. (Article 7)

Legal Matters including the Administration of Justice

12. Both Governments recognise the importance of ensuring that there is public confidence in the system of administering justice in Northern

Ireland. The [Committee] will seek measures that would give substantial expression to this aim, considering among other things the possibility of mixed courts in both jurisdictions for the trial of certain offences. The [Committee] will also consider whether there are areas of the Criminal Law in both jurisdictions which might with benefit be harmonised and will be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South. (Article 8)

Cross-border Co-operation on Security, Economic, Social and Cultural Matters

13. The [Committee] will set in hand a programme of work to be undertaken by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana with a view to enhancing co-operation between the security forces of the two Governments in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel and operational resources. The [Committee] will have no operational responsibilities. (Article 9)

14. The two Governments undertake to co-operate to promote the economic and social developments of those areas in both parts of Ireland which have suffered most severely as a result of the instability of recent years. The two Governments will consider the possibility of securing international support for this work. (Article 10(a))

15. The [Committee] will, in the absence of devolution, be the framework for the promotion of cross-border economic, social and cultural co-operation. In the event of devolution, machinery would be needed to deal with co-operation in respect of cross-border aspects of devolved matters. (Article 10(b) and (c))

Inter-Parliamentary Body

16. The two Governments agree that they would give appropriate support to any Anglo-Irish Inter-Parliamentary body established by the two Parliaments. (Article 12)

As at 11 October 1985

(changes from last draft underlined)

Anglo-Irish Agreement

Joint Communiqué (Draft)

1. The Prime Minister, the Rt Hon Margaret Thatcher FRS MP and the The Taoiseach, Dr Garret FitzGerald TD, met at ..... on ..... It was the third meeting of the Anglo-Irish Intergovernmental Council to be held at the level of Heads of Government.

2. The Prime Minister was accompanied by ..... and the Taoiseach was accompanied by .....

3. The Prime Minister and the Taoiseach signed a formal and binding Agreement between their two Governments, with the aims of promoting peace and stability in Northern Ireland; helping to reconcile the two major traditions in Ireland; creating a new climate of friendship and co-operation between the people of the two countries; and improving co-operation in combatting terrorism.

4. The Agreement deals in particular with the status of Northern Ireland and the establishment of an Intergovernmental [Committee] in which the Irish Government will put forward views and proposals concerning stated aspects of Northern Ireland affairs; in which the promotion of cross-border co-operation will be discussed; and in which determined efforts will be made to resolve any differences between the two Governments.

5. The Prime Minister and the Taoiseach committed themselves to implementing and sustaining the measures set out in the Agreement with determination and imagination and undertook to encourage people of both the unionist and nationalist traditions in Ireland to make new efforts to understand and respect each other's concerns with a view to promoting reconciliation.

6. The Agreement provides for entry into force as soon as each Government has formally notified the other of acceptance. This exchange of notifications will not be completed until the Agreement has been approved the British Parliament and by Dail Eireann. The two Governments intend that action to implement the provisions of the

Agreement should begin once the exchange of notifications has been completed. The first meeting of the Intergovernmental [Committee] will take place as soon as possible thereafter. The British side will be led by the Secretary of State for Northern Ireland and the Irish side by the Minister designated as the Permanent Irish Ministerial Representative

7. The two Governments envisage that the meetings and agenda of the [Committee] will not normally be announced. But they wish it to be known that, at its first meeting, the [Committee] will consider its future programme of work in all the fields - political, security, legal, economic, social and cultural - which come within its competence. It will concentrate <u>at its initial meeting</u> on:

- relations between the security forces and the minority community in Northern Ireland;

- seeking measures which would give substantial expression to the aim of ensuring that there is public confidence in the administration of justice; and

- ways of improving security co-operation between the two Governments.

In the interests of all the people of Northern Ireland the two sides are committed to work for early progress in these matters. Against this background the Taoiseach said that it was the intention of his Government to accede as soon as possible to the European Convention on the Suppression on Terrorism.

8. In addressing the improvement of relations between the security forces and the minority community, the [Committee] at its first meeting will consider:

a. the application of the principle that the Armed Forces (which include the Ulster Defence Regiment) operate only in support of the civil power, with the particular objective of ensuring as rapidly as possible that, save in the most exceptional circumstances, there is a police presence in all operations which involve direct contact with the community;

b. ways of underlining the policy of the Royal Ulster Constabulary and of the Armed Forces in Northern Ireland that they discharge their duties even-handedly and with equal respect for the unionist and nationalist identities and traditions.

9. In its discussion of the improvement of cross-border co-operation on security, the first meeting of the Intergovernmental [Committee] will consider how the two Governments can most effectively implement their joint commitment to combat terrorism, and will give particular attention to the policing of border areas.

10. In addition to concluding the new Agreement, the Prime Minister and the Taoiseach reviewed the wide range of work being done under the auspices of the Anglo-Irish Intergovernmental Council to develop further the unique relationship between the two countries. The fact that in the past year there have been more than twenty meetings between Ministers of the two Governments demonstrates the closeness of co-operation. Among the areas where progress has been made in the past year is the planning of new areas of co-operation in education,

notably in curriculum development between schools. The Prime Minister and the Taoiseach decided that the work under the Council's auspices in these various fields should be actively continued, in the interests of friendship between all the people of both countries.

11. The Prime Minister and the Taoiseach held a full and friendly discussion of current international issues, including matters concerning the European Community. They paid particular attention to .....

12. The Prime Minister and the Taoiseach agreed to meet again at an appropriate time to take stock of the development of relations between the two countries and of the implementation of the Agreement which they have signed.

UDR

Strength and Role

The British Government has no plans for further reducing the regular Army presence in Northern Ireland in the foreseeable future, or for increasing the strength or role of the UDR in relation to the regular Army.

2. At its inception, the UDR was intended to be mainly a part-time force: the role of the relatively small full-time element being confined to guard and administrative duties. Subsequently the introduction of an operational role for the full-time element caused its increase to its present size, with a consequent decrease in the size of the part-time element from 8117 in 1972 to 3754 today.

3. The strengths of both the full-time and part-time elements are kept under review, to reflect changes in the requirement for military support for the RUC. But it is neither politically nor operationally possible to give advance undertakings as to when or on what scale the strengths might alter on these grounds.

Training

4. With a view to improving the professionalism and the community awareness of the Regiment, and especially of the part-time members, the following new measures are being introduced which in aggregate are expected to have a substantial effect:

(a) the initial training for part-time soldiers is to be increased from 8 to 14 days;

(b) the number of regular Army non-commissioned officers serving with the UDR is to be increased in order to strengthen the supervision of training;

(c) a new post for a regular Army Lieutenant Colonel in UDR Headquarters is being established, specifically to oversee training;

(d) eligible UDR officers of the Permanent Cadre (i.e. the full-time element) will in future attend the standard military course at Sandhurst. This is a six-month course which is attended by all regular officers and the attendance of UDR officers will help to bring the Regiment into even closer alignment with regular Army operating practice and methods;

(e) there will be increased opportunities for UDR NCOs to be attached on a voluntary basis to regular battalions in Great Britain for training;

(f) there is to be a marked increase in the involvement of the RUC in UDR training: at the UDR training centre at Ballykinler, in local training in battalion areas and with each battalion during its annual camp;

(g) when the RUC's Code of Conduct becomes available, consideration will be given to incorporating relevant aspects of it into Army (including UDR) training and standing instructions.

Deployment

5. Whilst the UDR is not debarred by law from operating in any area of Northern Ireland, in practice it does not normally operate at all in the largely nationalist areas of the cities - i.e. in West Belfast or in Londonderry West of the Foyle - and there are no plans to change this.

6. For the rest, in those areas where a degree of military support for the police remains necessary, the practice is to use regular units where the threat is greatest (because that is where their military skills are most needed) and the UDR where the threat is relatively less great. Thus the military task is undertaken wholly or mainly by regular troops in southern County Armagh and eastern Fermanagh and south-east Tyrone (as well as in the city areas mentioned above).

7. Under the doctrine of police primacy, it has for some years been the universal practice that all military operations - including those of the UDR - are undertaken at the direct request of the RUC. Furthermore, it is established policy that whenever possible there

should actually be a police presence with those military operations which are inherently likely to involve contact with the public on a significant scale: for example, vehicle checkpoints (whether permanent or temporary) and patrols in populated areas. A major effort is being made to speed up the implementation of this policy and this should become increasingly evident on the ground: as much so in Fermanagh and Tyrone as anywhere else.

8. The scope for any changes in the existing pattern of military deployments is severely circumscribed by operational and other practical factors. Nevertheless, we have been able to make some limited adjustments, and we may be able to make a few more, which should be helpful in community terms. In Belfast, Kennedy Way, including the roundabout with the M1 motorway, is the tactical responsibility of a regular battalion, with UDR operations taking place to the East of that point and excluding the roundabout. For the city centre, we are looking again at how we could dispense with the UDR guard at the Castle Street entrance to the segment area. In Armagh city, patrolling of predominantly nationalist housing estates will be conducted either by the RUC alone or, when that is not practicable, by joint RUC and UDR patrols. Every opportunity will be taken to extend the same arrangement to patrolling in mainly nationalist areas of other towns, consistent with the local security situation and with the availability of police manpower.

Arrests by soldiers

9. The increasing frequency with which there is a police presence in military operations (paragraph 7 above) will, of course, mean that the military power of arrest has to be invoked even less frequently than it has been in recent times. In these circumstances the military authorities have issued administrative instructions that, except in extreme conditions such as a physical emergency, the power of arrest is in future to be exercised only by soldiers who have completed their initial traning and have more than six months' service.

Complaints

10. Action is in hand to produce a leaflet for the public which explains how complaints against the Army are dealt with and gives guidance on how they should be made.

Announcements

11. The majority of the above measures have already been decided upon. For those which are also already being put into effect, we would hope that they will come to public notice in the normal course of events. We see no reason, subject to circumstances at the time, why in the following cases they should not also be mentioned, as things that are happening, in the course of the Westminster debates on the Anglo-Irish Agreement:

para. 3: strengths kept under review

para. 4a: longer initial training

para. 4f: more RUC involvement in training

para. 5: normally no deployment in West Belfast, etc.

para. 7: accompanying police presence.

But we would not wish to draw attention in the debates to the deployment modification in paragraph 8 or the curtailed use of arrest in paragraph 9.

12. We also envisage making some mention in the debates of those measures which have been decided upon but may not by then have been put fully into effect:

para. 4b: more regular NCOs

para. 4c: new training officer post

para. 4d: UDR officers to Sandhurst

para. 4e: UDR NCOs to regular battalions

para. 10: new complaints pamphlet.

CONFIDENTIAL

Note on increased activity of the Garda Siochana in Border areas and in related activity elsewhere

1. The increased resources that are being made available in the Border areas may be described under two heads -

   A. Increased man-hours and support facilities (mainly cars) in the local Divisional and District organisation.

   B. Task Force units.

A : Increases in local effective strength

2. Those increases are provided in part through the allocation of increased overtime and in part through the assignment of additional members to the relevant local Divisions (an arrangement which, in turn, has to be balanced by increased overtime in the other areas from which the members are withdrawn). The allocation of cars to Border-related duty is being doubled.

3. The increased Garda activity, which includes vehicle check-points as well as general patrolling and associated work, is in the main equally directed at (and, it is hoped, equally effective against) paramilitary groups on both sides though some of the Garda activity (especially information-gathering) is likely to be mainly relevant to PIRA/INLA and

some (mainly certain foot patrols in some towns) is likely to be mainly relevant to the UVF. The Garda Siochana are conscious of the fact that, apart from the more "direct" dangers, extremists on either side may set out to act in such a way as to provoke extremists on the other side or to engage in outrages for which they know the public would be disposed to blame extremists on the other side.

4. There is also increased Garda activity of a related kind in certain "non-Border" areas. This mainly falls under two heads, viz.

(a) vehicle check-points and

(b) increased work by way of information-gathering.

There is an increased financial allocation for this particular additional work (as well as for the work referred to earlier).

B : Task Force Units

5. What is proposed under this heading is an arrangement of the same kind and with the same level of resources as obtained a few years ago. That arrangement is described in the following paragraphs.

6. In the present context, the term "Task Force" is meant to apply to a group of members of the Garda Siochana of various ranks whose permanent "base" is Dublin. From that Task Force, "units" of (usually) 15, headed by an Inspector, may be detached and assigned as required for special (usually "mobile") duties in any part of the State. Where there is a continuing need in a particular area, the particular unit is replaced by another rather than being retained for an extended period

in the same area. A Task Force Unit might, if circumstances so indicated, sub-divide so as to provide a "half-strength" service round-the-clock in a particular area.

7. As regards Border duties, the extent to which Task Force Units were assigned depended very much on the situation "on the ground" at any particular time; but it was never the practice to have several Units deployed simultaneously for extended periods. On the other hand, additional units were assigned to the Border to cope with unusual short-term needs. The same approach will be adopted now.

8. Additional recruitment to and training for members of the Task Force are at present proceeding and will have been completed shortly but if in the meantime a need were to arise already-trained personnel could be re-deployed immediately.

9. The Garda Siochana are satisfied, having carried out a full review, that the use of Task Force Units in the way and to the extent now envisaged is a cost-effective way of making the kind of contribution that they will be able to make but, beyond that point, in present circumstances at all events, they have concluded that the other arrangements they have made - those referred to in paragraphs 2 to 4 - represent the best use of resources.

Temporary nature of arrangements

10. The arrangements described above are very costly and it is strongly hoped that circumstances will permit their being scaled-down in the

not-too-distant future. On the other hand, it is recognised that there will be a period of high risk not only just before but for some time after the signature of any Agreement that may emerge.

Confidentiality

11. From the point of view of the authorities here, there are serious problems in any great emphasis on the commitment of increased resources to Border areas. It is recognised, however, that some references to it need to be made from the British side and, despite the Garda view that the importance of Task Force Units has in the past been given a disproportionate emphasis, it is also recognised that a suitable reference to them is important in the presentation of the position to the Unionist sector.

12. Accordingly, no objection would be raised from our side if it were said that -

A. The Irish Government clearly recognise that an Agreement designed to achieve progress towards peace and stability could provoke reaction from extremists on both sides and have assured [the British side] that important increases in Garda resources, both in terms of manpower and transport, have already been provided in Border Divisions.

B. In addition to the increases in the local strength of the Border Divisions, special arrangements have been made for the deployment of Task Force Units to be available to deal

with particular outrages or threats or other special problems.

C. More frequent meetings are now taking place between officers of the RUC and of the Garda Siochana at various levels with a view to maximising co-operation in the common fight against terrorism and, in particular, in the common determination to defeat any attempt, from whatever source, to disrupt the effective working of the Agreement.

NB 21
2 pp's

Prime Minister
I don't like the way these allegations are flying about CDO

Ref. A085/2636

MR POWELL

Noted

I have seen a copy of the letter which the Secretary of State for Northern Ireland's Private Secretary sent to you on 11 October about the allegation that a junior Minister of the Northern Ireland Office had shown to a journalist a copy of the draft Anglo-Irish Agreement.

2. Mr Nally told me in the margins of our meeting today that the allegation now was that a Cabinet Minister had shown a journalist a copy of the draft Agreement, and not in Blackpool. There was some suggestion that this might have happened a little time ago. The indications were that the Cabinet Minister concerned was not the Secretary of State for Northern Ireland.

3. The source of this allegation is the journalist who claims to be the man to whom a copy of the draft Agreement was shown.

4. On this latest information, the only possible explanation seems to be that some member of OD(I) was responsible for the disclosure. The Prime Minister will remember that OD(I) had copies of the draft Agreement as it then stood at their meeting on 15 July. The papers circulated to the Cabinet for their discussion on 25 July were all withdrawn.

5. The Irish Government remain extremely apprehensive about the consequences of any premature disclosure of the text of the draft Agreement.

NOIABD

6. I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland.

RA

ROBERT ARMSTRONG

14 October 1985

NOIABD

IRELAND : Relations : Pt 10

SECRET AND PERSONAL

Ref. A085/2635

MR POWELL

Anglo-Irish Relations: Northern Ireland

Thank you for your minute of 13 October about the timing of a possible Anglo-Irish Summit.

2. I have had a further discussion with Mr Nally in the margins of our latest meeting.

3. The Taoiseach remains deeply concerned about the prospect of delaying the Anglo-Irish Summit beyond the date fixed for the Social Democratic and Labour Party Conference (8-10 November). If an Anglo-Irish Agreement can be signed and published before that date it will be part of the facts of the situation when the Conference meets. If it is not, there is considerable danger of resolutions being moved and passed which would make it difficult if not impossible for the SDLP to support the Agreement.

4. He is also worried that, following all the leaks and stories in the press, both the unionist and nationalist parties in Northern Ireland and the Opposition in the Republic are stepping up their attempts to wreck the process in advance. He fears that, if this process is allowed to go on for too long, unchecked by any finality, the prospects of being able to conclude the Agreement would get progressively less and less.

5. I made it clear to Mr Nally that we were not in a position to plan on a date before 15 November.

SECRET AND PERSONAL

NOIABC

6. I think it possible that the Taoiseach may seek to speak directly to the Prime Minister on this matter.

RTA

ROBERT ARMSTRONG

14 October 1985

NOIABC

IRELAND : Relations : Pt 10

19

CDP
14/x.

Ref. A085/2634a

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

We had a further meeting with Mr Nally and his team in London on the evening of 13 October and on 14 October. This minute reports the outcome of our discussions.

Draft Agreement

2. On the proposed amendment to Article 2(a), we argued for "between the Republic of Ireland and Northern Ireland". This was not acceptable to the Irish side; and we agreed (ad referendum) to use the formulation adopted in Article 2(b), so that the amendment would now read: "concerned with relations between the two parts of the island of Ireland". This ensures that the reference to "Ireland" is purely geographical.

3. On the last sentence of Article 2(b) we persuaded the Irish side with some difficulty to accept the inclusion of the words "decisions and".

4. On the last sentence of Article 3, the Irish side sought to reinstate the word "permanent". The reason for this was that they wanted it to be clear on the face of the Agreement that the Secretariat would not exist just when the Committee was meeting but would have a continuing existence. I said that we had no authority to accept the inclusion of the word "permanent"; but I agreed to put to Ministers the suggestion that the sentence might read: "a Secretariat shall be established by the two Governments to service the Committee on a continuing basis in the discharge of its functions as set out in this Agreement".

NOIAAZ

5. We had a long and inconclusive discussion about the title of the new body. The Irish side maintained their objection to "Committee", and have promised to prepare a note setting out their objections in greater detail. I made it clear that "Commission" would not be acceptable to British Ministers. A number of other possibilities were floated including "Conference", "Panel" and "Group". The matter remains unresolved.

6. Some minor discrepancies between the United Kingdom text and the Irish text of the draft Agreement were resolved.

--- 7. I attach a copy of the revised draft Agreement in its present form. The only outstanding point is now the last sentence of Article 3.

Joint Press Release

8. A number of minor amendments were agreed, to bring the press release even more closely into line with the draft Agreement. The only outstanding difference is now the last sentence of paragraph 6, relating to the reference to the Secretariat: that is the same point of difference as on the draft Agreement.

--- 9. I attach a copy of the revised draft press release.

Joint Communiqué

10. Two changes were proposed to paragraph 7 of the draft communiqué:

a. For the words "in the first instance" substitute "at its initial meetings".

b. For "in the interests of all the people of Northern Ireland the two sides look for early progress in these matters" substitute "in the interests of all the people of

Northern Ireland the two sides are committed to work for early progress in these matters".

11. In this context the British side made it clear that, while we were prepared to look for measures to improve confidence in the administration of justice in Northern Ireland, our position on mixed courts remained unchanged from what had been said in your message of 4 October to the Taoiseach.

12. The Irish side confirmed that, as stated in what is now the last sentence of paragraph 7, it was the Irish Government's intention to accede to the European Convention on the Suppression of Terrorism, and they would be embarking upon the preparation of legislation for this purpose (though that preparation could take 6 to 12 months). They thought, however, that the Government might be obliged by the outcome of three recent cases (notably that of McGlinchy) to include in their legislation provisions requiring their courts in considering applications for extradition to call for prima facie evidence. Extradition can at present be granted (between Northern Ireland and the Republic of Ireland) on the basis of a procedure of backing warrants. The fact that McGlinchy won his appeal in Northern Ireland, after being extradited from the Republic, was (they acknowledged) a valuable demonstration of fairness in the administration of justice in Northern Ireland; but the fact that the appeal succeeded because the prosecution's evidence was inadequate or inadmissible could lead to demands in the Republic for making the hearing of prima facie evidence part of extradition proceedings between North and South (prima facie evidence is of course already a requirement for most extradition cases in the British courts, though we have been much criticised by some countries for retaining this requirement).

--- 13. I attach a copy of the revised draft communiqué.

Security

14. We left with the Irish side a "non-paper" summarising the changes which we had made or were in the process of making in relation to the UDR. This note had been agreed with the Ministry of Defence and the Northern Ireland Office.

15. The Irish side left with us a "non-paper" about the increased activity of the Irish security forces in border areas.
--- I attach copies of both these notes.

16. We had a considerable further discussion with the Irish side about the role and functions of the proposed Secretariat. They did not seek to contest the suggestions put to them in the Northern Ireland Office's note of illustrative examples in the way in which the Committee and the Secretariat would work, though they stressed the need for flexibility of operation particularly in the early months.

Presentation

17. Considerable work has been done on the preparation of a comprehensive study of questions and answers for the use of British and Irish Ministers after the signature of an Agreement. The most difficult issue is likely to relate to the "present status of Northern Ireland". The Irish side are satisfied that Article 1 of the draft Agreement, as at present drafted, minimises the risk of constitutional challenge in Ireland. It is accepted that the present status of Northern Ireland is that it is part of the United Kingdom, and that that will not change unless and until a majority of the people of Northern Ireland consent to a change. They will want to try to protect the Taoiseach from the risk of constitutional challenge in respect of anything that may be said in questions and answers following the signature of an Agreement. This is to be the subject of further discussion.

18. I am sending copies of this minute to the Secretaries of State for Foreign and Commonwealth Affairs and Northern Ireland.

RA

ROBERT ARMSTRONG

14 October 1985

NOIAAZ

SECRET AND PERSONAL

BM

file

18

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG

ANGLO-IRISH RELATIONS: TIMING OF THE SUMMIT

The Prime Minister has considered your minute of 9 October on the timing of a possible Anglo-Irish Summit.

The Prime Minister is firmly of the view that we cannot plan on a date before 15 November. She cannot manage the dates between 1 and 4 November suggested by Mr. Nally.

I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Northern Ireland Secretary.

(C.D. Powell)
13 October 1985

TVG

SECRET AND PERSONAL

BEMBAA

File

17

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

The Prime Minister has considered your minute of 9 October setting out the position reached in official discussions with Mr. Nally and his team and seeking negotiating authority for your next round of talks. She has also seen the Northern Ireland Secretary's views as set out in Mr. Daniell's letter of 11 October. (The Foreign Secretary's views were not available at the time she looked at these papers).

The Prime Minister does not like the proposed amendment to Article 2(a) of the agreement which speaks of the Intergovernmental Committee being "concerned with relations between the two parts of Ireland". She thinks this formulation would be anathema to the Unionists. It would remind them of 1921 and efforts to deal with Ireland as a unity. She would wish you to argue for a formulation such as "between the Republic of Ireland and Northern Ireland".

The Prime Minister considers it essential to maintain the words "decisions and" in Article 2(b) of the draft agreement and in paragraph 4 of the summary.

The Prime Minister agrees with the Northern Ireland Secretary that "permanent" should not be reinserted before "Secretariat" in the last sentence of Article 3 of the draft agreement (and in paragraph 6 of the summary of the draft text).

The Prime Minister wishes to discuss further with the Northern Ireland Secretary, the Foreign and Commonwealth Secretary and the Lord Chancellor the formmulations in paragraphs 7 and 8 of the draft communique on the question of Irish accession to the European Convention on the Suppression of Terrorism. The Prime Minister shares the concern expressed by the Northern Ireland Secretary at the final sentence of paragraph 5 of Sir Robert Armstrong's minute about possible changes in the system for the administration of justice. She agrees that officials must avoid suggesting to the Irish side that we have any significant room for manoeuvre in this field.

TNS.

Finally, the Prime Minister does not accept the title "Intergovernmental Conference" since the body concerned is quite clearly not a Conference. It is a Committee and should be described as such.

I am sending copies of this minute to the Private Secretaries to the Secretary of State for Foreign and Commonwealth Affairs and the Secretary of State for Northern Ireland.

C.D. Powell
13 October 1985

CONFIDENTIAL

10 DOWNING STREET

From the Private Secretary

13 October 1985

The Prime Minister has seen your letter of 10 October conveying the Northern Ireland Secretary's wish that his Parliamentary Private Secretary should attend an internal Northern Ireland Office meeting next week on the presentational aspects of any Anglo-Irish agreement. This would involve Dr. Mawhinney seeing the text of the draft agreement.

The Prime Minister has decided that Dr. Mawhinney should not be included in the meeting nor shown the papers. She wishes information on the subject of the possible Anglo-Irish agreement kept to a very restricted circle. She thinks that briefing on presentation should only be done very shortly before signature of an agreement.

I am copying this letter to Michael Stark (Cabinet Office).

(C.D. Powell)

Jim Daniell, Esq.,
Northern Ireland Office

CONFIDENTIAL

SECRET & PERSONAL

16

Foreign and Commonwealth Office

London SW1A 2AH

12 October 1985

C D Powell Esq
No 10 Downing Street

Dear Powell,

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

The Foreign Secretary has seen Sir Robert Armstrong's minute of 9 October reporting on the latest round of official talks as well as Jim Daniell's letter to you of 11 October recording the Northern Ireland Secretary's comments on it.

He agrees with Mr King that "permanent" should not be reinserted before "Secretariat" in the last sentence of Article 3 and in paragraph 6 of the summary of the draft text, though the main point is that we have by now secured a definition of the status and functions of the Secretariat which meets our requirements. He also shares Mr King's view that the other three proposals contained in paragraph 19 of Sir Robert Armstrong's minute are acceptable.

As far as the final sentence of paragraph 5 of Sir Robert Armstrong's minute is concerned, Sir Geoffrey agrees with Mr King that officials should avoid giving the Irish side the impression that we have substantial room for manoeuvre in responding to Irish proposals for changes in the system of the administration of justice in Northern Ireland. Officials must certainly not allow the Irish to form the impression that Article 8 means any more than it actually says. It will be important to maintain the line which we have consistently taken with the Irish, that while we will tackle discussions on the administration of justice in good faith to see whether acceptable changes can be made, the Irish should accept in equally good faith that there may well be genuine, practical limits to what can be done.

I am copying this letter to Jim Daniell at the Northern Ireland Office and Michael Stark in the Cabinet Office.

Yours ever,

Charles Crawford
(FCO Resident Clerk)

pp L V Appleyard
(Private Secretary)

SECRET & PERSONAL

SECRET AND PERSONAL

1 of 13

From: THE PRIVATE SECRETARY

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

15

SECRET PERSONAL

We must have another meeting and decide whether we are going to recommend to Cabinet. I should like to be very tough - see my note on other papers.

Prime Minister

This came in late. I think Mr. King is wrong to agree to drop "decisions and" and to call the Committee an "Intergovernmental Conference". He also appears to accept the proposed compromise on the suppression of Terrorism Convention CDP 4/11

Charles Powell Esq
No 10 Downing Street
LONDON SW1

11 October 1985

Dear Charles

My Secretary of State has seen Sir Robert Armstrong's minute to the Prime Minister of 9 October, reporting on the official talks in Dublin earlier this week.

Mr King remains of the view that "permanent" should not be reinserted before "Secretariat" in the last sentence of Article 3 and in paragraph 6 of the summary of the draft text. He feels that, even with the amendments accepted by the Irish, the word "permanent" could convey a false impression of what the Secretariat is all about. Mr King is content with the other three proposals made in paragraph 19 of Sir Robert Armstrong's minute, subject to the points below which have a bearing on proposal 3.

Mr King has expressed concern at the final sentence of paragraph 5 of Sir Robert Armstrong's minute which says that, while the Irish were preparing their legislation to implement the European Convention on the Suppression of Terrorism, "we should be able to propose changes in the system for the administration of justice of a kind which would meet the Irish Government's needs". While he accepts, of course, that it will be incumbent upon the British side to consider any proposals in this area which the Irish may put forward under the Agreement, this is well worn ground which has so far produced little; and he is not optimistic that it will be possible to devise changes which would both satisfy the Irish and be acceptable, politically and juridically, within the UK. He would wish, therefore, officials to avoid suggesting to the Irish side that we have substantial room for manoeuvre in this field. Mr King is particularly concerned that officials should say nothing which might be interpreted as some form of secret undertaking and which might leave the Irish with a false impression of what we might be able to do. His view is that officials should not be drawn any further in this direction; and they should robustly resist any criticism, explicit or implied, of the court system in Northern Ireland.

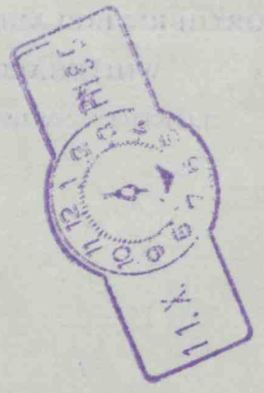
I am copying this letter to Len Appleyard (Foreign and Commonwealth Office) and to Michael Stark (Private Secretary to Sir Robert Armstrong).

Yours sincerely

Jim

J A DANIELL

SECRET PERSONAL



SECRET AND PERSONAL

From: THE PRIVATE SECRETARY

Copy No of 13

SECRET PERSONAL

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

14

Prime Minister
Or the Irish were just trying to bounce us into early signature.
CDP 11/X.

Charles Powell Esq
No 10 Downing Street
LONDON SW1

11 October 1985

Dear Charles

into COP?

My Secretary of State has seen Sir Robert Armstrong's minute of 9 October which reports an allegation that a junior Minister of the NIO had shown to a journalist a copy of the draft Anglo-Irish Agreement. He has asked me to report his view that there is not a grain of truth in it. Only one of our junior Ministers was in Blackpool at the time and he had not seen a copy of the Agreement; nor had Mr King's Parliamentary Private Secretary. In the absence of more precise details from the Irish, Mr King believes that the most likely explanation is that a journalist was misleading them in an attempt to persuade them to divulge information about the Agreement. Another possibility is that the story was invented by the Irish as a means of putting pressure on us for early signature of the Agreement.

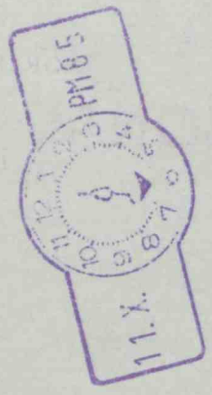
I am copying this letter to the Private Secretaries to the Secretary of State for Foreign and Commonwealth Affairs and Sir Robert Armstrong.

Yours sincerely

Jim

J A DANIELL

SECRET PERSONAL


PM 85
11. X.

Prime Minister

Dr Mawhinney's not to be included. We must keep the circulation to a very restricted circle. Thank

This confirms RTA's opposition to the proposal to let Dr Mawhinney see the documents. CJP

Ref. A085/2627

MR POWELL

I have seen the letter in which the Secretary of State for Northern Ireland seeks the Prime Minister's leave to invite his Parliamentary Private Secretary, Dr Brian Mawhinney, to attend a meeting to be held next week about the presentation of an Anglo-Irish Agreement and to give Dr Mawhinney a copy of the draft Agreement. anything for wrong to is absolutely prohibited mr. N/K.

2. As you know, the Irish Government and the Taoiseach personally, are greatly concerned about the leaks that have already taken place. Earlier this week they reported that a "Minister" in Blackpool was showing journalists a copy of the draft Agreement; and it was evident that Dr Mawhinney was high on their list of suspects.

3. That was probably unjust; the Northern Ireland Office tell me that Dr Mawhinney does not have, and has not seen, a copy of the Agreement, and the Secretary of State did not have a copy in Blackpool.

4. Nonetheless I am sceptical about including Dr Mawhinney in the circle of those who have access to the details of the package and to the draft Agreement at this stage. Signature and publication is still at best someway off - and might never happen. Dr Mawhinney's advice on presentation seems unlikely to be crucial so early as this. He is known to have close contacts amongst the unionists - including some fairly extreme unionists. It would certainly be more difficult to defend ourselves against the charges that we were leaking information about the Agreement to the press, if we were not able to continue to say, as I

NOIAAY

have been saying to Mr Nally, that Dr Mawhinney cannot be the "Minister" who has been showing the Agreement to the press because he has not had or seen a copy.

5. So, quite apart from the rules relating to the access of Parliamentary Private Secretaries to classified information, I have to say that in the context of the negotiations with the Irish, it would be better if the Secretary of State could be asked not to include Dr Mawhinney in his meeting next week, and not to show or give him a copy of the draft Agreement until we are more sure about and get closer to signature.

R Armstrong

for ROBERT ARMSTRONG
(approved by Sir Robert Armstrong and signed in his absence)

11 October 1985

NOIAAY

RTA will advise against CDP 11/X

10 DOWNING STREET

Prime Minister

You will wish to consider this report carefully.

The backbenchers will certainly have to be prepared & briefed carefully.

But the agreement - if reached - is a month away; & excluding the circle of those involved increases the risk of leaks.

Mr. Mawhinney is of course close to the Unionists & recently had a long meeting with Dr. Paisley. CDP 10/X.

CONFIDENTIAL

From: THE PRIVATE SECRETARY

010

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

Prime Minister
Agree?

Nigel Wicks Esq
10 Downing Street
London SW1

10 October 1985

No - as indicated in a previous note. It is for Dr Mawhinney: CDP procedure that he should not be told. 10/X

Dear Nigel

The Secretary of State wishes his Parliamentary Private Secretary to attend an internal NIO meeting next week on the presentational aspects of any Anglo-Irish agreement. Mr King regards his attendance as important, given the need to ensure that backbenchers are fully briefed as soon as possible after signature. The papers for this meeting and the subject matter under discussion will be classified secret. I am therefore writing, in accordance with paragraph 40 of Questions of Procedure for Ministers, to ask you to seek the Prime Minister's authority for Dr Mawhinney's involvement in this and subsequent meetings on this subject.

In addition, Mr King would like authority to show Dr Mawhinney the latest draft of the Anglo-Irish agreement.

I am copying this letter to Michael Stark.

Yours sincerely
J A Daniell

J A DANIELL
Private Secretary

Any meeting on procedure can only be done after 24 hours.

MT Spring.

MS

KL

CONFIDENTIAL

13

SECRET AND PERSONAL

PRIME MINISTER

I think we must try to. For our viewpoint. The Irish are still trying to convince themselves that they can go to law to establish a right of authority in N.I. The Consultative status will give enough locus as it is - the Irish don't deserve more than this.

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

I attach RTA's note of his most recent round of negotiations with the Irish.

Decisions are required on the following points:

(i) the Irish want to amend Article 2(a) to make clear that Committee is concerned "with relations between the two parts of Ireland"?
The Unionists will certainly object to this formulation because it weakens their contention that the agreement should deal only with matters between Ireland and the United Kingdom. On the other hand, the reality is that the Committee will deal with the parts of Ireland.
Agree to accept this if Irish accept some of our more important points (see below)?

Surely "between the Republic of Ireland and Northern Ireland" would be better. The present formulation would be anathema to the Unionists - it would remind them of 1974 and efforts to deal with Ireland as a unity.

(ii) The Irish objected, on presentational grounds, to our proposal to insert in Article 2(b) the words "the decisions and". RTA proposes as a compromise to omit the whole phrase "the decisions and administration of" so that it would read "there is no derogation from the sovereignty of either the UK Government or the Irish Government, so that each retains responsibility for government within its own jurisdiction".
It seems to me essential to have the words "decisions and" in the text and this was clearly agreed by Ministers.
Agree to instruct RTA to insist on inclusion?

?

We should still try for our formulation

(iii) The Irish have accepted our definition of the Secretariat's functions in Article 3 but still want the word "permanent" in front of it. I can't believe that this is a make-or-break point for the Irish. And presentationally it is much better without it. Agree that RTA should continue to press for omission of "permanent"?

As the whole arrangements subject to review we could have the word "permanent". Then it is not for it to be permanent. Still...

(iv) On accession to the European Convention on the Suppression of Terrorism a compromise is proposed. In the communique we would add to the list of subjects on which the new Committee would concentrate "measures which would give substantial expression to the aim of ensuring that there is public confidence in the administration of justice". (paragraph 7)
In return, the Irish would say that it was "the intention of his (i.e. the Taoiseach's) Government to accede as soon as possible to the European Convention on the Suppression of Terrorism". (paragraph 8). It would apparently anyway take them at least 18 months to get the legislation through the Dail.

The weakness is that it is only an 'intention', and applies only to the Taoiseach's Government (whose prospects aren't marvellous). It is not a four-square commitment.

It seems to me a matter for political judgement whether what the Irish are offering is enough (and whether what we are offering in return is too much). You may want to take the views of colleagues including the Lord Chancellor?

Yes

(v) The Irish still hanker to call the "Committee" the "Intergovernmental Conference". RTA is willing to concede this and Tom King is prepared to go along. It still seems to me that saddling

ourselves permanently with something called an Intergovernmental Conference is likely to provoke the Unionists and give the impression that the whole affair is more substantial than we intend it to be.

Agree to "Intergovernmental Conference"?

Or, stick to "Committee"?

It isn't a conference. It is a committee.

C.D.P.

CHARLES POWELL

10 October 1985

LO3AMK

SECRET AND PERSONAL

12

PRIME MINISTER

ANGLO-IRISH RELATIONS: TIMING OF SUMMIT

Sir Robert Armstrong's note attached says that the Irish are still hankering for an early date for a Summit and signature of the Agreement. Ideally they want it in the period 1 - 4 November. One reason is to have it before the SDLP Conference.

I do not think you can or should agree to this for a lot of reasons:

- I doubt you will be able to take the draft agreement in Cabinet until 31 October (it would be a mistake to try to do so immediately on your return from New York on 25 October).

- we have set aside 2-4 November for work on your speeches for the Debate on the Address and the Lord Mayor's banquet.

- you cannot see Paisley and Molyneux until about 30 October. There needs to be a decent interval between your seeing them and a summit.

- I do not think we should let the Irish bounce us. Its a very important decision.

- the Irish fear that the SDLP Conference might obstruct an agreement. But if they do, it will be the Irish government which is in difficulty, not us.

Agree to stick to 15 November as the target date?

Yes no

C.D.P.

C D POWELL

10 October 1985

SECRET AND PERSONAL

116

Ref. A085/2589

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

We had a further meeting with Mr Nally and his team in Dublin on Monday 7 and Tuesday 8 October. The framework of this meeting was set by the conclusions reached by you and the two Secretaries of State at your meeting on 2 October, as recorded in Mr Powell's letter of that date; by your message of 4 October to the Taoiseach; and by the meeting which the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland had with the Tanaiste, Mr Spring, and the Minister for Foreign Affairs, Mr Barry, on 7 October.

Draft Agreement

2. We discussed a number of changes in the draft agreement:

a. The Irish asked for a slight change in Article 1(a), so that it would read "[the two Governments] confirm that any change in the status of Northern Ireland would only come about [instead of "would come about only"] with the consent of the majority of the people of Northern Ireland". The purpose of this change was to bring the formula precisely into line with a formula which you and Mr Haughey agreed at your meeting in 1980, and which appeared in the communiqué issued after that meeting. We accepted this change.

b. Again with the object of diverting Mr Haughey's attack, the Irish Government asked for the reinstatement in the draft of a sentence agreed several months ago but omitted (at Irish request) from later versions, which said that, unlike the existing AIIC machinery, the new Intergovernmental Committee would be primarily concerned

with north/south rather than east/west relationships. After discussion we agreed, ad referendum to Ministers on both sides, to a modification of Article 2(a) of the draft, so that it now states that there is established an Intergovernmental [Committee] "concerned with relations between the two parts of Ireland (hereinafter referred to as "the [Committee]" to deal, as set out in this Agreement .....".

[The Unionists won't like this]

c. We proposed the insertion of "decisions and" before "administration of government" in the last sentence of Article 2(b), as agreed at your meeting on 2 October. We explained the background to this, including the need to make it unambiguously clear that the responsibility for decisions rested with the Secretary of State for Northern Ireland. The Irish side had no problem about the substance, but sucked their teeth a good deal about the presentational implications of this change. I emphasised the importance of it from our point of view. It was left that the Irish side would consult their Ministers. We shall have to come back to this at our next meeting. I wonder whether, if the Irish make a great fuss about "decisions and", we could consider the omission of "the decisions and administration of", so that the last sentence would read "There is no derogation from the sovereignty of either the United Kingdom Government or the Irish Government, so that each retains responsibility for government within its own jurisdiction".

[I don't see why we should give way on this. It's essential to our presentation]

d. We proposed that the sentence about the secretariat at the end of Article 3 should be altered to read: "A secretariat shall be established by the two Governments to service the Committee in the discharge of its functions as set out in this Agreement". The Irish accepted the definition of the secretariat's functions as drafted, but asked us to consider reinstating "permanent" before

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"secretariat". We undertook to take this away for consideration. It seems to me that, if we have limited the functions of the secretariat in the manner now proposed and agreed, it would not be damaging to agree to the reinsertion of the word "permanent". I have in mind the thought that it is more important to keep the words "decisions and" in Article 2 (b) than to keep out "permanent" in Article 3. I should be grateful for instructions.

e. We altered the word "constitute" to the word "be" in Articles 4(c), 5(c) and 10(b).

--- I attach a revised version of the text of the draft agreement, incorporating these amendments (underlined).

Draft Summary

3. We proposed the amendments set out in Mr Powell's letter of 2 October:

- The Irish side said that the phrase "an Article confirming the existing status of Northern Ireland" could be very difficult for the Irish Government in presentational terms and was not in any case a full description of the Article. We resolved this problem by in effect deleting the paragraph and keeping only the reference to the preamble and to the provision for review. What is said in paragraph 2 of the draft about the status of Northern Ireland is an accurate summary.

- We agreed that the first alinea in paragraph 4 should end ".... views and proposals on certain matters relating to Northern Ireland as provided for in this Agreement".

- The inclusion of "decisions and" in the third alinea of paragraph 4 is subject to the same reference to Irish

Ministers as the corresponding words in the draft agreement.

- The last sentence of paragraph reads "There will be a secretariat to service the [Committee]". If the word "permanent" before "secretariat" is accepted in the draft agreement,
the Irish will wish it to be similarly inserted here.

- To bring the second sentence of paragraph 7 more closely into line with the text of the agreement, it is amended to read "The [Committee] will be a framework in which the Irish Government can put forward views and proposals ...".

- The last words of paragraph 7 were changed: instead of "within the [Committee's] remit" they now read "for consideration by the [Committee]". A similar amendment will need to be made at the end of paragraph 9.

___ I attach a copy of the draft summary as revised.

European Convention on the Suppression of Terrorism

4. We rehearsed the arguments deployed in your message of 4 October to the Taoiseach and by the Secretaries of State in their meeting on 7 October. The Irish side once again emphasised, as their Ministers had on 7 October, that the Irish Government would like to accede to the Convention. It was not so much the problems in the United States with the United Kingdom-United States Supplemental Extradition Treaty as the domestic problems with the Dail that made the Taoiseach reluctant to make an unqualified commitment at this stage. As Mr Barry had said on 7 October, both he and the Taoiseach were on record as expressing doubts about the impartiality of the courts in Northern Ireland. If they could not point to any change in the system for the administation of justice in Northern Ireland, and they asked the Dail to approve accession to the Convention, they

would be accused of committing people to trial in Northern Ireland under a system which did not enjoy their confidence, and they would probably fail to carry the necessary legislation. At the meeting of officials the Irish side made it clear that the Taoiseach was ready to say that the Irish Government intended to accede to the Convention as soon as possible, though it had to be understood that the implementation of that would in practice depend on there being some changes to which they could point in the system for the administration of justice in Northern Ireland.

5. We noted that the Irish Government could not accede to the Convention unless and until legislation had been approved by the Irish Parliament. The preparation and drafting of that legislation, which would be on the lines of our Suppression of Terrorism Act 1978, could take up to 12 months; and the passage of the Bill could take another 6 months after that. Thus they would not in practice be free to accede to the Convention for something like 18 months. The fact that legislation would take up to 12 months to prepare gives a considerable interval of time, within which we should be able to propose changes in the system for the administration of justice of a kind which would meet the Irish Government's needs.

6. After much discussion about how to treat this in the draft communiqué, we eventually agreed to new versions of paragraphs 7 and 8, which incorporated in the list of subjects upon which the new Intergovernmental Committee would concentrate in the first instance the search for measures to give substantial expression to the aim of ensuring that there was public confidence in the administration of justice, and include as a new paragraph 8 a statement of intention by the Irish Government to accede as soon as possible to the Convention. These changes are of course ad referendum to Ministers on both sides.

7. I attach a copy of the draft communiqué as so amended.

Ulster Defence Regiment (UDR)

8. The Irish side welcomed the measures of which we had informed them for improving the training of part-time members of the UDR and for ensuring that, particularly at vehicle checkpoints, UDR detachments were as often as possible accompanied by an officer of the Royal Ulster Constabulary (RUC), who would then make any arrest that was necessary. But they pressed us once again on deployment of the UDR; they said that if it were possible to withdraw even a very few - 50 or 100 - UDR men from a particularly sensitive area (they mentioned a part of Armagh with which Mr Seamus Mallon is particularly associated) and substitute either regular soldiers or the RUC, that would be helpful to the prospects of a successful agreement to an extent far greater than the numbers would suggest. We repeated all the difficulties about "redeployments" of this kind, and made it clear that we could raise no hopes; but we undertook to consult the Ministry of Defence further about this.

Title of the New Body

9. This question remains unresolved. The Irish side are still objecting to "Committee" and we are still objecting to "Commission". No one has been able to think of any more acceptable alternative than "Intergovernmental Conference", which the Irish side would accept, and which the Secretary of State for Northern Ireland would consider acceptable. I recognise that for the moment the title is being used to describe the body set up by the European Council at Milan; but that conference should be functus officio by the end of the year, leaving it clear for this Anglo-Irish body which will (we hope) last longer. I should be grateful to know whether you would be prepared to reconsider your objection to it in this context, and authorise us to settle with the Irish accordingly.

The Secretariat

10. British and Irish Ministers had had a long discussion of this subject on 7 October, and the discussion which officials had

at their subsequent meeting was very similar. The Irish side fully accepted that there could be no question of the secretariat acting as a complaints commission. They felt very strongly that the first meeting of the new Intergovernmental Committee should be in Belfast, either at Stormont or at Hillsborough. They accepted that the Irish side of the secretariat should at least start small, and should not be continuously in Belfast at any rate at first. We agreed that the two secretaries should be designated as soon as the agreement came into force; that they would need to meet before the first meeting of the Committee in order to prepare an agenda and working papers, but at that stage the Irish secretary need not be resident in Belfast; and we agreed that the Irish secretary could stay on in Belfast after the first meeting of the Intergovernmental Committee for the purpose of preparing a record of the meeting and agreeing on follow-up.

11. The Northern Ireland Office had prepared a useful illustrative document showing what the role of the Committee and the secretariat would be in a number of hypothetical cases. We left copies of this document with the Irish side for consideration, and for further discussion at our next meeting.

12. We shall continue the discussion of these matters at the next meeting of officials; but we are also arranging for a representative of the Department of Foreign Affairs to visit Belfast to look at possible accommodation and to pursue the discussion of this subject with the Northern Ireland Office.

Questions and Answers

13. British and Irish officials stayed behind after the main meeting to work on the preparation of a series of draft questions and answers which could be available for you and the Taoiseach if and when an agreement was reached.

Timing of Summit

14. I am reporting separately on this subject.

Judicial Challenge

15. We warned the Irish that there was some reason to think that the Ulster Unionists might seek to mount a judicial challenge to an Anglo-Irish agreement on the grounds that the British Government have no power to sign an agreement which was inconsistent with the Northern Ireland Act 1973. We should seek to ensure that any such challenge was considered by the courts as quickly as possible. If such a challenge were mounted, it was possible that the Speaker would take the view that the agreement could not be debated in the House of Commons until the question of legal validity had been decided; but the present view of the Law Officers was that the Speaker was unlikely so to decide and would probably allow the debate to go ahead. We have been advised that, in that event, it would be possible to exchange notifications that the agreement was acceptable to the Governments and to proceed with the first meeting of the Intergovernmental Committee; it might be prudent to confine discussion at that meeting to matters of procedure and not to go on to matters of substance.

16. We have now asked the Irish whether the proposed Agreement might be challenged in the Irish courts on the alleged grounds that Article 1 about the status of Northern Ireland was not in accordance with Articles 2 and 3 of the Irish Constitution which claim that "national territory consists of the whole island of Ireland ....". Mr Nally said that the best legal advice available to the Irish Government was clear that the proposed Agreement was constitutional. It was a matter of careful wording, and Article 1 of the draft Agreement, which keeps open the possibility of Irish unity in the future and does not describe Northern Ireland in terms as part of the United Kingdom, steered round the pitfalls. The Irish Government thought it quite possible that an action would be brought

against an the Agreement but expected the courts to rule very quickly against an injunction. The Hight Court might do so in a matter of hours and the Supreme Court within a few hours more. If such an action was begun in the courts before the Dail began or had completed its debate on the Agreement, the Speaker was "80-90 per cent" certain to rule that the debate and the vote on the Agreement should proceed. One reason for this expectation was that the courts had ruled against an injunction concerning the Sunningdale Agreement in 1974. But a more important one, Mr Nally said privately, was that the present Speaker of the Dail was a loyal friend of the Taoiseach. The Irish officials also said that, if a case was introduced or was pending after the vote in the Dail, the Irish Government would go ahead with the notifications of acceptance of the Agreement and with its implementation.

17. Perhaps the most important point that came out in this discussion was the firm view of the Irish officials that, if the courts did rule that the Agreement was unconstitutional, there would be a major political crisis in the Irish Republic and a high risk that the Taoiseach or the Government would fall. Mr Nally said that we could therefore take it that the constitutional dangers had been very carefully thought through. The position in a word was that, while it would be wrong to claim that there was no risk of difficulty in the Irish courts, this risk was very small.

18. After discussion we agreed that we could not in the preparation of the draft agreement and the associated documents allow for the possibility of a judicial challenge. The position of the two Governments had to be that what they were doing was legal, and we would take and deal with the consequences of a judicial challenge as and when it happened after the signature of an agreement.

Conclusion

19. The matters on which I seek further negotiating authority are as follows:

1. In Article 2(b) of the draft agreement, and in paragraph 4 of the summary, if the Irish side are (after reference to Ministers) unwilling to accept the insertion of "decisions and" before administration, would Ministers be content that we should propose the deletion of both "decisions" and "administration", so that the phrase would read:

"so that each retains responsibility for government within its own jurisdiction."

2. Would Ministers be content to accept the reinsertion of "permanent" before "secretariat" in the last sentence of Article 3, and in paragraph 4 of the summary?

3. Are Ministers content with paragraph 7 and 8 of the draft communiqué, on the question of Irish accession to the European Convention on the Suppression of Terrorism?

4. Would Ministers accept the title "Intergovernmental Conference" for the new body?

20. I am sending copies of this minute to the Secretary of State for Foreign and Commonwealth Affairs and the Secretary of State for Northern Ireland.

RIA

ROBERT ARMSTRONG

9 October 1985

DRAFT AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF IRELAND.

As at 8 Oct

(changes from last draft underlined)

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland;

Wishing further to develop the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Community;

Recognising the major interest of both their countries and, above all, of the people of Northern Ireland in diminishing the divisions there and achieving lasting peace and stability;

Recognising the need for continuing efforts to reconcile and to acknowledge the rights of the two major traditions that exist in Ireland, represented on the one hand by those who wish for no change in the present status of Northern Ireland and on the

other hand by those who aspire to a sovereign united Ireland achieved by peaceful means and through agreement;

Reaffirming their total rejection of any attempt to promote political objectives by violence or the threat of violence and their determination to work together to ensure that those who adopt or support such methods do not succeed;

Recognising that a condition of genuine reconciliation and dialogue between unionists and nationalists is mutual recognition and acceptance of each other's rights;

Recognising and respecting the identities of the two communities in Northern Ireland, and the right of each to pursue its aspirations by peaceful and constitutional means;

Reaffirming their commitment to a society in Northern Ireland in which all may live in peace, free from discrimination and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government;

Have accordingly agreed as follows:

A

STATUS OF NORTHERN IRELAND

ARTICLE 1

The two Governments

(a) affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland;

(b) recognise that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland;

(c) declare that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish.

B

THE INTERGOVERNMENTAL [COMMITTEE]

ARTICLE 2

(a) There is hereby established, within the framework of the Anglo-Irish Intergovernmental Council set up after the meeting between the two Heads of Government on 6 November 1981, an Intergovernmental [Committee] concerned with relations between the two parts of Ireland (hereinafter referred to as "the [Committee]"), to deal, as set out in this Agreement, on a regular basis and in relation to Northern Ireland with

(i) political matters;

(ii) security and related matters;

(iii) legal matters, including the administration of justice;

(iv) the promotion of cross-border co-operation.

(b) The [Committee] shall meet on a regular rather than an ad hoc basis. The United Kingdom Government accept that the Irish Government will put forward views and proposals on matters relating to Northern Ireland within the field of activity of the [Committee] in so far as those matters are not the responsibility of a devolved administration in Northern Ireland. In the interest of promoting peace and stability, determined efforts shall be made through the [Committee] to resolve any differences. The [Committee] will be mainly concerned with Northern Ireland; but some of the matters under consideration will involve co-operative action in both parts of the island of Ireland, and possibly also in Great Britain. Some of the proposals considered in respect of Northern Ireland may also be found to have application by the Irish Government. There is no derogation from the sovereignty of either the United Kingdom Government or the Irish Government, so that each retains responsibility for the [decisions and] administration of government within its own jurisdiction.

ARTICLE 3

The [Committee] shall meet at Ministerial or official level, as required. The business of the [Committee] will thus receive attention at the highest level. Regular and frequent Ministerial meetings shall be held; and in particular special meetings shall be convened at the request of either side. Officials may meet in subordinate groups. Membership of the [Committee] and of sub-groups shall be small and flexible. When the [Committee] meets at Ministerial level the Secretary of State for Northern Ireland and an Irish Minister designated as the Permanent Irish Ministerial Representative shall be joint Chairmen. Other British and Irish Ministers shall attend meetings as appropriate: when legal matters are under consideration the Attorneys-General may attend. Ministers may be accompanied by their officials and their professional advisers: for example, when questions of security policy or security co-operation are being discussed, they may be accompanied by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana; or when questions of economic or

social policy or co-operation are being discussed, they may be accompanied by officials of the relevant Departments. A [permanent] Secretariat shall be established by the two Governments to service the Committee in the discharge of its functions as set out in this Agreement.

ARTICLE 4

(a) In relation to matters coming within its field of activity, the [Committee] shall be a framework within which the United Kingdom Government and the Irish Government work together

(i) for the accommodation of the rights and identities of the two traditions which exist in Northern Ireland; and

(ii) for peace, stability and prosperity throughout Ireland by promoting reconciliation, respect for human rights, co-operation against terrorism and the development of economic, social and cultural co-operation.

(b) It is the declared policy of the United Kingdom Government that responsibility in respect of certain matters within the powers of the Secretary of State for Northern Ireland should be devolved within Northern Ireland on a basis which would secure widespread

acceptance throughout the community. The Irish Government support that policy.

(c) Both Governments recognise that devolution can be achieved only with the co-operation of constitutional representatives within Northern Ireland of both traditions there. If full devolution has not taken place, the [Committee] shall <u>be</u> a framework within which the Irish Government may put forward views and proposals on the modalities of devolution in Northern Ireland, in so far as they relate to the interests of the minority community.

C

POLITICAL MATTERS

ARTICLE 5

(a) The [Committee] shall concern itself with measures to recognise and accommodate the rights and identities of the two traditions in Northern Ireland, to protect human rights and to prevent discrimination. Matters to be considered in this area include measures to foster the cultural heritage of both traditions, changes in electoral arrangements, the use of flags and emblems, the avoidance of economic and social discrimination and the advantages and disadvantages of a Bill of Rights in some form in Northern Ireland.

(b) The discussion of these matters shall be mainly concerned with Northern Ireland, but the possible application of any measures pursuant to this Article by the Irish Government in their jurisdiction shall not be excluded.

(c) If it should prove impossible to achieve and sustain devolution on a basis which secures widespread acceptance in Northern Ireland, the [Committee] shall be a framework within which the Irish Government may, where the interests of the minority community are significantly or especially affected, put forward views on proposals for major legislation and on major policy issues, which are within the purview of the Northern Ireland Departments and which remain the responsibility of the Secretary of State for Northern Ireland.

ARTICLE 6

The [Committee] shall be a framework within which the Irish Government may put forward views and proposals on the role and composition of bodies appointed by the Secretary of State for Northern Ireland including

the Standing Advisory Commission on Human Rights

the Fair Employment Agency

the Equal Opportunities Commission

the Police Authority for Northern Ireland

the Police Complaints Board.

D

SECURITY AND RELATED MATTERS

ARTICLE 7

(a) The [Committee] shall consider

(i) security policy;

(ii) relations between the security forces and the community;

(iii) prisons policy.

(b) The [Committee] shall consider the security situation at its regular meetings and thus provide an opportunity to address policy issues, serious incidents and forthcoming events.

(c) The two Governments agree that there is a need for a programme of special measures in Northern Ireland to improve relations between the security forces and the community, with

the object in particular of making the security forces more readily accepted by the nationalist community. Such a programme shall be developed, for the [Committee's] consideration, and may include the establishment of local consultative machinery, training in community relations, crime prevention schemes involving the community, improvements in arrangements for handling complaints, and action to increase the proportion of members of the minority in the Royal Ulster Constabulary. Elements of the programme may be considered by the Irish Government suitable for application within their jurisdiction.

(d) The [Committee] may consider policy issues relating to prisons. Individual cases may be raised as appropriate, so that explanations can be given or inquiries instituted.

E

LEGAL MATTERS, INCLUDING THE ADMINISTRATION OF JUSTICE

ARTICLE 8

The [Committee] shall deal with issues of concern to both countries relating to the enforcement of the criminal law. In particular it shall consider whether there are areas of the criminal law applying in the North and in the South respectively which might with benefit be harmonised. The two Governments agree on the desirability of ensuring that there is public confidence in the administration of justice. The [Committee] shall seek, with the help of advice from experts as appropriate, measures which would give substantial expression to this aim, considering inter alia the possibility of mixed courts in both jurisdictions for the trial of certain offences. The [Committee] shall also be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South.

F

CROSS-BORDER CO-OPERATION ON SECURITY, ECONOMIC, SOCIAL AND CULTURAL MATTERS

ARTICLE 9

(a) With a view to enhancing cross-border co-operation on security matters, the [Committee] shall set in hand a programme of work to be undertaken by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana and, where appropriate, groups of officials in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel, and operational resources.

(b) The [Committee] shall have no operational responsibilities; responsibility for police operations shall remain with the heads of the respective police forces, the Chief Constable of the Royal Ulster Constabulary maintaining his links with the Secretary of State for Northern Ireland and the Commissioner of the

Garda Siochana his links with the Minister for Justice.

ARTICLE 10

(a) The two Governments shall co-operate to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years, and shall consider the possibility of securing international support for this work.

(b) If it should prove impossible to achieve and sustain devolution on a basis which secures widespread acceptance in Northern Ireland, the [Committee] shall be a framework for the promotion of co-operation between the two parts of Ireland concerning cross-border aspects of economic, social and cultural matters in relation to which the Secretary of State for Northern Ireland continues to exercise authority.

(c) If responsibility is devolved in respect of certain matters in the economic, social or cultural areas currently within the responsibility of the Secretary of State for Northern Ireland, machinery will need to be

established by the responsible authorities in the North and South for practical co-operation in respect of cross-border aspects of these issues.

G

ARRANGEMENTS FOR REVIEW

ARTICLE 11

At the end of three years from signature of this agreement, or earlier if requested by either Government, the working of the [Committee] shall be reviewed by the two Governments to see whether any changes in the scope and nature of its activities are desirable.

H

INTERPARLIAMENTARY RELATIONS

ARTICLE 12

It will be for Parliamentary decision in Westminster and in Dublin whether to establish an Anglo-Irish Parliamentary body of the kind adumbrated in the Anglo-Irish Studies Report of November 1981. The two Governments agree that they would give support as appropriate to such a body, if it were to be established.

I

FINAL CLAUSES

ARTICLE 13

This Agreement shall enter into force on the date on which the two Governments exchange notifications of their acceptance of this Agreement.

In witness whereof the undersigned, being duly

authorised thereto by their respective Governments, have signed this Agreement.

Done in two originals at.... on the..... day of 1985

For the Government of the United Kingdom of Great Britain and Northern Ireland

For the Government of the Republic of Ireland

(Note: each original would be signed on behalf of both Governments. In the Title, in the names of parties at the start of the Agreement, and in the signature blocks above, the original retained in London would be as typed, whereas, in the original retained in Dublin, "of Great Britain and Northern Ireland" and "the Republic of" would be omitted, and the Irish signature block would be on the left side.)

As at 8 October 1985
(changes from last draft underlined or sidelined)

Anglo-Irish Agreement

Joint Communiqué (Draft)

1. The Prime Minister, the Rt Hon Margaret Thatcher FRS MP and the The Taoiseach, Dr Garret FitzGerald TD, met at ..... on ..... It was the third meeting of the Anglo-Irish Intergovernmental Council to be held at the level of Heads of Government.

2. The Prime Minister was accompanied by ..... and the Taoiseach was accompanied by .....

3. The Prime Minister and the Taoiseach signed a formal and binding Agreement between their two Governments, with the aims of promoting peace and stability in Northern Ireland; helping to reconcile the two major traditions in Ireland; creating a new climate of friendship and co-operation between the people of the two countries; and improving co-operation in combatting terrorism.

4. The Agreement deals in particular with the status of Northern Ireland and the establishment of an Intergovernmental [Committee] in which the Irish Government will put forward views and proposals concerning stated aspects of Northern Ireland affairs; in which the promotion of cross-border co-operation will be discussed; and in which determined efforts will be made to resolve any differences between the two Governments.

5. The Prime Minister and the Taoiseach committed themselves to implementing and sustaining the measures set out in the Agreement with determination and imagination and undertook to encourage people of both the unionist and nationalist traditions in Ireland to make new efforts to understand and respect each other's concerns with a view to promoting reconciliation.

6. The Agreement provides for entry into force as soon as each Government has formally notified the other of acceptance. This exchange of notifications will not be completed until the Agreement has been approved the British Parliament and by Dail Eireann. The two Governments intend that action to implement the provisions of the Agreement should begin once the exchange of notifications has been completed. The first meeting of the Intergovernmental [Committee] will take place as soon as possible thereafter. The British side will be led by the Secretary of State for Northern Ireland and the Irish side by the Minister designated as the Permanent Irish Ministerial Representative

7. The two Governments envisage that the meetings and agenda of the [Committee] will not normally be announced. But they wish it to be known that, at its first meeting, the [Committee] will consider its future programme of work in all the fields - political, security, legal, economic, social and cultural - which

come within its competence. It will concentrate in the first instance on:

- relations between the security forces and the minority community in Northern Ireland;

- seeking measures which would give substantial expression to the aim of ensuring that there is public confidence in the administration of justice; and

- ways of improving security co-operation between the two Governments.

8. Against this background the Taoiseach said that it was the intention of his Government to accede as soon as possible to the European Convention on the Suppression on Terrorism.

9. In addressing the improvement of relations between the security forces and the minority community, the [Committee] at its first meeting will consider:

a. the application of the principle that the Armed Forces (which include the Ulster Defence Regiment) operate only in support of the civil power, with the particular objective of ensuring as rapidly as possible that, save in the most exceptional circumstances, there is a police presence in all operations which involve direct contact with the community;

b. ways of underlining the policy of the Royal Ulster Constabulary and of the Armed Forces in Northern Ireland that they discharge their duties even-handedly and with equal respect for the unionist and nationalist identities and traditions.

10. In its discussion of the improvement of cross-border co-operation on security, the first meeting of the Intergovernmental [Committee] will consider how the two Governments can most effectively implement their joint commitment to combat terrorism, and will give particular attention to the policing of border areas.

11. In addition to concluding the new Agreement, the Prime Minister and the Taoiseach reviewed the wide range of work being done under the auspices of the Anglo-Irish Intergovernmental Council to develop further the unique relationship between the two countries. The fact that in the past year there have been more than twenty meetings between Ministers of the two Governments demonstrates the closeness of co-operation. Among the areas where progress has been made in the past year is the planning of new areas of co-operation in education, notably in curriculum development between schools. The Prime Minister and the Taoiseach decided that the work under the Council's auspices in these various fields should be actively continued, in the interests of friendship between all the people of both countries.

12. The Prime Minister and the Taoiseach held a full and friendly discussion of current international issues, including matters concerning the European Community. They paid particular attention to .....

13. The Prime Minister and the Taoiseach agreed to meet again at an appropriate time to take stock of the development of relations between the two countries and of the implementation of the Agreement which they have signed.

Draft as of 8 October 1985
(changes from last draft underlined or sidelined)

Summary of the Anglo-Irish Agreement

Press Release by the British and Irish Governments

(Note: This summary has no legal status)

1. The Agreement begins with a Preamble incorporating a joint statement of objectives.

The Status of Northern Ireland

2. The Agreement commits the two Governments to the view that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland; that the present wish of a majority there is for no change in that status; and that, if in the future a majority there clearly wished for and formally consented to a united Ireland, the two Governments would introduce and support legislation in the respective Parliaments to give effect to this. (Article 1)

Framework and Objectives of the Intergovernmental [Committee]

3. The Agreement establishes, within the framework of the Anglo-Irish Intergovernmenal Council, an Intergovernmental [Committee] which, subject to the terms of the Agreement, will deal on a regular basis and in relation to Northern Ireland, with:

- political matters;
- security and related matters;
- legal matters, including the administration of justice;
- the promotion of cross-border co-operation. (Article 2(a))

The Agreement provides for a review of the working of the [Committee] after three years, or earlier if either side desires. (Article 11)

4. The [Committee] will proceed on the basis that:-

- the British Government accepts that the Irish Government will put forward within the [Committee] views and proposals on certain matters relating to Northern Ireland as provided for in the Agreement;
- in the interest of promoting peace and stability, determined efforts will be made in the [Committee] to resolve any differences;
- there will be no derogation from the sovereignty of either

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Government, so that each retains responsibility for the [decisions and] administration of government within its own jurisdiction. (Article 2(b))

5. The [Committee] will be a framework within which the two Governments work together for the accommodation of the rights and identities of the two traditions in Northern Ireland and for peace, stability and prosperity throughout Ireland by promoting reconciliation, respect for human rights, co-operation against terrorism and the development of economic, social and cultural co-operation. (Article 4(a))

Procedures and Membership of the Intergovernmental [Committee]

6. There will be regular and frequent meetings of the [Committee] at Ministerial level as well as meetings at official level, and in particulr special meetings may be convened at the request of either side. The Irish Government will be represented by a Minister designated as the Permanent Irish Ministerial Representative and the British Government by the Secretary of State for Northern Ireland. Other Ministers and advisers will participate as appropriate. There will be a [permanent] Secretariat to service the [Committee]. (Article 3)

7. The Irish Government declare their support for the British Government's policy of seeking devolution in Northern Ireland on a basis which would secure widespread acceptance throughout the community. (Article 4(b)). The [Committee] will be a framework in which the Irish Government can put forward views and proposals on the modalities of devolution, in so far as they relate to the interests of the minority community. (Article 4(c)). Should a devolved administration be established, the devolved matters would not be for consideration by the [Committee]. (Article 2)

Political Matters

8. The [Committee] will concern itself with measures to recognise and accommodate the rights and identities of both traditions in Northern Ireland in such areas as cultural heritage, electoral arrangements, use of flags and emblems, the avoidance of economic and social discrimination and the advantages andd disadvantages of a Bill of Rights for Northern Ireland. (Article 5(a))

9. Should it prove impossible to achieve and sustain devolution, proposals for major legislation and major policy issues where the interests of the minority community are significantly and especially affected and which come within the administrative responsibility of the Northern Ireland Departments will be for consideration by the [Committee]. (Article 5(c))

10. The [Committee] will be a framework within which the Irish Government may put forward views on the role and composition of certain bodies appointed by the Secretary of State for Northern Ireland. (Article 6)

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Security and Related Matters within Northern Ireland

11. The [Committee] will consider security policy issues as well as serious incidents and forthcoming events (eg parades and processions). The [Committee] will develop a programme of action designed to improve the relations between the security forces and the nationalist community. Some of the proposals in these areas may be considered by the Irish Government for application in the South. It may also consider policy issues relating to prisons, and individual cases may be raised. (Article 7)

Legal Matters including the Administration of Justice

12. Both Governments recognise the importance of ensuring that there is public confidence in the system of administering justice in Northern Ireland. The [Committee] will seek measures that would give substantial expression to this aim, considering among other things the possibility of mixed courts in both jurisdictions for the trial of certain offences. The [Committee] will also consider whether there are areas of the Criminal Law in both jurisdictions which might with benefit be harmonised and will be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South. (Article 8)

Cross-border Co-operation on Security, Economic, Social and Cultural Matters

13. The [Committee] will set in hand a programme of work to be undertaken by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana with a view to enhancing co-operation between the security forces of the two Governments in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel and operational resources. The [Committee] will have no operational responsibilities. (Article 9)

14. The two Governments undertake to co-operate to promote the economic and social developments of those areas in both parts of Ireland which have suffered most severely as a result of the instability of recent years. The two Governments will consider the possibility of securing international support for this work. (Article 10(a))

15. The [Committee] will, in the absence of devolution, be the framework for the promotion of cross-border economic, social and cultural co-operation. In the event of devolution, machinery would be needed to deal with co-operation in respect of cross-border aspects of devolved matters. (Article 10(b) and (c))

Inter-Parliamentary Body

16. The two Governments agree that it is for the respective Parliaments to consider whether an Anglo-Irish Inter-Parliamentary body should be established. (Article 12).

NOIABG

The two Governments agree that they would give appropriate support to any Anglo-Irish Inter-Parliamentary body established by the two Parliaments.

NOIABG

114

Ref. A085/2590

MR POWELL

Anglo-Irish Relations: Timing of Summit

I had some further discussion of this at and in the margins of my meeting with Mr Nally on 7 and 8 October.

2. I said that it would now really be impossible for the Prime Minister to meet the Taoiseach in the week beginning 21 October. Given that Parliament was to be prorogued on 31 October it would be impossible to debate the Agreement in the House of Commons before Prorogation if it was not signed before 28 October. That seemed to me to make signature before Prorogation virtually out of the question. If the Agreement was signed early in the week beginning 28 October, there would be intense pressure to postpone Prorogation, which it would be essential to avoid. The new Session would begin on 6 November, and the debate on the Address would last until 12 November. It would be difficult for the Prime Minister to be available for a meeting with the Taoiseach during that period. Hence her proposal in her message to the Taoiseach that we should think in terms of mid-November.

3. The Irish side have now injected a new element into the discussion: the fact that the Social Democratic and Labour Party (SDLP) is to have its party conference from 8 to 10 November. Mr Spring and Mr Barry said to the Secretaries of State on 7 October and Mr Nally said with even greater emphasis to me in Dublin that Irish Ministers were very anxious indeed that the Agreement should be signed before the SDLP conference. If it were not so, they feared that resolutions might be moved and passed at the conference instructing the leadership not to support an Agreement if it contained certain provisions or unless it did not contain other provisions. Mr Nally accepted

my argument for not signing before Prorogation, but urged that we should think in terms of signature sometime between 1 and 4 November, and for the Irish preferably on 4 November, so that the debate in the Dail could follow without the intervention of a weekend.

4. I said that I did not know how this would fit in with the Prime Minister's plans; I would go into the matter and come back to Mr Nally later.

5. The matter has just taken a new turn. Mr Nally rang up this afternoon to say that the Taoiseach was extremely disturbed by reports reaching him that someone at Blackpool - a junior Minister in the Northern Ireland Office or the Secretary of State's Parliamentary Private Secretary - was going round Blackpool showing copies of the draft Agreement to journalists. The source of these reports was a journalist who had been favoured with a sight of the draft Agreement in this way. The Taoiseach, who has been getting increasingly concerned that the whole process may unravel because of leaks and of positions take by Fianna Fail in the Republic and by the unionists in Northern Ireland, is now suggesting that the Agreement should be signed very early next week (14 or 15 October) in order to pre-empt this process.

6. On the location for the meeting between the Prime Minister and the Taoiseach, the Taoiseach is still hankering after a venue somewhere near Shannon; but I have the impression that they have more or less accepted that it will be in Hillsborough.

7. I am sending copies of this minute to the Private Secretaries to the Secretary of State for Foreign and Commonwealth Affairs and the Secretary of State for Northern Ireland.

RA

ROBERT ARMSTRONG

9 October 1985

I shall ring Mr Wally tomorrow, to say that Mrs Gandhi's visit makes signature next week — and therefore this month — impossible.

RA 9.x.85

NOIABJ

SECRET AND PERSONAL

11

Foreign and Commonwealth Office

London SW1A 2AH

9 October 1985

CDP
9/X.

Dear Charles,

Anglo-Irish Relations: Northern Ireland

The meeting between British and Irish Ministers foreshadowed in the Prime Minister's letter to the Taoiseach of 4 October took place at the Foreign and Commonwealth Office on 7 October. I enclose a record of the discussion for the Prime Minister's information. This has been approved by the Foreign Secretary and by the Permanent Under Secretary at the Northern Ireland Office (though it has not been possible to clear it with Mr King personally).

Copies of this letter and its enclosure go to the Private Secretary of the Secretary of State for Northern Ireland and to Sir Robert Armstrong.

Yours ever,

Colin Budd

(C R Budd)
Private Secretary

C D Powell Esq
10 Downing Street

SECRET AND PERSONAL

PROPOSED ANGLO-IRISH INTERGOVERNMENTAL AGREEMENT: RECORD OF A MEETING BETWEEN BRITISH AND IRISH MINISTERS HELD AT THE FOREIGN AND COMMONWEALTH OFFICE ON 7 OCTOBER 1985 AT 10am

Present:

The Rt Hon	Mr Richard Spring TD
Sir Geoffrey Howe QC MP	Mr Peter Barry TD
The Rt Hon Tom King MP	Mr Dermot Nally
Sir Robert Armstrong	Mr Sean Donlon
Mr Robert Andrew	HE Mr Noel Dorr
Mr David Goodall	Mr Michael Lillis

1. Sir Geoffrey Howe, welcoming the Irish delegation, said that there should be no doubt of the Prime Minister's commitment to the search for an intergovernmental agreement, provided the balance was right. The negotiations had been protracted and the outcome was of crucial importance to all the peoples concerned. On timing, there were obvious advantages in aiming to bring the negotiations to a conclusion as soon as possible but these had to be balanced against the parliamentary and practical difficulties. On substance, the two main issues outstanding were the question of Irish accession to the European Convention on the Suppression of Terrorism and the precise arrangements under which the proposed joint Secretariat would operate. Mr King said that the success of the agreement would depend on a clear, shared understanding of how it would work. The objective should be to get it off to a smooth start, pre-empting those who would seek to frustrate it. Mr Spring said that, as a result of leaks and speculation, much of the content of the agreement was now public knowledge. Unionist opposition was gathering steam fast. There was also strong political pressure on the SDLP, whose party conference was due to take place from 6-8 November. From an Irish perspective, the sooner the agreement could be concluded the better.

European Convention on the Suppresion of Terrorism.

2. Mr Barry said that the Irish side wished to dispel the impression that their difficulties over acceding to the Convention were connected with the debate in the United States about the proposed UK/US Supplementary Extradition Treaty. The Taoiseach's difficulties had nothing to do with America: they arose from the lack of confidence on the part of the nationalist community in the Northern Ireland courts. This had been exacerbated recently by three important cases in which the Irish Supreme Court had extradited offenders to the North (McGlinchey, Shannon and Quinn), all of which had subsequently gone wrong, and by judicial obiter dicta. (Mr King commented that if, as seemed likely, McGlinchey's appeal was upheld and his extradition to the Republic refused, this would be a source of serious embarrassment to both Governments. Agreeing, Mr Barry drew attention to the 18 month delay in bringing Shannon to trial.) Mr Spring and Mr Barry emphasised that the Irish Government wanted to accede to the Convention; but that their offer to do so had been made in the expectation of some action by the British Government on mixed courts in Northern Ireland or at least to correct the imbalance in the judiciary as between Protestants and Roman Catholics. In the absence of any such action, the Dail simply could not be relied upon to enact the legislation needed to give effect to Irish signature of the Convention: the Taoiseach could sign the Convention but he could not possibly guarantee to get it through the Dail.

3. Mr King drew attention to the reference in the Prime Minister's letter to the Taoiseach to the proposal to appoint an additional judge to the High Court in Northern Ireland, and indicated informally that the candidate was a Roman Catholic, as were some of the leading candidates for other judicial appointments as these fell vacant. The confessional balance within the judiciary was therefore likely to change over time. Sir Geoffrey Howe recalled that, at their meeting at Milan on 29 June, the Taoiseach had told the Prime Minister that the Irish Government were now in a position to sign the European Convention on the Suppression of Terrorism. The Taoiseach had also pressed the Prime Minister to agree to the introduction of mixed courts:

but the Prime Minister had said in terms that "she could do not more than agree to consider the possibility of joint courts without any guarantee about the outcome". This remained the British position: we were willing to examine the possibility of mixed courts with an open mind, but continued to see the political and practical difficulties which he had explained to Mr Barry on earlier occasions. If however the Intergovernmental Committee foreseen in the draft agreement were established, it might be able to find ways of moving towards some sort of joint arrangements eg by means of changes at the Appellate level or through closer cross-border judicial cooperation.

4. Mr Spring and Mr Barry asked about the possibility of creating a (Roman Catholic) President of the High Court in Northern Ireland separate from the Lord Chief Justice and responsible for the allocation of work between the judges. (Sir Geoffrey Howe saw difficulties about this idea.) The Irish also asked for consideration to be given to three-man courts (with all three judges drawn from Northern Ireland) in place of the present Diplock courts, arguing that the adoption of the three-man pattern for special courts in the Republic had strengthened public confidence in those courts. Mr Spring suggested that two other features of the Diplock courts should be reconsidered: conviction on the uncorroborated evidence of a single witness and the trial of large numbers of offenders together. In discussion, Mr King said that the matters to which the Irish had drawn attention would be suitable for consideration by the proposed Intergovernmental Committee under the terms of Article 8 of the draft agreement. The whole point of the agreement would be to enable the Irish Government to make a real input in the areas of principal concern to the nationalist community in Northern Ireland. Over time, this would have a profound effect on the situation in the North. Meanwhile he had accepted the reference in Article 8 to the possibility of mixed courts; but only with reluctance, since the idea of mixed courts was seen as having implications for sovereignty and would add to the difficulty of security unionist acquiescence in the agreement.

5. Mr Barry acknowledged that the wording of Article 8 was helpful and that the Irish would attach due weight to it. But he reiterated that accession to the Convention would not get through the Dail without some prior, visible change in the judicial system in Northern Ireland. He pointed out that the preparation of the necessary legislation, and its introduction into the Dail, would in any case take some time: it would be at least six months before draft legislation would be ready, and its passage through the Dail could take as much as 12 months more. Only then would the Irish Government be in a position to make the act of accession. This led to some discussion of whether the Irish Government could make an early declaration of intent to accede to the Convention, on the understanding that eventual accession would be dependent on the evolution of the judicial system in Northern Ireland in the meantime, following conclusion of the intergovernmental agreement. Sir Geoffrey Howe emphasised that the confidence with which the Taoiseach had made his offer of accession meant that it was regarded in London as part of the acquis of the negotiations so far. It was also a very important selling point for the unionists. Mr King agreed, recalling that the Irish offer had been put forward as a "confidence building measure". This was what mattered: any declaration of intent to sign the Convention would have to be in unambiguous terms if it was to achieve its purpose of reassuring unionist opinion.

6. The Irish side agreed that officials should look further at the possibilities to see if the gap between the positions of the two Governments on this issue could be closed. Meanwhile Mr Lillis said it was important to understand that the Taoiseach's statement to the Prime Minister at Milan that "the Irish Government were now in a position to agree" to signature of the Convention referred to the changed advice of the Irish Attorney General, who had earlier taken the view that accession to the Convention would require an amendment to the Irish constitution. The decisions of the Irish Supreme Court in the extradition cases already referred to had led him to revise this view: hence the Taoiseach's statement to the Prime Minister. The Taoiseach had, however, also emphasised to the Prime Minister at Milan that he could not put his name to the agreement unless he

had some assurance in advance that the outcome of the consideration referred to in Article 8 would be the establishment of joint courts. Sir Geoffrey Howe accepted that this was an important gloss; but he repeated that the Prime Minister had, in the same conversation, made it absolutely clear that she could not agree to do more than consider the possibility of joint courts.

Secretariat

7. Mr King said that the Intergovernmental Committee would be the key to the success of the agreement: the Secretariat was very much subsidiary to it. Its function should be to service the Committee, not to take decisions or act as a complaints bureau. It would be useful to consider in detail how the Secretariat would proceed to address particular issues. The British side had prepared illustrative material on this for discussion in the official talks. There was no question of take-it or leave-it proposals, or of introducing new difficulties: the British side would welcome Irish suggestions. It was important to think through the Secretariat's modus operandi together so as to present the minimum of unnecessary flank to those who would want to prevent the agreement from getting off the ground. Among the practical problems he had to consider was the security of the Irish members of the Secretariat, who were bound to be targets for terrorist violence.

8. Mr King said that he had no doubt that, in principle, Belfast was the right place for the Committee to meet and for the Secretariat to be located. But the question of the Secretariat's location had been inflated into a major issue and it was now a focus of resentment even for moderate unionists who reluctantly accepted the idea of an agreement on the lines under discussion. If the Secretariat were ostentatiously established in Belfast for the first meeting of the Committee, there would be major demonstrations and the agreement would get off to the worst possible start. It might be better for the Committee to hold its first meeting in London and the Secretariat to develop gradually from it.

9. Mr Spring and Mr Barry saw great difficulty about these suggestions. They argued that unless the Committee's first meeting was in Belfast, unionist opposition might prevent it meeting in Belfast at all. Postponement would exacerbate rather than disarm unionist hostility. Sunningdale showed the importance of getting everything into place with the minimum of delay. Sir Geoffrey Howe drew attention to the statement in the Prime Minister's letter to the Taoiseach that, on practical and security grounds, the Irish component in the Secretariat should be kept as small as possible, and perhaps not be left continuously in Belfast, at least until the new arrangements had settled down. This seemed to foreshadow a small Irish presence on the ground in Belfast, but initially perhaps not a continuous one. Mr Andrew thought one could envisage starting with an Irish duty officer at Stormont with a liaison function. Mr Spring said the Irish were thinking in terms of an expert on security matters to act as duty officer, accompanied by a senior official of the Department of Foreign Affairs. Some of the work which would otherwise build up for Ministerial meetings of the Committee could best be dealt with by officials. Sir Geoffrey Howe said that the British side did not envisage the Secretariat "dealing with" issues before the Committee. Decisions would be a matter for Ministers, although the Ministerial discussions would clearly have to be prepared and followed up by officials of the Secretariat.

10. Mr Barry said that some visible Irish Government presence in Northern Ireland from the outset was indispensable if the nationalist community was to be brought to see the new arrangements as a viable alternative to increasing reliance on Sinn Fein as the spokesman of their interests. But this did not mean that the Irish saw the Secretariat as being open to access from the public or acting as a complaints bureau. They agreed that its functions should be limited to those of a management body, whose job it was to service the Committee. Mr King said that, although the Committee would have no executive authority, he would take very seriously the issues raised in it. The

British side would want to honour the agreement and make it work. This meant that the Committee would need an effective Secretariat. The question was how to achieve this without bringing unionist opposition on to the streets. His aim would be to build up the Secretariat gradually, so that there would never be an obvious moment for the opponents of the agreement to mount demonstrations against it. If the Irish presence could be introduced gradually into Belfast without provoking violent opposition the "Orange card" would be on the way out.

11. Summing up this part of the discussion, Sir Geoffrey Howe said there was agreement that the Committee would need a joint Secretariat operating from Belfast; and that the Secretariat's function would be to service the Committee and not to receive complaints from the public. The Secretariat would need office space and suitable accommodation would have to be prepared in whatever building was to be used regularly by the Committee. The Irish side wanted to see it established there as quickly as possible whereas the British preference was for a phased build-up. The answer might lie in meetings between officials to prepare the agenda for the first Ministerial meeting of the Committee, following which a skeleton staff might remain in Belfast to prepare for the next Committee meeting. But there were still a number of practical issues to be resolved including the security of those concerned. Mr Spring commented that there was still some way to go in reaching an agreed understanding on these points. It was agreed that the issues would be pursued further in the official talks.

Devolution

12. Mr Spring and Mr Barry referred to press reports that the Northern Ireland Office was preparing a "green paper" on devolution. They asked whether these reports were correct, and whether it was the intention to publish proposals on devolution concurrently with the conclusion of the agreement. Mr Andrew said that thought was being given to possible models for a devolved government in Northern Ireland but none of them looked likely to attract the necessary support from both communities. There was no likelihood of an early green paper. Mr King

confirmed that there was no intention of publishing a green paper in conjunction with the proposed agreement. In answer to a further question from Mr Barry, he also confirmed that, under the terms of the agreement, the Irish Government would be able to put forward views and proposals on devolution which the British Government would take into account in formulating their own proposals on this subject.

Timing

13. Mr Barry said that the SDLP conference from 6-8 November was an added reason for concluding the agreement by the end of October. The SDLP leadership was not in complete control of the party and was likely to face a number of resolutions which would seek to impose conditions on the party's endorsement of the agreement (eg disbandment of the UDR). This would be highly undesirable. Sir Geoffrey Howe explained the parliamentary and other constraints which now made it difficult for the British Government to envisage signature before the end of October and which pointed to mid-November as the earliest point at which signature looked like being practicable. Mr King wondered whether signature might take place in the period between prorogation on 31 October and the opening of Parliament on 6 November, recognising that this would mean that Parliament would not be able to debate the agreement before 12 November, ie following conclusion of the debate on the Queen's Speech. The Irish side thought this might be helpful in relation to the SDLP party conference but foresaw great difficulties in the Dail and possibly in Northern Ireland if there was a gap of more than a week between signature and endorsement by the British Parliament. It was left that both sides would reflect on the points made in the discussion and pursue it in the official talks.

From: THE PRIVATE SECRETARY

SECRET

Mr. Whittow o.r.
I am content with this
✓ So am I
NMW
10.10

HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

10A CDD

8 October 1985

Dear Charles,

ANGLO-IRISH DISCUSSIONS ON NORTHERN IRELAND:
MINISTERIAL SECURITY

Part 9 att

Thank you for your letter of 23 September, referring to the implications for Ministerial security which might result from the conclusion of an Anglo-Irish agreement related to Northern Ireland. You will probably by now have seen JIC(85)(N)94, which goes about as far in threat assessment terms as it is possible to do at present. That suggests that signature of an agreement would be unlikely, on its own, to make a material difference to the threat to Ministers, but the operational consequences for the police and others involved will be discussed in the mixed group of officials and police which meets for this purpose in the Cabinet Office, namely TO(PI) Committee. The Home Secretary will consider the outcome, and report as necessary to the Prime Minister and other Ministers concerned.

This subject is, of course, for understandable reasons, being handled on an extremely restricted basis. There will come a time, perhaps no more than a fortnight before the possible date of signature, when the circle of those in the know will need to be widened. Reactions in Northern Ireland will depend to some extent upon the content of any agreement, and there may therefore need to be a limited widening of knowledge in that Department. On the mainland, it is likely to be necessary for those attending the CIG, including one or two representatives of the Metropolitan Police Special Branch, to know the date and location of any signature of an agreement, and the timetable for any public consequences such as announcements, debates in Parliament, or the implementation of particular provisions affecting either Northern Ireland or the mainland. We would not rule out the possibility, if security requires it, that those concerned should assess two or three alternative scenarios, without necessarily needing to know which is the right one. We would propose to discuss with the Foreign Office and the Northern Ireland Office the moment of, and the extent of, any limited disclosure to those who need to know of the intended arrangements

SECRET

I am sending a copy of this letter to Jim Daniell in the Northern Ireland Office and Michael Stark in the Cabinet Office, and additionally to Len Appleyard in the Foreign Office.

Yours.

S W BOYS SMITH

Charles Powell, Esq.

IRELAND: Relations: Pt 10

010

From: The Private Secretary

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

CDP
8/A

Charles Powell Esq
10 Downing Street
London

8 October 1985

Dear Charles,

FILE WITH CDP.

Thank you for your letter of 7 October. I am writing to confirm that my Secretary of State is content with the revised letters to Mr Molyneaux and Dr Paisley, subject to the deletion of the word 'once' in the first line of the third paragraph of each letter.

Yours sincerely,

Jonathan Duke-Evans

J B DUKE-EVANS
Assistant Private Secretary

KL

File

AG2APA

10 DOWNING STREET

From the Private Secretary

7 October 1985

Please retype both letters

Thank you for your letter enclosing draft replies from the Prime Minister to Mr. Molyneaux and Dr. Paisley. The Prime Minister would much prefer to write more briefly since there is nothing new to say. I enclose copies of the letters which she signed before leaving for the Party Conference. I have not yet despatched them in case your Secretary of State feels very strongly that fuller replies are needed. I should be grateful if you would let me know urgently whether he is content. We will then go ahead with the arrangements for a meeting on 30 October.

Charles Powell

J.B. Duke-Evans, Esq.,
Northern Ireland Office.

DSG

CONFIDENTIAL

From: THE PRIVATE SECRETARY

BF?

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

Charles Powell Esq
10 Downing Street
LONDON
SW1

7 October 1985

Dear Charles,

At their meeting with the Prime Minister on 30 August, Mr Molyneaux and Dr Paisley handed over a letter expressing their concern at the current Anglo-Irish talks, but recording that their Parties were prepared to contribute to a new Anglo-Irish process under very restrictive conditions, and that they were also willing to consider reasonable proposals for the protection of minority interests (short of SDLP membership of a devolved Northern Ireland government). To this letter the Prime Minister replied on 13 September reaffirming her own and the Government's commitment to the Anglo-Irish dialogue but reassuring the Unionists that there was no threat either to the status of Northern Ireland as part of the United Kingdom, or the United Kingdom sovereignty over the Province. She also reminded her correspondents that the Irish had accepted that the constitutional status of Northern Ireland could not change without the consent of a majority there, and finally invited the Unionists to submit any proposals they had for devolved government that would be acceptable across the community.

The Unionists' reply of 30 September shows that they have not been satisfied by the Prime Minister's reassurance, and they have pressed her further on a number of detailed points, including some covered in general terms in her earlier letter. The Prime Minister's reply to this latest letter is certain to be published by the Unionists, like the earlier correspondence.

Officials are preparing, in the context of the Anglo-Irish talks, detailed briefing to assist Ministers in dealing with all the points, however recondite or sophistical, that will no doubt be put to them if an Agreement is reached. However, without violating the confidentiality of our discussions, there seems no way in which the Prime Minister could deal fully with the points the Unionists have raised on this occasion. In any case it is not in our interests to conduct the debate on their

/terms.

terms. The Government has consistently made it clear that we are pursuing a closer relationship with the Irish Republic in the interests of both communities (as well as of the United Kingdom generally) and, in her last letter, the Prime Minister personally reaffirmed that our talks posed no threat to fundamental and legitimate Unionist concerns. Moreover, while one may have sympathy with the uncertainty generated in the majority community as a result of our protracted negotiations, Mr Molyneaux and Dr Paisley's refusal both to grasp the reasons for confidentiality is much less attractive, as are their coat trailing references to the Pope's being better informed about the conduct of negotiations than themselves.

For these reasons, therefore, I attach a draft letter for the Prime Minister's signature which briefly reaffirms what the Prime Minister has already said, but offers a principled refusal to be drawn in ways that would neither serve our interests in the present negotiations, but indeed, by fuelling speculation, could help raise the political temperature in Northern Ireland.

You will also see that the draft suggests the Prime Minister should agree to the Unionists' request to meet her. I realise the Prime Minister's diary is particularly full between now and a likely Summit, and you have told me that any date before 30 October (by when a final decision on an Agreement will almost certainly have been taken) is out of the question. If so, the Secretary of State would not wish to press the Prime Minister especially since the Unionists are unlikely to be convinced by anything she has to say, while the Prime Minister for her part is quite likely to be bombarded with the sort of detailed questions contained in the latest letter. On the other hand, there are distinct presentational advantages in agreeing to meet Mr Molyneaux and Dr Paisley as far before the Summit as can be arranged and at your suggestion the draft explains why no immediate meeting is possible. In particular, the Prime Minister will not then be seen to have turned away the Unionist leaders unheard, and it will be correspondingly harder for them to argue that the SDLP has received altogether more sympathetic treatment from the Irish authorities. The Prime Minister will not want, however, if she decides to meet the Unionists, to give the impression that they are being consulted or that their approval for an Agreement is being sought.

I am copying this letter and enclosure to Len Appleyard (Foreign and Commonwealth Office) and Michael Stark (Cabinet Office).

Yours sincerely,

Jonathan Duke-Evans

J B DUKE-EVANS

ssd

SECRET AND PERSONAL

10

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

Your minute of 4 October recorded Mr. Nally's suggestion that we might consider signing the Anglo-Irish agreement in New York on 23 or 24 October.

The Prime Minister thinks this a bad idea and agrees that you should firmly discourage it when you meet Mr. Nally.

CHARLES POWELL

7 October 1985

SECRET AND PERSONAL

CST

SECRET AND PERSONAL

Prime Minister
CDP
7/x.

Ref. A085/2563

MR POWELL

Anglo-Irish Relations: Northern Ireland

I attach a copy of Mr McFarlane's reply to the message which I sent him at the beginning of the week on Northern Ireland.

2. It is an interesting thought that the signature of an Anglo-Irish agreement would help "ease opposition" to the United Kingdom/United States Supplementary Extradition Treaty. That would be a useful bonus, though not of course a reason for agreeing an agreement which in other respects fell short of being acceptable.

3. I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland.

RA

ROBERT ARMSTRONG

4 October 1985

SECRET AND PERSONAL

CABINET OFFICE
A 7921
4 OCT 1985
FILE No.

STANDBY I AM NOW SENDING

KKKKW4G027
OC WTE24
DE WTE 00377 2771429
O 041452Z OCT 85
FM THE WHITE HOUSE
TO THE CABINET OFFICE
ZEM
S E C R E T VIA CABINET OFFICE CHANNELS WH00377

PLEASE PASS THE FOLLOWING MESSAGE TO SIR ROBERT ARMSTRONG FROM ROBERT C. MCFARLANE.

SUBJ: NORTHERN IRELAND

DEAR SIR ROBERT:

THANK YOU FOR THE MESSAGE ON NORTHERN IRELAND.

WE, OF COURSE, HOPE VERY MUCH THAT THE CURRENT NEGOTIATIONS WILL LEAD TO AN ANGLO-IRISH AGREEMENT. WE RECOGNIZE, AS YOU INDICATE, THAT AN AGREEMENT WOULD NOT SOLVE ALL THE MANY COMPLEX PROBLEMS OF NORTHERN IRELAND. BUT, IT CERTAINLY WOULD BE A POSITIVE STEP, AND ONE THAT I CAN ASSURE YOU WOULD BE WELCOMED PUBLICLY BY US.

ALLOW ME TO ALSO ASSURE YOU THAT WE ARE WILLING TO EXPLORE THE POSSIBILITY OF FINANCIAL SUPPORT. WHILE THERE IS DEEP CONCERN HERE OVER THE BUDGET DEFICIT, CONGRESSIONAL ATTITUDES CONCERNING A NORTHERN IRELAND RECONSTRUCTION FUND ARE GENERALLLY POSITIVE.

WE FULLY UNDERSTAND THE POSSIBLE DAMAGE TO PROGRESS THAT PREMATURE DISCLOSURE WOULD CAUSE. WE DO, HOWEVER, HOPE THAT AT THE APPROPRIATE STAGE YOU FULLY BRIEF STATE ON YOUR PLANS. SHOULD WE BE ABLE TO WORK OUT AN OFFER OF FINANCIAL SUPPORT, THERE WOULD SURELY BE CONGRESSIONAL HEARINGS AND STATE WOULD HAVE THE LEAD IN TESTIFYING BEFORE CONGRESS.

AS AN ASIDE, PERMIT ME TO NOTE THAT AN ANGLO-IRISH AGREEMENT ON NORTHERN IRELAND WOULD, IN MY VIEW, HELP EASE OPPOSITION TO OUR SUPPLEMENTARY EXTRADITION TREATY.

I HAVE REPORTED TO THE PRESIDENT ON MY USEFUL MEETING WITH THE PRIME MINISTER. PLEASE CONVEY TO HER THAT THE PRESIDENT FOUND HER COMMENTS HELPFUL AND CONSTRUCTIVE AND THAT HE LOOKS FORWARD TO HEARING THEM FIRST-HAND AT THE SUMMIT SEVEN LUNCH IN NEW YORK.

BEST REGARDS,

BUD

£0377

9

Ref. A085/2564

MR POWELL

You may like to draw the Prime Minister's attention particularly to the last paragraph of Mr McFarlane's message to me today.

2. That paragraph is not included in the copies which have gone to the Foreign Office and the Northern Ireland Office.

RA

ROBERT ARMSTRONG

4 October 1985

CABINET OFFICE
A 7921
4 OCT 1985
FILE No.

STANDBY I AM NOW SENDING

KKKKWAGO27
OO WTE24
DE WTE £0377 2771429
O 041452Z OCT 85
FM THE WHITE HOUSE
TO THE CABINET OFFICE
ZEM
S E C R E T VIA CABINET OFFICE CHANNELS WHO0377

PLEASE PASS THE FOLLOWING MESSAGE TO SIR ROBERT ARMSTRONG FROM ROBERT C. MCFARLANE.

SUBJ: NORTHERN IRELAND

DEAR SIR ROBERT:

THANK YOU FOR THE MESSAGE ON NORTHERN IRELAND.

WE, OF COURSE, HOPE VERY MUCH THAT THE CURRENT NEGOTIATIONS WILL LEAD TO AN ANGLO-IRISH AGREEMENT. WE RECOGNIZE, AS YOU INDICATE, THAT AN AGREEMENT WOULD NOT SOLVE ALL THE MANY COMPLEX PROBLEMS OF NORTHERN IRELAND. BUT, IT CERTAINLY WOULD BE A POSITIVE STEP, AND ONE THAT I CAN ASSURE YOU WOULD BE WELCOMED PUBLICLY BY US.

ALLOW ME TO ALSO ASSURE YOU THAT WE ARE WILLING TO EXPLORE THE POSSIBILITY OF FINANCIAL SUPPORT. WHILE THERE IS DEEP CONCERN HERE OVER THE BUDGET DEFICIT, CONGRESSIONAL ATTITUDES CONCERNING A NORTHERN IRELAND RECONSTRUCTION FUND ARE GENERALLLY POSITIVE.

WE FULLY UNDERSTAND THE POSSIBLE DAMAGE TO PROGRESS THAT PREMATURE DISCLOSURE WOULD CAUSE. WE DO, HOWEVER, HOPE THAT AT THE APPROPRIATE STAGE YOU FULLY BRIEF STATE ON YOUR PLANS. SHOULD WE BE ABLE TO WORK OUT AN OFFER OF FINANCIAL SUPPORT, THERE WOULD SURELY BE CONGRESSIONAL HEARINGS AND STATE WOULD HAVE THE LEAD IN TESTIFYING BEFORE CONGRESS.

AS AN ASIDE, PERMIT ME TO NOTE THAT AN ANGLO-IRISH AGREEMENT ON NORTHERN IRELAND WOULD, IN MY VIEW, HELP EASE OPPOSITION TO OUR SUPPLEMENTARY EXTRADITION TREATY.

BEST REGARDS,

BUD

£0377

NNNN

SECRET AND PERSONAL

010

Ref. A085/2573

MR POWELL

Anglo-Irish Relations: Northern Ireland

In the light of the last paragraph of the Prime Minister's letter to the Taoiseach today, Mr Nally rang up to suggest that we might consider signing the Anglo-Irish agreement in New York on 23 or 24 October: it appears that the Taoiseach is expecting to be in New York in the early part of that week anyway, on other business.

2. I am afraid that I do not myself think that this is a very good idea. Presumably the Prime Minister would not have either of the Secretaries of State with her - and the Taoiseach might not have his Minister for External Affairs. Press arrangements would probably not be very easy or very satisfactory. But above all the "vibrations" of New York for this purpose do not feel right, at any rate to me.

3. If you agree, therefore, I propose to discourage this idea when I meet Mr Nally early next week.

RA

ROBERT ARMSTRONG

4 October 1985

SECRET AND PERSONAL

NOIABD

Prime Minister

This won't do at all. It would put us under time-pressure before the Conference is finished; & leave no time for Cabinet consideration.

Agree no say no?

CDP 4/X

04. X.

SUBJECT cc ops 7
Master

UJ F L A S H

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 171/85

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SECRET AND PERSONAL
DEHOC
FM CABINET OFFICE LONDON
TO FLASH DUBLIN
TELNO MISC 384
OF 041045Z OCTOBER 85
AND TO FLASH FCO (FOR DAVID BARRIE)
FROM: THE PRIME MINISTER
TO: DR GARRET FITZGERALD
MISC 384 DATED 04 OCTOBER 1985

GEOFFREY HOWE, TOM KING AND I HAVE JUST RECEIVED A REPORT ON THE LATEST STAGE OF THE DISCUSSIONS BETWEEN OUR OFFICIALS AND YOURS ON THE POSSIBILITY OF AN ANGLO-IRISH AGREEMENT.

WE HAVE OF COURSE (LIKE YOU) TO LOOK AT THE WHOLE PACKAGE, FROM THE POINT OF VIEW OF ITS ACTUAL AND PERCEIVED BALANCE AS BETWEEN OUR RESPECTIVE INTERESTS, AND FROM THE POINT OF VIEW OF THE TASK WE SHALL FACE IN PRESENTING IT, IN OUR CASE IN PARTICULAR TO THE UNIONIST COMMUNITY IN NORTHERN IRELAND AND TO THEIR POLITICAL REPRESENTATIVES. YOU WILL UNDERSTAND WHY WE ARE ANXIOUS, AS YOU WILL ALSO BE, TO DO ALL WE CAN TO MAKE IT POSSIBLE FOR THEM TO ACQUIESCE IN IT - WE CANNOT EXPECT MORE - AND TO AVOID PROVOKING THE SORT OF VIOLENT REACTION WHICH WOULD WRECK THE CHANCES OF ACHIEVING WHAT BOTH YOU AND I ARE HOPING TO ACHIEVE.

WE HAVE TWO OR THREE FURTHER DRAFTING POINTS ON THE TEXT OF THE DRAFT AGREEMENT ITSELF. WE CAN LEAVE THESE TO BE DISCUSSED AT THE NEXT MEETING OF OFFICIALS, BUT I HOPE THAT THEY NEED NOT CREATE PROBLEMS FOR YOU.

WE ALSO HAVE ONE OR TWO FURTHER DRAFTING POINTS ON THE DRAFT SUMMARY OF THE AGREEMENT WHICH OFFICIALS HAVE PREPARED FOR RELEASE TO THE PRESS. AGAIN, OFFICIALS CAN DISCUSS THESE POINTS WHEN THEY NEXT MEET. I THINK THAT THEY HAVE DONE A GOOD JOB IN PREPARING A SUMMARY WHICH REFLECTS THE AGREEMENT ITSELF AS CLOSELY AS POSSIBLE: BUT I AM APPREHENSIVE THAT IT MAY BE IMPOSSIBLE TO AVOID THE RISK THAT SOME PEOPLE WILL COMPARE THE TEXTS OF THE AGREEMENT AND THE SUMMARY IN DETAIL, AND DRAW ERRONEOUS OR MISLEADING BUT UNHELPFUL CONCLUSIONS FROM OMISSIONS OR DIFFERENCES OF WORDING. I REMAIN TO BE CONVINCED THAT OUR BEST INTERESTS WOULD BE SERVED BY GIVING THE PRESS A SUMMARY RATHER THAN LEAVING THE AGREEMENT TO SPEAK FOR ITSELF.

WE ALSO THINK THAT IT WOULD BE HELPFUL FOR THERE TO BE SOME DISCUSSION AT POLITICAL LEVEL ABOUT EXACTLY HOW THE PROPOSED COMMITTEE AND ITS SECRETARIAT WOULD WORK. I TAKE THE POINT THAT THE WORK OF SERVICING THE COMMITTEE WILL REQUIRE AN IRISH COMPONENT IN THE SECRETARIAT ON A CONTINUING BASIS: BUT THERE ARE ALREADY SIGNS THAT SUCH A COMPONENT COULD BE THE FOCUS OF UNIONIST PROTEST AND ATTACK (AND PERHAPS ALSO OF ATTENTION FROM PIRA), AND ON PRACTICAL AND SECURITY GROUNDS (APART FROM ANY OTHERS) I THINK WE SHALL HAVE TO ASK YOU TO KEEP THE IRISH COMPONENT AS SMALL AS POSSIBLE, AND PERHAPS NOT TO LEAVE IT CONTINUOUSLY IN BELFAST, AT ANY RATE UNTIL THE NEW ARRANGEMENTS HAVE SETTLED DOWN. WE ALSO HAVE TO BE CLEAR THAT THE TASK OF THE SECRETARIAT IS TO SERVICE THE COMMITTEE AND IT CANNOT OPERATE AS A SORT OF COMPLAINTS COMMISSION IN ITS OWN RIGHT. I BELIEVE IT WOULD BE USEFUL IF GEOFFREY HOWE AND TOM KING COULD DISCUSS THESE MATTERS WITH PETER BARRY, AND I AM ASKING GEOFFREY AND TOM TO GET IN TOUCH WITH PETER TO SEE WHETHER ARRANGEMENTS COULD BE MADE FOR AN EARLY MEETING FOR THIS PURPOSE.

I COME NOW TO THE QUESTION OF IRISH ACCESSION TO THE ERROPEAN CONVENTION ON THE SUPPRESSION OF TERRORISM. OUR OFFICIALS HAVE MADE IT CLEAR TO YOURS THAT WE WERE MUCH DISMAYED TO LEARN THAT YOU FELT OBLIGED TO WITHDRAW YOUR COMMITMENT TO ACCEDE TO THE CONVENTION. YOUR OFFICIALS HAVE EXPLAINED THE REASONS FOR THIS, AND OF COURSE I UNDERSTAND THE DIFFICULTIES CREATED FOR YOU BY THE ISSUE THAT IS BEING MADE BY THE IRISH NATIONAL CAUCUS IN THE UNITED STATES ON THE SUBJECT OF OUR PROPOSED SUPPLEMENTAL TREATY WITH THE UNITED STATES ON EXTRADITION. BUT I HAVE TO SAY THAT WE FIND IT DIFFICULT TO ACCEPT THE PARALLEL THAT IS BEING DRAWN WITH OUR POSITION ON MIXED COURTS. WE HAVE ALL ALONG MADE IT CLEAR TO YOU THAT WE COULD GO NO FURTHER THAN UNDERTAKING TO CONSIDER THE POSSIBILITY OF MIXED COURTS. WE REMAIN PREPARED TO UNDERTAKE TO CONSIDER THE POSSIBILITY, BUT IN ALL HONESTY IT HAS TO BE WITHOUT COMMITMENT, SINCE, THOUGH WE DO NOT EXCLUDE THE POSSIBILITY OF MIXED COURTS BEING FEASIBLE AND ACCEPTABLE AT SOME FUTURE TIME, WE CANNOT SEE ANY EASY OR EARLY WAY ROUND OR THROUGH THE POLITICAL AND OTHER DIFFICULTIES WHICH WOULD BE INVOLVED. THAT WAS IN ESSENCE THE POSITION THAT TOM KING PUT TO YOU WHEN HE WAS IN DUBLIN ON 17 SEPTEMBER. THE IRISH GOVERNMENT ON THE OTHER HAND VOLUNTEERED THE COMMITMENT TO ACCEDE TO THE CONVENTION, AS ONE OF A NUMBER OF WHAT WERE AT ONE TIME DESCRIBED AS CONFIDENCE-BUILDING MEASURES ASSOCIATED WITH ANY AGREEMENT. WE WARMLY WELCOMED IT, AND HAVE SINCE REGARDED IT AS FROM OUR POINT OF VIEW AN INTEGRAL PART OF THE QUOTE PACKAGE UNQUOTE THAT WAS EMERGING. APART FROM THE INTRINSIC CASE FOR YOUR ACCESSION, WE KNOW THAT IT IS A POINT BY WHICH UNIONIST OPINION IN NORTHERN IRELAND SETS GREAT STORE. SO ITS INCLUSION IN THE QUOTE PACKAGE UNQUOTE ASSOCIATED WITH THE AGREEMENT IS VERY IMPORTANT INDEED TO US, BOTH AS A SIGNIFICANT ELEMENT IN THE BALANCE OF THE PACKAGE AS A WHOLE AND AS A SELLING POINT WITH UNIONIST OPINION. I VERY MUCH HOPE THAT YOU WILL BE ABLE TO RECONSIDER YOUR DECISION ON THIS, AND TO RE-INSTATE THE COMMITMENT TO ACCEDE TO THE CONVENTION.

FINALLY, I SHOULD LET YOU KNOW THAT I HAVE JUST LEARNT THAT THE LORD CHIEF JUSTICE OF NORTHERN IRELAND IS ON THE POINT OF WRITING TO THE LORD CHANCELLOR TO PROPOSE THAT, IN VIEW OF THE PRESSURE OF WORK IN THE HIGH COURT, THE SO FAR UNFILLED SIXTH SEAT ON THE COURT SHOULD BE FILLED BY AN EARLY APPOINTMENT. I AM SURE THAT THE LORD CHANCELLOR WILL (SUBJECT TO TREASURY AGREEMENT) BE READY TO CONSIDER THIS PROPOSAL QUICKLY AND SYMPATHETICALLY.

ON POSSIBLE DATES FOR SIGNING AN AGREEMENT, ASSUMING THAT BOTH OUR CABINETS AGREE, I AM AFRAID THAT, AS PRESIDENT REAGAN HAS INVITED ME AND OTHER HEADS OF GOVERNMENT TO MEET HIM IN NEW YORK ON 24 OCTOBER, THE LAST HALF OF OCTOBER HAS BECOME IMPOSSIBLE. THE PROROGATION AND OPENING OF PARLIAMENT WILL MEAN THAT, IF AN AGREEMENT IS NOT SIGNED BEFORE 25 OCTOBER, IT COULD NOT BE DEBATED HERE UNTIL MID-NOVEMBER. I HAVE A GREAT MANY COMMITMENTS IN THE FIRST FORTNIGHT OF NOVEMBER: SO I THINK THAT WE SHOULD HAVE TO LOOK FOR A DATE TOWARDS THE MIDDLE OF THE MONTH AS A BASIS FOR PLANNING. I SHOULD OF COURSE EXPECT TO BE ACCOMPANIED BY GEOFFREY HOWE AND TOM KING.

WITH BEST WISHES,

YOURS SINCERELY,

MARGARET THATCHER.

YYYY

CYLNAN 0163

NNNN

SECRET AND PERSONAL

RJ 6

Files

cc: FCO
NIO
CO

10 DOWNING STREET

THE PRIME MINISTER

4 October, 1985

Dear Garret.

Geoffrey Howe, Tom King and I have just received a report on the latest stage of the discussions between our officials and yours on the possibility of an Anglo-Irish agreement.

We have of course (like you) to look at the whole package, from the point of view of its actual and perceived balance as between our respective interests, and from the point of view of the task we shall face in presenting it, in our case in particular to the unionist community in Northern Ireland and to their political representatives. You will understand why we are anxious, as you will also be, to do all we can to make it possible for them to acquiesce in it - we cannot expect more - and to avoid provoking the sort of violent reaction which would wreck the chances of achieving what both you and I are hoping to achieve.

We have two or three further drafting points on the text of the draft agreement itself. We can leave these to be discussed at the next meeting of officials, but I hope that they need not create problems for you.

We also have one or two further drafting points on the draft summary of the agreement which officials have prepared for release to the press. Again, officials can discuss these

points when they next meet. I think that they have done a good job in preparing a summary which reflects the agreement itself as closely as possible; but I am apprehensive that it may be impossible to avoid the risk that some people will compare the texts of the agreement and the summary in detail, and draw erroneous or misleading but unhelpful conclusions from omissions or differences of wording. I remain to be convinced that our best interests would be served by giving the press a summary rather than leaving the agreement to speak for itself.

We also think that it would be helpful for there to be some discussion at political level about exactly how the proposed Committee and its Secretariat would work. I take the point that the work of servicing the Committee will require an Irish component in the Secretariat on a continuing basis; but there are already signs that such a component could be the focus of unionist protest and attack (and perhaps also of attention from PIRA), and on practical and security grounds (apart from any others) I think we shall have to ask you to keep the Irish component as small as possible, and perhaps not to leave it continuously in Belfast, at any rate until the new arrangements have settled down. We also have to be clear that the task of the Secretariat is to service the Committee and it cannot operate as a sort of complaints commission in its own right. I believe it would be useful if Geoffrey Howe and Tom King could discuss these matters with Peter Barry, and I am asking Geoffrey and Tom to get in touch with Peter to see whether arrangements could be made for an early meeting for this purpose.

I come now the question of Irish accession to the European Convention on the Suppression of Terrorism. Our officials have made it clear to yours that we were much dismayed to learn that you felt obliged to withdraw your commitment to accede to the Convention. Your officials have explained the reasons for this, and of course I understand the difficulties created for you by the issue that is being

made by the Irish National Caucus in the United States on the subject of our proposed supplemental treaty with the United States on extradition. But I have to say that we find it difficult to accept the parallel that is being drawn with our position on mixed courts. We have all along made it clear to you that we could go no further than undertaking to consider the possibility of mixed courts. We remain prepared to undertake to consider the possibility, but in all honesty it has to be without commitment, since, though we do not exclude the possibility of mixed courts being feasible and acceptable at some future time, we cannot see any easy or early way round or through the political and other difficulties which would be involved. That was in essence the position that Tom King put to you when he was in Dublin on 17 September. The Irish Government on the other hand volunteered the commitment to accede to the Convention, as one of a number of what were at one time described as confidence-building measures associated with any agreement. We warmly welcomed it, and we have since regarded it as from our point of view an integral part of the "package" that was emerging. Apart from the intrinsic case for your accession, we know that it is a point by which unionist opinion in Northern Ireland sets great store. So its inclusion in the "package" associated with the agreement is very important indeed to us, both as a significant element in the balance of the package as a whole and as a selling point with unionist opinion. I very much hope that you will be able to reconsider your decision on this, and to re-instate the commitment to accede to the Convention.

Finally, I should let you know that I have just learnt that the Lord Chief Justice of Northern Ireland is on the point of writing to the Lord Chancellor to propose that, in view of the pressure of work in the High Court, the so far unfilled sixth seat on the Court should be filled by an early appointment. I am sure that the Lord Chancellor will (subject to Treasury agreement) be ready to consider this proposal quickly and sympathetically.

On possible dates for signing an agreement, assuming that both our Cabinets agree, I am afraid that, as President Reagan has invited me and other Heads of Government to meet him in New York on 24 October, the last half of October has become impossible. The prorogation and opening of Parliament will mean that, if an agreement is not signed before 25 October, it could not be debated here until mid-November. I have a great many commitments in the first fortnight of November; so I think that we should have to look for a date towards the middle of the month as a basis for planning. I should of course expect to be accompanied by Geoffrey Howe and Tom King.

With best wishes.

Yours sincerely

Margaret Thatcher

Dr. Garret FitzGerald, T.D.

SSN: 2693.
MISC. 384
FLASH

SECRET AND PERSONAL

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DEHOC

10 DOWNING STREET

THE PRIME MINISTER

4 Oct.
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CYLNIAN —
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22 FCOLN
FM CAOFF TO DUBLI
041045Z OCT
GRS —

From Prime Minister to
Dr Garret Fitzgerald

AND TO
~~MAGA~~ FCO (FOR DAVID BARRIE)

Geoffrey Howe, Tom King and I have just received a report on the latest stage of the discussions between our officials and yours on the possibility of an Anglo-Irish agreement.

We have of course (like you) to look at the whole package, from the point of view of its actual and perceived balance as between our respective interests, and from the point of view of the task we shall face in presenting it, in our case in particular to the unionist community in Northern Ireland and to their political representatives. You will understand why we are anxious, as you will also be, to do all we can to make it possible for them to acquiesce in it - we cannot expect more - and to avoid provoking the sort of violent reaction which would wreck the chances of achieving what both you and I are hoping to achieve.

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Finally, I should let you know that I have just learnt that the Lord Chief Justice of Northern Ireland is on the point of writing to the Lord Chancellor to propose that, in view of the pressure of work in the High Court, the ~~so far unfilled vacant~~ So far unfilled sixth seat on the Court should be filled by an early appointment; ~~and the man whose name he proposes as the best qualified for this high judicial office is, as it happens, a Roman Catholic~~. I am sure that the Lord Chancellor will (subject to Treasury agreement) be ready to consider this

proposal quickly and sympathetically. ~~Clearly, if this went ahead, the balance between Protestants and Roman Catholics on the High Court bench would be improved~~.

On possible dates for signing an agreement, assuming that both our Cabinets agree, I am afraid that, as President Reagan has invited me and other Heads of Government to meet him in New York on 24 October, the last half of October has become impossible. The prorogation and opening of Parliament will mean that, if an agreement is not signed before 25 October, it could not be debated here until mid-November. I have a great many commitments in the first fortnight of November; so I think that we should have to look for a date towards the middle of the month as a basis for planning. I should of course expect to be accompanied by Geoffrey Howe and Tom King.

With best wishes.

Yours sincerely

Margaret Thatcher.

Dr. Garret FitzGerald, T.D.

(2)

Secretariat

12. The nature and extent of the Secretariat of an Anglo-Irish Institution would clearly be related to the nature and scope of its functions and activities. Initially, however, each Government should designate an official to act as a Secretary of the Council and each of the two Secretaries would be responsible for ensuring the provision of a secretariat for the activities of the Council.

Finance

13. The Council should be free to agree on the joint expenditure of any funds made available by the two Governments (under their normal procedures) for purposes of common interest, although such agreement should clearly not be a prior condition for any unilateral expenditure by either Government.

Inter-Parliamentary Relations

14. It was agreed that it would be a natural and desirable development for the establishment of a new inter-governmental body to be complemented at an appropriate moment by the development of an inter-parliamentary body.

15. In the British view, this should be further considered in the light of experience and of opinions which might over time be expressed by members of either or both of the two national Parliaments (or by British or Irish members of any other relevant parliamentary body, such as the European Parliament or any Assembly which might be established locally in Northern Ireland). In the meantime, efforts should be made to deepen and broaden the activities and composition of the existing Anglo-Irish Parliamentary Group.

16. The Irish side considered that it would be helpful if the report of the Group dealt with the manner in which the parliamentary structure should be developed and with its composition, ambit and purposes. In their view, the parliamentary element could initially be constituted through an Anglo-Irish parliamentary committee as a natural development of the existing, rather loosely structured Anglo-Irish Parliamentary Group. The objectives would be to widen the composition of the existing Group, to provide a more regular and systematic pattern of inter-parliamentary exchanges and to deepen and broaden the activities undertaken by focusing them on a more structured agenda, related to the work of the inter-governmental body. The proceedings could be conducted in public or in private. The aim would be to promote constructive discussion which would subsequently facilitate the transforming of the consultative committee into a constituent part of the Anglo-Irish Institution.

17. The Irish side thought it useful to give preliminary consideration to the appropriate composition of the parliamentary group under the new circumstances created by the establishment of an inter-governmental body and in the light of the objectives cited in paragraph 16. They considered that the guiding principle should be equitable representation of the various political interests and traditions within these islands. Members of the

Prime Minister

This is the piece referred to in the draft Agreement.

It is unbalanced in that most of the views come from the Irish side.

The key point is that any initiative should be left to the two ~~Parliaments~~ Parliaments themselves to decide.

CDP
3/X

Committee could be drawn, not only from Dáil Eireann and the House of Commons but also from other representative bodies, including the European Parliament, the House of Lords and Seanad Eireann. Apart from the obvious benefits of parliamentary exchanges, the Irish side saw the committee as providing a forum for the participation of representatives from Northern Ireland in the new institutional structures. They considered that, in view of the special circumstances within these islands and in order to permit the adequate representation of both sections of the community there, the Northern Ireland membership should be composed in proportion to the size of the different parts of the community there and should be a significant component of the committee. In the absence of an elected Assembly in Northern Ireland representatives could be chosen on the basis of appointment by the Secretary of State on the nomination of, or after consultation with, leaders of political parties. More generally the Irish side recognised that consultation with political interests and with the appropriate parliamentary authorities should be undertaken immediately following a decision to establish an intergovernmental body with the objective of having the group working in its new format as soon as possible.

18. The Irish side saw the ambit and purposes of the committee as corresponding to those of the inter-governmental body. Its functions would essentially be consultative, advisory and review in nature. It could discuss the activities of the inter-governmental body and review the work of ancillary bodies, on the basis—but not exclusively so—of an annual report on co-operation from the inter-governmental body. Members might receive an allowance in respect of attendance.

Structures for Exchanges on a Wider Basis

19. It was agreed that it would be advantageous to provide a forum for contact between persons other than Ministers, parliamentarians and officials. It was felt that the objective should be to work towards the creation of an Advisory Committee on economic, social and cultural co-operation, associated with the Council. Foreign models which were considered here were the Economic and Social Advisory Council within the Benelux arrangements and the Economic and Social Committee of the European Community. As the principal objective should be the promotion of contact and exchanges across a wide front of economic activity and of society within these islands, the membership should be reasonably large and in composition should reflect vocational interests. These features may require that the full meetings would take place not more than twice a year, although the body itself could perhaps make provision for separate meetings, at more or less frequent intervals, of any subsidiary bodies it established. The objective should be to have procedures a good deal more flexible and pragmatic than those of the EC body. However, it can be envisaged that the Committee would advise the Council on economic and social matters referred to it, would be able to issue opinions on its own initiative in fields to be determined, and would present an annual report on the state of economic, social and cultural co-operation, including recommendations.

20. The Group considered that some time would be needed to assess how an Advisory Committee might best operate in the light of the development of closer co-operation. They considered, however, that there was an immediate

SECRET AND PERSONAL

4

Prime Minister

Agree to the message? I have suggested some amendments. CDP 3/X.

As slightly amended, no

Ref. A085/2540

MR POWELL

Attached

As your letter of 2 October records, the Prime Minister agreed at her meeting yesterday with the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland to send a message to the Taoiseach about Irish accession to the European Convention on the Suppression of Terrorism. It was agreed that the message should cover other points as well, including particularly the suggestion that the two Secretaries of State should meet Mr Barry at an early date to discuss the working of the proposed Intergovernmental Committee and its Secretariat.

2. I attach a draft message to the Taoiseach, which has been agreed with the Foreign and Commonwealth Office and the Northern Ireland Office, and, as regards the last paragraph but one, with the Lord Chancellor's Department.

3. I understand that the Secretaries of State hope to meet Mr Barry early next week; and the next round of my talks with Mr Nally are due to start on the evening of Monday 7 October. It would be very useful if we could have authority for the despatch of this message tomorrow, so that the Taoiseach sees it well before these meetings.

RTA

ROBERT ARMSTRONG

3 October 1985

SECRET AND PERSONAL

NOIABC

DBS

10 DOWNING STREET

2 October 1985

From the Private Secretary

I am writing on behalf of the Prime Minister to thank you for your letter of 30 September in which you sought an early meeting with her. The Prime Minister will be replying herself as soon as possible.

Charles Powell

The Rt. Hon. James Molyneaux, J.P., M.P.

Identical letter sent to
The Rev. Ian Paisley MP

3A

SECRET & PERSONAL

MR POWELL

NORTHERN IRELAND

This note on the media arrangements for the presentation of any agreement might be useful. David Gilliland, Director of Northern Ireland Information Office, asked to see me today and agrees with the points below.

You assured me that the idea of dispensing with a press conference had been dropped.

Against this background, I assume the idea would be for a joint press conference with the two Prime Ministers supported by myself and my opposite number, Peter Prendergast, with myself calling the questioners. I assume we should let it run for up to 30 minutes, or less in the unlikely event of its dying on its feet.

NIO would look after media security.

The trickiest question is whether the Prime Minister (as well as Garret Fitzgerald separately) should give radio and television interviews afterwards. My own view is that the Prime Minister (and Dr Fitzgerald) should not. We should allow radio and television to record and film the press conference but we should not go beyond that. My reasoning is:

- we have a vested interest in curbing the Irish (whose presentation will always be more extravagant than ours); this is facilitated by an open press conference. Extravagance is encouraged by separate interviews

- the media find it less easy to attack en masse than they do in man-to-man interviews; therefore on balance an open press conference standing on its own serves our purpose

SECRET & PERSONAL

- I have no desire to see the Prime Minister interviewed by some of the aggressive and committed Northern Irish radio and television reporters; their approach simply makes for negative presentation

- since there are several audiences - Unionist, Nationalist, Southern Irish, British mainland, American and to some extent European audiences - to address, that superficially argues for separately tailored interviews. But separately tailored interviews on the first day can only serve to fuel suspicion. The line of least resistance is probably a self standing open press conference.

We might persuade Dr Fitzgerald to forgo first day separate radio and television interviews if the Prime Minister volunteered this at the outset.

We cannot, however, rule out the Prime Minister's need subsequently to broadcast. Indeed this may be a necessary weapon in the war against extremism. But we should keep Day 1 clear.

NIO propose that on Day 2 Tom King and Nick Scott should take the lead on the airwaves, pressing home presentation and picking up comments/attitudes etc.

We shall need to consider nearer the time who gives separate briefings - and who should receive them - eg New York Times, Christian Science Monitor. + Peter Utley.

BERNARD INGHAM
3 OCTOBER 1985

S+P

SUBJECT
cc Master

3

10 DOWNING STREET

2 October 1985

From the Private Secretary

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

The Prime Minister held a meeting with the Northern Ireland Secretary and the Foreign Secretary this afternoon to discuss points made in their respective minutes of 27 and 28 September. Sir Robert Armstrong and Sir Percy Cradock were also present..

Balance of advantage in the Agreement

It was suggested that the Agreement as it stood offered the United Kingdom few obvious advantages. That was certainly how it would be perceived by the Unionists. To those who argued that the Agreement held out the prospect of closer co-operation against terrorism, the riposte would be that it should not be necessary for the United Kingdom to pay a price for Irish co-operation in this field. In the Intergovernmental Committee, the Irish side were likely to prove not just a thorn in the flesh but a positive thicket of brambles. Moreover there was no clear commitment by the SDLP to co-operate in devolved government in the North.

Against this it was pointed out that the Irish Government were already taking practical steps to improve security on the border; and that the Unionists had an interest in an agreement which would strengthen the constitutional nationalists against the Sinn Fein. The downside risks of failing to complete the Agreement had also to be weighed in the balance.

The discussion reinforced the view that in order to have some specific and identifiable advantage for the United Kingdom in the Agreement itself, it was essential to secure the Irish Government's agreement to accede to the European Convention on the Suppression of Terrorism. This point would need to be pursued at political level.

/Textual points

Textual points on the Agreement

It was noted that a number of textual amendments had been agreed ad referendum at the last negotiating session on 29/30 September. These were approved.

It was agreed that at the next session of talks with Irish officials, the United Kingdom side should insist on an amendment to the last sentence of paragraph (b) of Article 2 so that it would read

> "....each retains responsibility for the decisions and administration of government within its own jurisdiction."

It was essential to secure this change, to leave no doubt that executive authority rested exclusively with the United Kingdom.

It was also agreed that an alternative word should be found for "constitute" in paragraph 5(c). This might be "act as" or "serve as".

Draft Summary of the Agreement

Concern was expressed about a number of the expressions used in the Summary which did not exactly tally with terms used in the Agreement itself or might, because of their abbreviated form, give rise to misinterpretation of the nature of the Agreement. In particular:

- in paragraph 1 "about the status of Northern Ireland" should read "confirming (or reaffirming) the existing status of Northern Ireland."

- in paragraph 4, first indent, it should be "....views and proposals on certain matters relating to Northern Ireland as covered by this Agreement."

- in paragraph 4, third indent, the words "decision and" should be inserted before "administration."

- in paragraph 7 the words "within the Committee's remit" should be omitted and "for discussion within the Committee" substituted.

Even with these changes it was thought it might be better to rely on the text of the Agreement itself.

Role of the Permanent Secretariat

Concern was expressed that the Agreement did not succeed in defining the role of the Secretariat in appropriately limited terms. This point could be met by changing the last sentence of Article 3 to omit the word "permanent" before "Secretariat", and by adding at the end the words "to service the Committee and enable it to carry out its duties".

/It would

It would also be necessary to explain to the Irish Government at political level that we would not allow the Secretariat to become a standing complaints commission.

Press Line

The Prime Minister stressed that in any public comment after an agreement was reached, we must be able to make crystal clear that the Irish Government would have no executive role in the North. We had agreed only to arrangements to discuss certain matters together. Decisions in Northern Ireland would remain for us (and decisions in the Republic for the Irish Government).

Procedure

It was agreed that the Northern Ireland Secretary and the Foreign Secretary should seek an early meeting with Mr. Barry in the United Kingdom to reach clear understandings about the way in which an agreement would operate in practice. They would also pursue the question of Irish accession to the Convention on the Suppression of Terrorism. A draft message should also be prepared for the Prime Minister to send to the Taoiseach on this latter point.

I am copying this letter to Len Appleyard (Foreign and Commonwealth Office) and to Sir Robert Armstrong.

CHARLES POWELL

Jim Daniell, Esq.,
Northern Ireland Office.

Ref. A085/2499

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

This minute describes our meeting with Mr Nally and his team on 29-30 September. It is intended to form the basis, together with the Secretary of State for Northern Ireland's minute of 27 September and the Foreign and Commonwealth Secretary's minute of 28 September, for your meeting with the two Secretaries of State on 2 October.

The European Convention on the Suppression of Terrorism

2. We made very clear to Mr Nally during two discussions of this subject in the latest round of talks that British Ministers were considerably dismayed by the change in the Irish position about acceding to the Convention, taking the view that it considerably shifted the balance of advantage for the British Government in reaching an agreement of the kind under discussion. I pointed out that there was no parallel could justifiably be drawn between this matter and the British position on mixed courts. The Irish had told us that, in the context (though not as part) of an Anglo-Irish agreement, they would be ready to accede to the European Convention, whereas we had throughout the negotiations made clear that we could go no further on mixed courts than to agree, without commitment, to discussion of the question in the Intergovernmental Committee in the future. The Irish emphasised that their Government still wanted to accede to the Convention; but in the absence of anything specific on our side that would justify a claim that there were to be changes in the system of administration of justice in Northern Ireland that would improve the confidence of nationalists in the fairness of the system, the Taoiseach would

not be able to carry in the Dail a proposal to accede to the Convention, which would result in sending more people back to Northern Ireland to be tried under a system in whose impartiality the Irish had no confidence. This would be particularly difficult in the present state of discussions on the conclusion of a supplementary treaty on extradition between the United States and United Kingdom, which would result in more Irishmen being extradited to the United Kingdom: Mr Haughey and his opposition colleagues were whipping up the Irish National Caucus in the United States against the treaty. If the Irish Government went to the Dail in present circumstances and asked for approval of accession to the European Convention, there would be very strong and widespread criticism and the Government would probably be defeated. The Irish recognised that our position on mixed courts had always been and still was a readiness to consider the possibility of mixed courts on the basis that we had not decided in advance that they were "not on"; but the Secretary of State for Northern Ireland's remarks about mixed courts when he visited Dublin on 17 September, coming on top of a succession of news stories that appeared to reflect official briefing, had finally convinced Irish Ministers that we had no intention of agreeing to mixed courts in the foreseeable future (this has to be taken in conjunction with Mr Barry's statement to the Foreign and Commonwealth Secretary in New York that he and the Taoiseach had been "greatly reassured" by their meeting with Mr King in Dublin: the first hint of a change in the Irish attitude came at a meeting on 13 September). In short, if we could do no more than contemplate the possibility of mixed courts, the Irish could go no further than contemplating the possibility of accession to the European Convention.

3. We might be able to shift the Irish into a more positive attitude to the Convention if we were able to tell them that the Lord Chancellor was minded to appoint as the sixth member of the High Court in Northern Ireland a person who was (as it happened)

a Roman Catholic. But I formed the clear impression that we should not be able at present to claw back a commitment from the Irish to accede to the Convention. They indicated a willingness to meet us to the extent of mentioning the possibility of Irish accession to the Convention among the subjects named in a Summit communiqué for discussion at the first meeting of the Intergovernmental Committee. They would regard it as essential, however, that the communiqué should also mention that the possibility of mixed courts would be discussed at the first meeting of the Intergovernmental Committee. Another possibility, which we have not so far discussed but could pursue with the Irish, might be to suggest that the possibility of Irish accession to the European Convention should be mentioned in the agreement itself. This would have the disadvantage of establishing a firmer link between the possibility of Irish accession to the Convention and the establishment of mixed courts, but would have the advantage of avoiding a reference to mixed courts in the Summit Communiqué. My own judgment would be against putting this possibility to the Irish: I see no reason to suppose that they would be prepared to consider a reference to Irish accession in the agreement itself.

Garda Presence in the Border Areas

4. The Secretary of State for Northern Ireland mentioned in paragraph 4 of his minute of 27 September that the Irish had so far been vague about what would be involved in the redeployment of a Garda task force to the border areas. At the recent session of the talks, the Irish said that the Garda presence in the border area was in the process of being built up again to the highest level at which it had ever stood in the past, at a cost between now and the end of the year of over £(Irish) 100 million; this amounted to restoring the task force, and they were prepared to agree with us a form of words with which this build-up could be described in public. Furthermore even more Garda personnel would be sent to the border areas if

necessary , the numbers depending on the perceived need. They said, however, that they would not wish us to give publicity to the scope of their deployment, since this would expose the Irish Government to criticism that the problem of crime in Dublin, which is a matter of major political concern in Ireland, was being neglected for the sake of an increased Garda presence on the border.

Ulster Defence Regiment (UDR)

5. We described to the Irish again our intention that there should increasingly be an Royal Ulster Constabulary (RUC) presence at operations of the UDR in largely Roman Catholic areas in Northern Ireland. We were able to correct the incomplete understanding which the Irish had of the precise areas where the UDR are operating. We added the new point that, given that there is increasingly an RUC presence at UDR operations, the army is about to issue an internal instruction that new recruits to the UDR should in future not make use of the power of arrest, save in a physical emergency.

The Secretariat of the Intergovernmental Committee

6. There was no indication at the most recent meeting that the Irish disagreed with our view that the Secretariat, in addition to normal secretarial duties, should act as a channel of communication between the two Governments when the Intergovernmental Committee was not meeting, but that the British and Irish elements would have to refer back to their principals for decisions.

7. As regards the location of the Secretariat and the timing of its establishment, the Irish again argued that it would be best to set up the Secretariat in Belfast as soon as the agreement entered into force, since otherwise unionist opponents of the agreement would concentrate their efforts on preventing

the arrival of the Secretariat in Belfast. We said that Belfast was accepted by both sides in the negotiations as the right location for the Secretariat. The question was how soon it should move there after the agreement entered into force. I put to the Irish that the first meeting of the Intergovernmental Committee might take place in London, with the Secretaries travelling from Belfast and Dublin. They did not rule this out. The Irish are still thinking in terms of a larger and higher-powered Secretariat than the Northern Ireland Office consider necessary to perform the tasks. I believe, however, that it will be possible to persuade them, on practical and security grounds, to start with a very small presence. The Irish made it clear that from their point of view the location of at least some element of the Secretariat in Belfast from the outset, or very soon after it, was an essential element in the whole package. In discussion, however, they came to accept that it might be possible, if the Secretariat existed in Belfast from the start, for the actual number of Irish officials present in Belfast from the beginning to be very small. I asked them to consider an initial Irish presence of two people; the number could later be increased in the light of our assessment of reactions to the agreement. There was some suggestion that they might be content at first with an Irish element consisting of three officials and one typist, all without dependants; we might be able to get them lower still. Starting from that position we should be able to make it difficult for them to build up further unless and until there was a demonstrable need for more staff.

The Draft Agreement

9. I put to the Irish the suggestion in paragraphs 7(a), (b) and (c) of the Secretary of State for Northern Ireland's minute of 27 September. I attach an amended version of the draft agreement which incorporates changes at the start of Article 6 and in Article 7 (b) and (c) which seek to accommodate Mr King's views. Although all these changes were made ad referendum to

Ministers on both sides, I had the impression that they would accept the changes to Articles 6 and Article 7(c). The deletion of the phrase "parades and processions", which has for the present been placed in square brackets in Article 7(b), may be acceptable to the Irish on the understanding that either side could say (for instance at the press conference or in Parliamentary debates) that (as is the case) the reference in that Article to "forthcoming events" embraced parades, processions, sporting occasions and other events with possible security implications.

10. The Irish side, for their part, proposed two further amendments:

a. In Article 5(c), to substitute "significantly or especially affected" for "significantly and especially affected". The effect of this would be to allow the Irish Government to put forward views and proposals on legislation and major policy issues if these issues met only one, not necessarily both, of the criteria that they "significantly" and that they "especially" affected the interests of the minority community. The Irish argued that there could be local issues which "especially" affected the nationalists in a particular district but did not "significantly" affect the interests of the minority community in Northern Ireland as a whole. On the whole it seemed to the British side that this was a distinction without all that much of a difference: an issue which especially affected the interests of a part of the minority community was likely to be regarded as "significantly" affecting the interests of the minority community as a whole. We therefore agreed to put the amendment forward to Ministers.

b. They proposed an amendment to Article 12 which would commit the two Governments, not (as before) to agreeing the

that the establishment of an Anglo-Irish Parliamentary Body was for parliamentary decision - that is a statement of fact that does not depend on intergovernmental agreement - but to giving "support as appropriate "to such a body, if it were to be established. The new formulation, as finally agreed in discussion, seemed to us to be an improvement on the old.

Further Instructions

11. My next meeting with Mr Nally is scheduled for 7 and 8 October. I should be grateful if your meeting with the two Secretaries of State on 2 October could decide the line I should take on the following matters:

a. European Convention on the Suppression of Terrorism. Should I continue to press for a mention of this in the Summit communiqué, even on the basis of "considering the possibility of" rather than a commitment to accession? Should officials suggest to the Lord Chancellor's Department the appointment of a Roman Catholic as a sixth judge on the High Court in Northern Ireland provided that the Irish will in return accepted firmer language about the question of their future accession to the European Convention?

b. Secretariat. Pending a possible meeting between the Secretaries of State for Foreign and Commonwealth Affairs and Northern Ireland and Mr Barry, should I seek in the talks with Mr Nally to establish a more specific understanding at the official level of how the Secretariat should operate, within the confines of the role forseen for it in paragraph 6 above? Have I authority to agree that the Secretariat should in principle be established in Belfast once the agreement has entered into force, but at first only on a skeleton basis?

c. Draft Agreement. Are the amendements to Articles 5, 6, 7 and 12 acceptable?

d. Title of the new body. The Irish still dislike "Committee" but would clearly accept "Conference". Should I continue to hold out for "Intergovernmental Committee", in the hope that the Irish will concede the point at the end of the day? Are Ministers prepared to consider "Intergovernmental Conference" or "Intergovernmental Standing Conference"?

e. Public descriptions of the Intergovernmental Committee. I am in no doubt that the use of the word "consultative", discussed in paragraph 5 of the Secretary of State for Northern Ireland's minute, would create grave political difficulties for the Irish Government. From the point at which they finally accepted that joint authority was not on offer in any shape or form they have consistently emphasised that the Taioseach would not enter into an agreement involving increased security co-operation on the basis of a role which would be expressly and publicly described as purely "consultative". We have been equally emphatic that we must be able to say that the Irish Government has no executive role and that final responsibility for decisions rests with the British Government. Both these requirements could be met by means of a formula on the lines of the annexed draft. May I have authority to suggest that to the Irish? This formula could of course be simplified on occasion to say merely that there was no derogation from sovereignty and the Intergovernmental Committee had no executive role.

12. I am sending copies of this minute to the Secretaries of State for Foreign and Commonwealth Affairs and Northern Ireland.

RGA

ROBERT ARMSTRONG

1 October 1985

ANNEX A

If asked to describe the nature of the Intergovernmental Committee on whether it is "consultative", the line in reply might be:

> I am not sure that there can be a simple, one-word description of arrangements between two sovereign Governments that are probably without parallel. The Agreement provides for the first time a formal and continuing institutional framework in which the Irish Government can put forward to the British Government their views and proposals on the matters covered in the Agreement. Moreover, there is an obligation to make determined efforts to resolve differences. This is an important provision which both Governments take seriously. At the same time the question of sharing executive responsibility does not arise, since Article 2(b) of the Agreement makes clear that there is no derogation from the sovereignty of either Government, so that each retains responsibility for the administration of government within its own jurisdiction.

NOIABA

COD. 2/K

PRIME MINISTER

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

The purpose of the meeting is to consider the next step in the light of the Northern Ireland Secretary's recent minute. The main documents are:-

A - The text of the draft Agreement and proposed press line.

B - The Northern Ireland Secretary's minute.

C - The Foreign Secretary's comment.

D - Sir Robert Armstrong's account of the latest round of negotiations.

There are four main areas which need discussion:-

i. is it the case that the balance of the Agreement as it stands is heavily in favour of the Irish? If so, what is required to re-establish a reasonable balance:

- reinstatement of the Irish Government's commitment to ratify the Convention on the Suppression of Terrorism?

- correction of the text of the agreement to remove any ambiguity about the Irish Government's role in the North? (This covers Mr King's proposed textual amendments as well as his point about the different titles of the British and Irish texts.)

- a firmer commitment outside the agreement that the SDLP will co-operate in moves to re-establish devolved government?

- a clearer understanding on the exact role of the permanent secretariat? Should we try to reach a written understanding with the Irish Government on this?

- a way of conveying clearly and publicly that the Irish Government will not have an executive role in the North (bearing in mind Irish difficulties over the word 'consultative').

[RTA's note at D has a dmgr.]

ii. how can these points best be handled with the Irish? Should the Northern Ireland Secretary and the Foreign Secretary have an early meeting with Irish Ministers to raise the negotiations to a political level?

iii. should we give the Irish side a new target date for a possible Anglo-Irish Summit? (Friday 15 November is the next available date in your diary.) Or should we avoid specifying a date until after Ministers have met their Irish counterparts and you have assessed the results? There is much to be said for not imposing a negotiating deadline upon oneself. But will failure to set a date lead the Irish to conclude that we are backing out?

iv. in the light of the answers to these points, should we start contingency planning on the best possible presentation of our case in the event of a breakdown (with an eye particularly to the United States)?

You may also want to consider the enclosed letter just received from Mr. Molyneaux and Dr. Paisley.

C D?

Charles Powell
1 October 1985

CONFIDENTIAL

10 DOWNING STREET

From the Private Secretary

1 October 1985

ANGLO-IRISH RELATIONS

I enclose a copy of a further letter to the Prime Minister from the Rt. Hon. James Molyneaux and the Reverend Ian Paisley seeking additional assurances about the negotiations with the Irish Republic. The Prime Minister may want to discuss this at tomorrow's meeting, following which it would be helpful to have a draft reply.

I am copying this letter and enclosure to Len Appleyard (Foreign and Commonwealth Office) and Michael Stark (Cabinet Office).

(C.D. Powell)

Jim Daniell, Esq.,
Northern Ireland Office

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21

NORTHERN IRELAND

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MR PN BELL
} NIO

SIR R ARMSTRONG
DIO
} CABINET OFFICE

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ANGLO-IRISH TALKS

1. THIS MORNING'S IRISH TIMES MAIN NEWS STORY IS HEADLINED ''ANGLO-IRISH TALKS IN BALANCE AS SECURITY BUILDS UP''. THE PAPER'S DIPLOMATIC CORRESPONDENT REPORTS THAT FACED WITH THE PROSPECT OF VIOLENCE FROM REPUBLICAN AND LOYALIST PARAMILITARIES IN THE EVENT OF AN ANGLO-IRISH AGREEMENT, THE GOVERNMENT IS CONTINUING ITS BUILD-UP OF GARDAI ON THE BORDER. BY THE END OF THIS WEEK 130 GARDAI WILL BE REASSIGNED TO BORDER DIVISIONS AS PART OF A PRECAUTIONARY PLAN ORDERED BY THE MINISTER OF JUSTICE THREE WEEKS AGO.

2. THE TALKS THEMSELVES ARE SAID TO BE DESCRIBED BY GOVERNMENT SOURCES AS ''IN THE BALANCE'' WITH THE OUTSTANDING ISSUES REFORM OF THE POLICE AND JUDICIAL SYSTEMS IN NORTHERN IRELAND. THOSE SOURCES ALSO SUGGEST THAT A SUMMIT MEETING ''IF IT TAKES PLACE AT ALL'' WILL BE EITHER LATE THIS MONTH OR IN EARLY NOVEMBER.

3. THE TIMES' NORTHERN EDITOR WRITES THAT THE BRITISH GOVERNMENT IS PLANNING TO PUBLISH A GREEN PAPER ON DEVOLUTION AFTER AN AGREEMENT IS SIGNED. IT WILL OUTLINE THREE OPTIONS: A VARIATION ON THE IDEA OF ADMINISTRATIVE DEVOLUTION, A POWER SHARING MODEL, AND AN AMENDED FORM OF MAJORITY GOVERNMENT WITH IN-BUILT SAFEGUARDS FOR NATIONALISTS.

GOODISON

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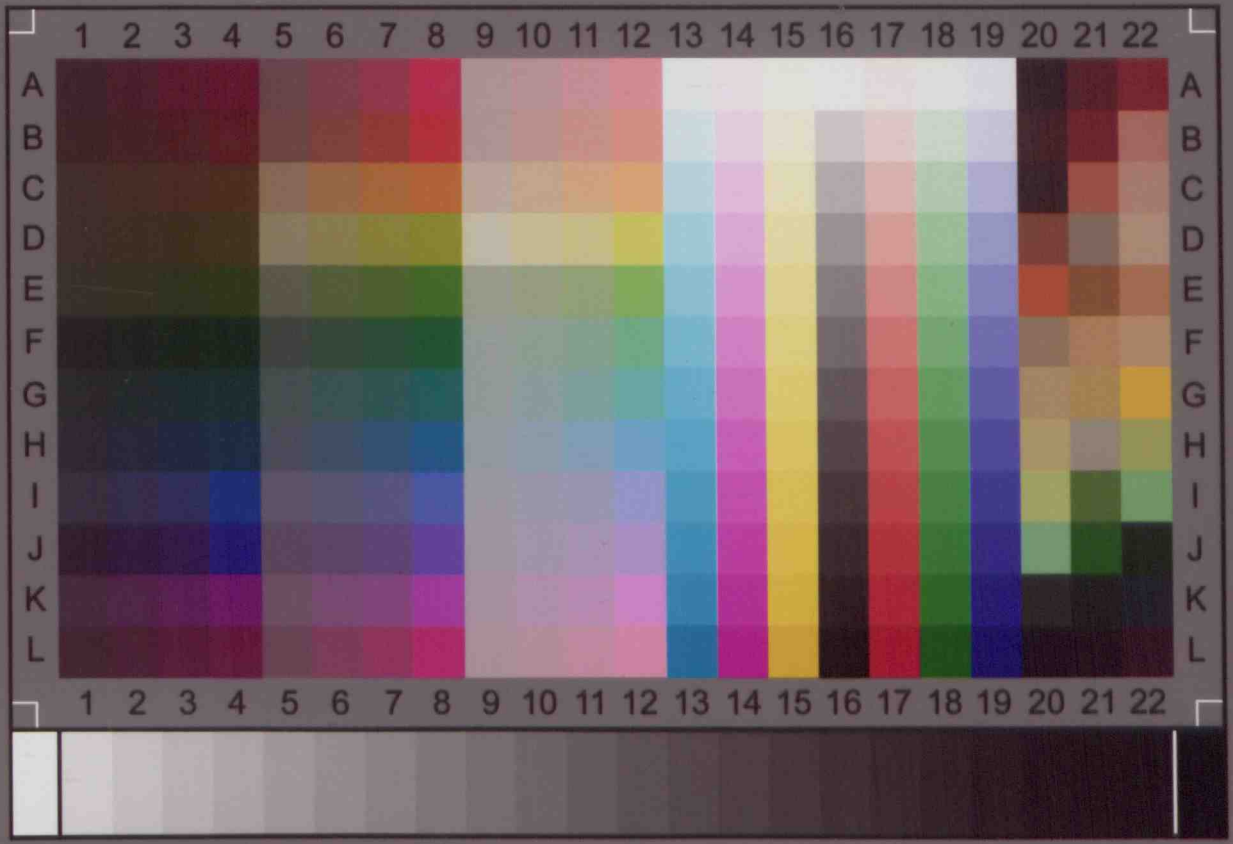
SS/NIO to MS/FCO 30.9.85

PART 10 begins:-

Dublin Tel. 653 1.10.85



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