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Rant,

Ref. A05897

MR. ALEXANDER

The Taoiseach has made clear that, in the context of his "crusade" to make the Republic's constitution less unattractive to Northern Protestants, he will be hoping for a response from the Prime Minister which would be helpful to him. The response he is looking for is the restatement of the British guarantee in the Summit communique on 6th November in more positive terms. We have made clear to the Irish that the Prime Minister would not say anything which suggests any watering down of the guarantee's terms, but she might be prepared to look at something like a repetition of the pledge in the Sunningdale communique to support any future wish by the majority in Northern Ireland to become part of a united Ireland. I suspect that the Taoiseach will press for more, but in the end be happy to settle for what he can get.

It never had any less of a status

2. We have never withdrawn that pledge. We could not do so now without provoking a major breach in our relations both with Dublin and with moderate Catholics in Northern Ireland. We should be assumed to be doing the equivalent of withdrawing it if the Taoiseach could claim and state publicly that we had refused a request to restate it. But we do not necessarily have to restate it in precisely the Sunningdale form of words. Various formulations have been suggested by the Irish and ourselves at official level in the present context; others have been used on other occasions; and others are imaginable.

I attach at Annex A a comparative list, which the Prime Minister may find useful both as a basis for discussion at her briefing meeting on 5th November and if we have to move fast when negotiating the final communique text on 6th November. This list has been prepared in consultation with the NIO and fulfils the remit in the final sentence of their brief VMV(81) 9.

3. Our Sunningdale pledge in 1973 was the quid pro quo for Dublin's public acceptance that there could be no change in the status of Northern Ireland until a majority of its people so desired. Indeed the two undertakings were set out in parallel columns in paragraph 5 of the Sunningdale communique (copy attached at

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Annex B). If we cast any doubt on the continuing validity of the Sunningdale pledge, we could put the Taoiseach into some difficulty at home in relation to his acceptance that unification could come only with the consent of the majority of the people in Northern Ireland: any suggestion that he was reneging on that could much alarm Unionist opinion in the Province.

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

A handwritten signature in black ink, appearing to read 'RWA'.

ROBERT ARMSTRONG

4th November, 1981

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The Converse of the Guarantee: Formulae

I. Sunningdale Text

The British Government solemnly declared that it was and would remain their policy to support the wishes of the majority of the people of Northern Ireland. The present status of Northern Ireland is that it is part of the United Kingdom. If in the future a majority of the people of Northern Ireland should indicate a wish to become part of a united Ireland, the British Government would support that wish.

II. Draft Communique for 6th November 1981: British officials' proposal

The Prime Minister said that, if the time came when a majority of the people of Northern Ireland wished it to unite with the Republic, the British Government would accept their decision.

III. Draft Communique for 6th November 1981: Irish officials' proposal

Pending such consent [by the majority in Northern Ireland to a change in the Province's constitutional status] the British Government would be ready to join in working towards any arrangements that might be agreed by the people of the two parts of Ireland for the conduct of their affairs.

IV. Communique for 6th November 1981: earlier Irish proposal

The Prime Minister stated that the people of Great Britain pursues no interest of its own in Northern Ireland. Her Majesty's Government would be happy to join in working towards any arrangements that might at any time be agreed by the people of the two parts of Ireland for the Government of that island.

V. Communique of 6th November 1981: earlier British draft, not shown to Irish

The Prime Minister noted that the majority of the people of Northern Ireland wished it to remain part of the United Kingdom; if, however, a majority of the people of Northern Ireland wished it to unite with the Republic, the United Kingdom Government would accept their decision.

VI. Cmnd 7950 of July 1980 (on Mr Atkins' conference on the future government of Northern Ireland)

Statutory provision exists for the wishes of the Northern Ireland electorate to be tested at intervals by a "border poll", and successive Governments have made it clear that those wishes ... will be respected

VII. Mr Alison in the House of Commons in November 1979

If they (the majority of the people of Northern Ireland) want Irish unity, the Government will not stand in their way.

VIII. The Prime Minister in the House of Commons on 16th December 1980

With regard to the future of the people of Northern Ireland, it remains as I have frequently said - they stay with the United Kingdom until they express the wish to do the contrary and that wish is confirmed by this House of Commons and the Upper House.

IX. The 1981 Labour Party Conference agreed that the Party's aim should be

"to help bring about the unification of Ireland by agreement and consent between the two parts of Ireland"

Following is the communiqué :

1. The Conference between the British and Irish Governments and the parties involved in the Northern Ireland Executive (designate) met at Sunningdale on 6, 7, 8 and 9 December 1973.

2. During the Conference, each delegation stated their position on the status of Northern Ireland.

3. The Taoiseach said that the basic principle of the Conference was that the participants had tried to see what measure of agreement of benefit to all the people concerned could be secured. In doing so, all had reached accommodation with one another on practical arrangements. But none had compromised, and none had asked others to compromise, in relation to basic aspirations. The people of the Republic, together with a minority in Northern Ireland as represented by the SDLP delegation, continued to uphold the aspiration towards a united Ireland. The only unity they wanted to see was a unity established by consent.

4. Mr. Brian Faulkner said that delegates from Northern Ireland came to the Conference as representatives of apparently incompatible sets of political aspirations who had found it possible to reach agreement to join together in government because each accepted that in doing so they were not sacrificing principles or aspirations. The desire of the majority of the people of Northern Ireland to remain part of the United Kingdom, as represented by the Unionist and Alliance delegations, remained firm.

5. The Irish Government fully accepted and solemnly declared that there could be no change in the status of Northern Ireland until a majority of the people of Northern Ireland desired a change in that status.

The British Government solemnly declared that it was, and would remain, their policy to support the wishes of the majority of the people of Northern Ireland. The present status of Northern Ireland is that it is part of the United Kingdom. If in the future the majority of the people of Northern Ireland should indicate a wish to become part of a united Ireland, the British Government would support that wish.

6. The Conference agreed that a formal agreement incorporating the declarations of

the British and Irish Governments would be signed at the formal stage of the Conference and registered at the United Nations.

7. The Conference agreed that a Council of Ireland would be set up. It would be confined to representatives of the two parts of Ireland, with appropriate safeguards for the British Government's financial and other interests. It would comprise a Council of Ministers with executive and harmonising functions and a consultative role, and a Consultative Assembly with advisory and review functions. The Council of Ministers would act by unanimity, and would comprise a core of seven members of the Irish Government and an equal number of members of the Northern Ireland Executive with provision for the participation of other non-voting members of the Irish Government and the Northern Ireland Executive or Administration when matters within their departmental competence were discussed. The Council of Ministers would control the functions of the Council. The Chairmanship would rotate on an agreed basis between representatives of the Irish Government and of the Northern Ireland Executive. Arrangements would be made for the location of the first meeting, and the location of subsequent meetings would be determined by the Council of Ministers. The Consultative Assembly would consist of 60 members, 30 members from Dail Eireann chosen by the Dail on the basis of proportional representation by the single transferable vote, and 30 members from the Northern Ireland Assembly chosen by that Assembly and also on that basis. The members of the Consultative Assembly would be paid allowances. There would be a Secretariat to the Council, which would be kept as small as might be commensurate with efficiency in the operation of the Council. The Secretariat would service the institutions of the Council and would, under the Council of Ministers, supervise the carrying out of the executive and harmonising functions and the consultative role of the Council. The Secretariat would be headed by a Secretary-General. Following the appointment of a Northern Ireland Executive, the Irish Government and the Northern Ireland Executive would nominate their representatives to a Council of Ministers. The Council of Ministers would then appoint a Secretary-General and decide upon the location of its permanent headquarters. The Secretary-General would be directed to proceed with the drawing up of plans for such headquarters. The Council of Ministers would also make arrangements for the recruitment of the staff of the Secretariat in a manner and on conditions which would, as far as is practicable, be consistent with those applying to public servants in the two administrations.

8. In the context of its harmonising functions and consultative role, the Council of Ireland would undertake important work relating, for instance, to the impact of EEC membership. As for executive functions, the first step would be to define and agree these in detail. The Conference therefore decided that, in view of the administrative complexities involved, studies would at once be set in hand to identify and, prior to the formal stage of the conference, report on areas of common

interest in relation to which a Council of Ireland would take executive decisions, and, in appropriate cases, be responsible for carrying those decisions into effect. In carrying out these studies, and also in determining what should be done by the Council in terms of harmonisation, the objectives to be borne in mind would include the following:

(1) to achieve the best utilisation of scarce skills, expertise and resources;

(2) to avoid, in the interests of economy and efficiency, unnecessary duplication of effort; and

(3) to ensure complementary rather than competitive effort where this is to the advantage of agriculture, commerce and industry.

In particular, these studies would be directed to identifying, for the purposes of executive action by the Council of Ireland, suitable aspects of activities in the following broad fields:

(a) exploitation, conservation and development of natural resources and the environment;

(b) agricultural matters (including agricultural research, animal health and operational aspects of the Common Agricultural Policy), forestry and fisheries;

(c) co-operative ventures in the fields of trade and industry;

(d) electricity generation;

(e) tourism;

(f) roads and transport;

(g) advisory services in the field of public health;

(h) sport, culture and the arts.

It would be for the Oireachtas and the Northern Ireland Assembly to legislate from time to time as to the extent of functions to be devolved to the Council of Ireland. Where necessary, the British Government will co-operate in this devolution of functions. Initially, the functions to be vested would be those identified in accordance with the procedures set out above and decided, at the formal stage of the conference, to be transferred.

9. (i) During the initial period following the establishment of the Council, the revenue of the Council would be provided by means of grants from the two administrations in Ireland towards agreed projects and budgets, according to the nature of the service involved.

(ii) It was also agreed that further studies would be put in hand forthwith and completed as soon as possible of methods of financing the Council after the initial period which would be consonant with the responsibilities and functions assigned to it.

(iii) It was agreed that the cost of the Secretariat of the Council of Ireland would be shared equally, and other services would be financed broadly in proportion to where expenditure of benefit accrues.

(iv) The amount of money required to finance the Council's activities will depend upon the functions assigned to it from time to time.

(v) While Britain continues to pay subsidies to Northern Ireland, such payments would not involve Britain participating in the Council, it being accepted nevertheless that it would be legitimate for Britain to safeguard in an appropriate way her financial involvement in Northern Ireland.

10. It was agreed by all parties that persons committing crimes of violence, however motivated, in any part of Ireland should be brought to trial irrespective of the part of Ireland in which they are located. The concern which large sections of the people of Northern Ireland felt about this problem was in particular forcefully expressed by the representatives of the Unionist and Alliance parties. The representatives of the Irish Government stated that they understood and fully shared this concern. Different ways of solving this problem were discussed; among them were the amendment of legislation operating in the two jurisdictions on extradition, the creation of a common law enforcement area in which an all-Ireland court would have jurisdiction, and the extension of the jurisdiction of domestic courts so as to enable them to try offences committed outside the jurisdiction. It was agreed that problems of considerable legal complexity were involved, and that the British and Irish Governments would jointly set up a commission to consider all the proposals put forward at the Conference and to recommend as a matter of extreme urgency the most effective means of dealing with those who commit these crimes. The Irish Government undertook to take immediate and effective legal steps so that persons coming within their jurisdiction and accused of murder, however motivated, committed in Northern Ireland will be brought to trial, and it was agreed that any similar reciprocal action that may be needed in Northern Ireland be taken by the appropriate authorities.

11. It was agreed that the Council would be invited to consider in what way the principles of the European Convention on Human Rights and Fundamental Freedoms would be expressed in domestic legislation in each part of Ireland. It would recommend whether further legislation or the creation of other institutions, administrative or judicial, is required in either part or embracing the whole island to provide additional protection in the field of human rights. Such recommendations could include the functions of an Ombudsman or Commissioner for Complaints, or other arrangements of a similar nature which the Council of Ireland might think appropriate.

12. The Conference also discussed the question of policing and the need to ensure public support for and identification with the police service throughout the whole community. It was agreed that no single set of proposals would achieve these aims overnight, and that time would be necessary. The Conference expressed the hope that the wide range of agreement that had been reached, and the consequent formation of a power-sharing Executive, would make a major contribution to the creation of an atmosphere throughout the community where there would be widespread support for and identification with all the institutions of Northern Ireland.

13. It was broadly accepted that the two parts of Ireland are to a considerable extent inter-dependent in the whole field of law and order, and that the problems of political violence and identification with the police service cannot be solved without taking account of that fact.

14. Accordingly, the British Government stated that, as soon as the security problems were resolved and the new institutions were seen to be working effectively, they would wish to discuss the devolution of responsibility for normal policing and how this might be achieved with the Northern Ireland Executive and the Police.

15. With a view to improving policing throughout the island and developing community identification with and support for the police services, the governments concerned will co-operate under the auspices of a Council of Ireland through their respective police authorities. To this end, the Irish Government would set up a Police Authority, appointments to which would be made after consultation with the Council of Ministers of the Council of Ireland. In the case of the Northern Ireland Police Authority, appointments would be made after consultation with the Northern Ireland Executive, which would consult with the Council of Ministers of the Council of Ireland. When the two Police Authorities are constituted, they will make their own arrangements to achieve the objectives set out above.

16. An independent complaints procedure for dealing with complaints against the police will be set up.

17. The Secretary of State for Northern Ireland will set up an all-party committee from the Assembly to examine how best to introduce effective policing throughout Northern Ireland with particular reference to the need to achieve public identification with the police.

18. The Conference took note of a reaffirmation by the British Government of their firm commitment to bring detention to an end in Northern Ireland for all sections of the community as soon as the security situation permits, and noted also that the Secretary of State for Northern Ireland hopes to be able to bring into use his statutory powers of selective release in time for a number of detainees to be released before Christmas.

19. The British Government stated that, in the light of the decisions reached at the Conference, they would now seek the authority of Parliament to devolve full powers to the Northern Ireland Executive and Northern Ireland Assembly as soon as possible. The formal appointment of the Northern Ireland Executive would then be made.

20. The Conference agreed that a formal conference would be held early in the New Year at which the British and Irish Governments and the Northern Ireland Executive would meet together to consider reports on the studies which have been commissioned and to sign the agreement reached.

Sunningdale Park.
9th December 1973.