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C(85) 20

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25

23 July 1985

CABINET

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

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

### INTRODUCTION

On 16 February 1984 the Cabinet authorised an exploratory dialogue with the Irish Government to see whether the basis existed for an agreement which would contribute to the easing of the problems in Northern Ireland. Our main objectives in the discussions have been to secure explicit Irish acceptance of the present status of Northern Ireland and in particular to maximise security co-operation; to increase confidence among the Roman Catholic minority in the institutions in Northern Ireland and thus to improve the prospects that the Social Democratic and Labour Party (SDLP) will in due course co-operate in devolution; and to influence international opinion on Northern Ireland. The dialogue has reached the point where a possible agreement is in sight.

2. This memorandum sets out the present position and seeks the Cabinet's approval for the text for an agreement (at Annex) under which the Irish Government would be able in a new bilateral Intergovernmental Commission, within the framework of the existing Anglo-Irish Intergovernmental Council, to put forward views and proposals to the British Government on defined aspects of Northern Ireland affairs, but would have no executive or decision-making authority.

### BACKGROUND

3. The proposals considered initially with the Irish were that, in return for an amendment to Articles 2 and 3 of the Irish Constitution (which have long offended unionists by laying claim to the North as part of the territory of the Republic), Dublin would be given some kind of role in respect of security and judicial matters in the North.

4. The role at first sought by Dublin was for some executive responsibility (ie a form of joint authority as proposed in last year's New Ireland Forum report and clearly rejected by both the then Secretary of State for Northern Ireland and the Prime Minister). We made clear that no executive role for them was on offer. We indicated, however, that we would be prepared to establish a formal basis on which they would be



consulted about certain aspects of Northern Ireland affairs, although because of Irish sensitivities, which on this point we have sought to take into account, the proposed text does not use the term "consultation".

5. The Irish told us that on this basis they would not be able to secure any change to Articles 2 and 3 of their Constitution. This would require a referendum, the outcome of which would be very uncertain. But the Irish Government said that they would be ready to enshrine in an agreement, registered with the United Nations, their recognition that Northern Ireland was part of the United Kingdom and would remain so for as long as the majority there wished.

#### THE PROPOSED AGREEMENT

6. The text at Annex contains the following main features -

a. A firm rejection by both Governments of violence and those who support it (fourth sub-paragraph of the preamble).

b. A formal and binding statement that change in the status of Northern Ireland could come about only with the consent of a majority in Northern Ireland; that the present wish of the majority is for no change; and that, if in the future a majority in Northern Ireland formally consented to the unification of Ireland, the two Governments would support legislation accordingly (paragraph 2).

c. Provision for the establishment of a new bilateral Intergovernmental Commission, where the Irish could put forward views and proposals on defined matters relating to Northern Ireland. Determined efforts would be made to resolve differences but there would be no derogation of sovereignty and decisions would remain in British hands. Ministers and officials would participate in its meetings (paragraph 5). It would consider certain political matters (paragraphs 9, 11 and 12); security matters, notably relations between the nationalist minority and the security forces (paragraphs 13-16); legal matters (paragraph 17); and cross-border co-operation (paragraphs 18-21), notably in the field of security. The working of the Commission would be reviewed after three years, or sooner if necessary (paragraph 23).

7. The text contains one passage on which agreement in principle has not been reached in the negotiations. The Irish have pressed very hard for a British commitment to establish within a stated time mixed courts of Northern and Southern Irish judges for trying terrorist offences in both parts of Ireland. We are clear that we can enter into no such advance commitment on this complex subject, but have agreed that the question can be considered in the new Intergovernmental Commission. The sentence in square brackets in paragraph 17 of the text reflects our position.

8. Enhancement under the agreement of cross-border security co-operation would be a real prize for us. In many matters co-operation is already good; but we have reached something of a plateau, and much more could be achieved in such areas as exchange of intelligence; frustrating



Provisional Irish Republican Army money-making activities; and controlling the production of home-made explosives. An agreement should open the way to substantially improved co-operation in such matters.

#### IMPLEMENTATION OF THE AGREEMENT

9. The Irish have pressed us in the talks for "associated measures", such as changes in the security forces in Northern Ireland, to be taken when the agreement was signed. We have resisted on the grounds that such changes would antagonise the unionists and thus endanger the effectiveness of the agreement as a whole. We have argued that rapid implementation of the agreement would be an acceptable alternative to "associated measures". This would involve a first meeting of the Intergovernmental Commission soon after signature of the agreement. A communiqué issued at the Summit meeting at which the agreement is signed would indicate the agenda of the first meeting of the Commission after which certain measures would be announced. The Irish measures in rapid implementation of an agreement would be redeployment of Garda task forces to the border area and accession to the European Convention on the Suppression of Terrorism. The first would be of real help to us in the security field, and the second would be a major breakthrough in facilitating extradition from the Republic of persons suspected of involvement in terrorism. The measures on the British side might include announcement of the introduction of a new Code of Conduct for the Royal Ulster Constabulary, stressing equal respect for the two traditions in Northern Ireland; various limited steps concerning the Ulster Defence Regiment; and proposals for increased legal co-operation between the two parts of Ireland.

#### LIKELY REACTIONS TO AN AGREEMENT

10. The Irish have made it clear that they cannot conclude the agreement unless they are satisfied that the SDLP will support it. The Irish believe that they will secure that support, and be able to counter domestic political criticism of the agreement, only if we agree to rapid implementation of the agreement as outlined above, involving substantial steps on our side. On this basis, we too see a good chance that the SDLP would support the agreement as a modest step forward. On the unionist side, the reactions to an agreement on the lines being discussed would be likely to be very negative. There would be accusations that the Irish ability to advance views in the new Intergovernmental Commission was the beginning of creeping unification. There might be some disorder and possibly industrial action. But, subject to developments on the ground in Northern Ireland and in the light of contacts so far with unionist leaders we think that unionist reactions would be containable. The more moderate unionists would see that the prospect offered by the agreement of greater co-operation with the Republic in countering terrorism was a substantial gain.

#### DEVOLUTION

11. If an agreement is signed and works reasonably well, the minority should see that their views and interests are being more effectively represented to the Government and are being taken properly into account.



That in time should build up their confidence in the institutions in Northern Ireland and increase the prospect that they will co-operate in devolution. The unionists, for their part, are likely to see an agreement as a reason for standing even further off from any internal settlement which would be acceptable to the minority. But they would have the incentive that a devolved government would take a number of matters out of the ambit of the Intergovernmental Commission. They too, therefore, might change their position over time.

#### INTERNATIONAL REACTIONS: A POSSIBLE FUND

12. There are good reasons to expect an agreement on the lines proposed to be warmly welcomed by friendly countries and notably the Administration and Congress in the United States. The United States Administration could well be willing to invite Congress to provide a very large sum - perhaps several hundreds of millions of dollars - for expenditure in Ireland, and mostly in the North, as a gesture of support for an agreement. There might also be a prospect of attracting to an appropriate private fund non-governmental contributions in the United States, including some money which at present goes to the Irish Northern Aid Committee (NORAID). European Community Governments might also wish to contribute to a governmental fund; but this would need careful handling. There is no need to look this gift horse in the mouth. But we should want it to be very clear that the money was a reaction to the agreement, not a part of it, since otherwise we would be accused by unionists of making concessions to the Republic in return for American money. It is clear that, in order to attract any contribution from the United States Administration, the governmental fund would have to be additional to existing expenditure. Its purposes and management would require careful consideration, and the choice of projects very careful judgment.

#### TIMING AND MANNER FOR CONCLUDING AN AGREEMENT

13. No time has been agreed for an Anglo-Irish Summit to conclude an agreement. But both sides have late September in mind as a possibility. The location for signing the agreement is also still under discussion. The Taoiseach does not want the meeting to be held in Great Britain, and the Prime Minister would be criticised by the unionists if it took place in the Republic. A Summit in Northern Ireland is one possibility, but there would be formidable problems of security. Another possibility would be a two-part meeting, with signature taking place first in one country and then in the other; but this would present complicated difficulties of logistics and press handling.

#### CONSULTATION OF PARLIAMENT

14. The Irish propose to put the agreement to the Dail a day or two after signature and before the first meeting of the Intergovernmental Commission. Our inclination is to announce on signature that we shall provide for a debate when Parliament resumes in late October. If the unionists made a strong case for recall of Parliament, this might be conceded despite the difficulties for the business managers, since it might help to focus unionist reactions in Parliamentary channels. One



outstanding point is whether the agreement, which in line with previous Anglo-Irish agreements does not have to be ratified, should enter into force on signature or on a stated date after the two Parliaments had debated it but before the first meeting of the Intergovernmental Commission. If Parliament was recalled to debate the agreement, the latter procedure would be possible. It might be difficult to persuade the Irish to agree to delay the first meeting of the Intergovernmental Commission for a full month after signature, but it might be necessary to do so.

## CONCLUSION

15. A limited agreement on the lines of the Annex could be a prize well worth having. It would not be an end in itself, but an aid to the long-term stability of Northern Ireland. The adverse unionist reaction could probably be kept within manageable limits. Such an agreement would be an important step in reconciling the minority to their position in the United Kingdom and would offer the only prospect of unfreezing the attitude of the law-abiding nationalist minority towards the institutions of Northern Ireland, thus breaking the political stalemate of recent years. It would offer a prospect of much better co-operation with the Republic in combating terrorism. It would bring real benefits in our international relations. That is particularly true of the United States where, conversely, failure of the negotiations could do us real damage.
16. Colleagues are invited, subject to there being no serious deterioration on the ground in Northern Ireland, to agree that the Government should be willing to sign an agreement on the lines proposed at a suitable moment this autumn.

G H  
D H

Foreign and Commonwealth Office and Northern Ireland Office

23 July 1985



Draft of 24 July 1985

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

British Proposal

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I. Preamble

1. The Government of the United Kingdom of Great Britain and Northern Ireland and the Government 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 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 combat those who adopt or support such methods;

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;

agree as follows:

II. Status of Northern Ireland

2. The two Governments:

1. agree that any change in the status of Northern Ireland could come about only with the consent of a majority of the people of Northern Ireland;

2. recognise that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland;

3. declare that, if in the future a majority of the people of Northern Ireland clearly wished for and formally consented to the establishment of a united Ireland, they would



support the introduction in the respective Parliaments of legislation to give effect to that wish.

III. The Intergovernmental Commission

3. There would be established within the framework of the Anglo-Irish Intergovernmental Council a new body, to be known as the Intergovernmental Commission, to deal on a regular basis and in relation to Northern Ireland with -

- a. political matters;
- b. security and related matters;
- c. legal matters, including the administration of justice;
- d. cross-border co-operation;

as set out in this agreement.



4. Unlike the existing AIIC machinery this Commission would be primarily concerned with North/South rather than East/West relationships and would meet on a regular rather than ad hoc basis. The British Government would accept that the Irish Government would put forward views and proposals on matters relating to Northern Ireland within the body's remit in so far as those matters were not the responsibility of a devolved administration in Northern Ireland. Attention would thus be given to these matters at the highest level. In the interest of promoting peace and stability, determined efforts would be made through the Commission to resolve any differences. The focus of the Commission's work would be mainly in Northern Ireland; but some of the matters under consideration would 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 might also be found to have application by the Irish Government. There would be no derogation of sovereignty on the part of either the United Kingdom Government or the Irish Government, so that



each would retain responsibility for the administration of government within its own jurisdiction.

5. The Commission would meet at Ministerial or official level, as required. There would be regular and frequent Ministerial meetings; and special meetings could be convened when necessary at the request of either side. Officials might meet in Sub-Committees. Membership would be small and flexible. When the Commission met at Ministerial level the Secretary of State for Northern Ireland and an Irish Minister designated as the Permanent Irish Ministerial Representative would be joint Chairmen. Other British and Irish Ministers could attend meetings as appropriate: thus when legal matters were under consideration the Attorneys General might attend. Ministers would be accompanied by their officials and professional advisers: for example, when questions of security policy or security co-operation were being addressed they could be accompanied by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana. A permanent Secretariat would be established by the two Governments.



6. In relation to matters coming within its remit, the Commission would constitute a framework within which the Government of the United Kingdom and the Government of the Republic of Ireland could 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.

7. It is the declared policy of the British Government that responsibility in respect of certain matters within the remit 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.



8. Both Governments recognise that devolution can be achieved only with the co-operation of the constitutional representatives within Northern Ireland of both the traditions there. If full devolution had not taken place, the Commission would constitute a framework within which the Irish Government could put forward views and proposals on the modalities of devolution in Northern Ireland, in so far as they bore on the interests of the minority community.

Political Matters

9. The Commission would 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 in respect of Northern Ireland 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 some form of Bill of Rights in Northern Ireland.



10. The focus of discussion of these matters would be on Northern Ireland, but the possible application of any such measures by the Irish authorities in the South would not be excluded.

11. Should it prove impossible to achieve and sustain devolution on a basis which would secure widespread acceptance in Northern Ireland, the Commission would constitute a framework within which the Irish Government could put forward views on proposals for major legislation, and on major policy issues within the purview of the Northern Ireland Departments which remained the responsibility of the Secretary of State for Northern Ireland, significantly and especially affecting the interests of the minority community.

12. The Commission would provide a framework within which the Irish Government could put forward views on appointments to be made by the Secretary of State for Northern Ireland to bodies 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.

Security and Related Matters

13. The Commission would consider:

- a. security policy;
- b. relations between the security forces and the community;
- c. prisons policy.

14. The Commission would address the security situation at its regular meetings. This would provide an opportunity to address policy issues, serious incidents and forthcoming events (eg parades and processions).



15. The Commission would consider relations between the security forces and the community, with particular reference to the minority community in Northern Ireland. With a view to promoting greater confidence in the security system, a programme of action would be put in hand which might 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 RUC. It would be accepted by both sides that these matters would be directed primarily towards Northern Ireland, with the object of making the security forces more readily accepted by the minority community there, but that some of them might be developed by the Irish authorities in ways which might have an application in the South. The Commission could also review the structure, composition and powers of the Police Authority for Northern Ireland.



16. The Commission would be able to consider policy issues in the prisons. Individual cases could be raised as appropriate, so that explanations could be given or inquiries instituted.

Legal Matters, Including the Administration of Justice

17. The Commission would deal with issues of concern to both countries relating to the enforcement of the criminal law. In particular it would 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 Commission will seek means to this end, considering inter alia the possibility of establishing a system of joint courts for trying terrorist crimes.] It would also be concerned with the oversight and review of arrangements between North and South for extradition and extra-territorial jurisdiction.



Cross-border Co-operationSecurity Co-operation

18. With a view to enhancing co-operation between the security forces of the two Governments, the Commission would set in hand a programme of work to be undertaken by the Chief Constable and the Commissioner and groups of officials in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel, and operational resources.

19. The Committee would have no operational responsibilities; responsibility for police operations would remain with the heads of the respective police forces, and the Chief Constable of the Royal Ulster Constabulary would maintain his existing links with the Secretary of State and the Commissioner of the Garda Síochána his accountability to the Minister for Justice.

Economic, Social and Cultural Co-operation

20. The two Governments would 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 consider the possibility of securing international support for this work.

21. Should it prove impossible to achieve and sustain devolution on a basis which would secure widespread acceptance in Northern Ireland, the Commission would constitute a framework for the promotion of co-operation between North and South in Ireland in relation to cross-border aspects of economic, social and cultural matters in relation to which the Secretary of State continued to exercise authority.

22. If responsibility were devolved in respect of certain matters under this heading currently within the remit of the Secretary of State, there would need to be machinery for practical co-operation between the responsible authorities North and South in respect of cross-border aspects of those issues.



Arrangements for review

23. At the end of three years from signature of this agreement, or earlier if requested by either party, the working of the Commission would be reviewed by the two Governments to see whether any changes in the scope and nature of its activities were desirable.

IV. Inter-Parliamentary Relations

24. The two Governments agree that it would be for the Houses of Parliament in Westminster and the Oireachtas in Dublin to consider whether an Anglo-Irish Parliamentary body of the kind adumbrated in the Anglo-Irish Studies Report of November 1981 should be established.