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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 talks with the Irish Government about a possible Anglo-Irish Agreement. A progress report was made to Cabinet on 25 July 1985 when it was agreed to pursue the negotiations on the basis then discussed. Agreement has now been reached with the Irish Government on the main outstanding issues and provisional arrangements are being made for signature of the Agreement within the next three weeks.

2. We entered into the negotiations on the basis of a judgment that the prospects for Northern Ireland under a further prolonged period of direct rule were bleak. In the absence of political movement polarisation of the two communities was likely to grow, and violence to increase. As the negotiations have progressed nationalist hopes have focused on a positive outcome. It is our assessment that, in the absence of an Agreement, the situation in Northern Ireland will deteriorate sharply.

3. The Agreement, as now negotiated, meets two sets of objectives. It provides 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, it aims to bring the minority to readier acceptance of the apparatus of Government in Northern Ireland by giving the Irish a formalised (but not executive) role in respect of Northern Ireland affairs affecting the nationalist community.

4. The text of the Agreement is annexed to this memorandum, together with the draft of a Joint Communiqué to be issued on signature (Annexes A and B). Though now set out in legal form, the Agreement is substantially the same as that discussed by Cabinet on 25 July 1985 with the inclusion of a provision regarding entry into force. It provides for clear condemnation of terrorism in the preamble; binding recognition by the Irish Government in Article 1 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; the establishment of a Ministerial Committee (to be called "The Intergovernmental Conference") where the Irish Government may put forward views and proposals in stated areas and where determined efforts would be made to resolve any differences, but where they would have no executive or decision-making role (Articles 2-8); and arrangements for closer co-operation between North and South, notably on security matters (Articles 9 and 10). The reservation of decision-making power to the British Government has been made explicit (Article 2(b)).

#### LEGAL MATTERS

5. This has been a controversial issue and Article 8 represents a compromise between British and Irish positions. The Irish have pressed for a firm British commitment to establish mixed courts. We have made it clear that we are willing to consider the possibility in the Intergovernmental Conference, but that we cannot enter into such a commitment and see serious political and practical difficulties about the idea. That is clearly understood and is the position reflected in the text of Article 8 as it now stands. The only point we now need to get clearly established is Irish acceptance that British Ministers will wish to make it clear in Parliament and to the press that, although we are willing to study the proposal and do not exclude the possibility of mixed courts at some future time, we cannot see any easy or early way round the political and other difficulties involved. This, together with a few other minor textual points, is under discussion with the Irish Government and we will report orally on the outcome.

6. In the course of the negotiations, the Irish offered to accede in the context of the Agreement to the European Convention on the Suppression of Terrorism. When it became clear that we could not enter into a commitment to establish mixed courts, the Irish withdrew their decision to accede to the Convention, but have now agreed to announce their intention to do so provided that progress is made in fields covered by the Agreement, notably in relation to the administration of justice. We are making it clear that their intention to accede must be unconditional.

#### IMPLEMENTATION

7. We have agreed with the Irish that certain measures should be taken in rapid implementation of the Agreement. On our side these include a number of minor measures relating to the Ulster Defence Regiment and the Royal Ulster Constabulary which are desirable for their own sake and which we hope will address some minority concerns. These measures do not form part of the Agreement and will be announced separately. The Irish Government for their part have begun to redeploy task forces of the Garda in the border areas and we shall be pressing them to undertake significant and lasting improvements in their security arrangements on the border.



## SECRETARIAT

8. It has been agreed that the Intergovernmental Conference which will normally meet in Belfast will need to be serviced by a Joint Secretariat. The Secretariat will be a particular focus of resentment for unionists. It may be possible to persuade the Irish that the first meeting of the Intergovernmental Conference 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. The precise location and composition of the Secretariat, especially at the outset, is likely to be determined mainly by security considerations.

## TIMING

9. The Agreement will not enter into force until the two Parliaments have approved the Agreement and notifications of acceptance have been exchanged. Arrangements will be made for the two Parliaments to debate the Agreement as soon as possible after signature.

## LIKELY REACTIONS IN IRELAND

10. The indications are that the Social Democratic and Labour Party (SDLP) will support the Agreement as a modest but useful step. They may also 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 agree to some form of power sharing.

11. Unionist politicians will react very negatively. There is no early prospect of them countenancing a power sharing arrangement with the SDLP. But if their attempts to undermine the Agreement fail, they may see accommodation with the SDLP, which would take a wide range of matters out of the scope of the Intergovernmental Conference, as serving their interests. There may be large-scale demonstrations and other forms of protest action. This underlines the need for care and sensitivity in presenting and operating the Agreement. Although in the volatile atmosphere of Northern Ireland, the situation could deteriorate sharply, our present belief is that widespread violence and sustained industrial action are not very likely.

12. The Provisional Irish Republican Army (PIRA) may engage in acts of terrorism designed in part to provoke a violent unionist reaction. But our best assessment is that adverse reactions from both unionists and the PIRA should be containable. Contingency plans for dealing with them have been reviewed.

13. The Irish are confident that they will be able to secure approval of the Agreement in the Dail. Mr Haughey, the Irish opposition leader, has already signalled his opposition but is likely to be constrained by the support which we hope the Agreement will receive from the SDLP.



## INTERNATIONAL REACTION

14. Contacts with the United States suggest that the Agreement will be warmly welcomed by the Administration and by Congress. It will also be welcomed by our European partners. There are indications that the United States may be ready to express its support by contributing to a fund for economic development in Ireland. The Irish Government accepts that the bulk of the money should be spent in Northern Ireland. It will be a condition of the American contribution that the fund should be additional to existing public expenditure in Northern Ireland and we understand that the Chief Secretary, Treasury accepts this.

## LEGAL CHALLENGE

15. Opponents of the Agreement in the United Kingdom and the Irish Republic may attempt to take legal action in the courts to prevent it coming into effect. Both Governments are satisfied that any such legal challenge would fail.

## CONCLUSIONS

16. The Agreement as negotiated represents a careful balance between British and Irish interests. It falls well short of "joint authority" (which was the initial Irish aim) while according the Irish Government a means of exercising (and being seen to exercise) an influence on British decision-making. Although it does not involve amendment of the territorial clauses of the Irish Constitution, it commits the Irish Government formally, and for the first time in an international agreement, to accepting the existing status of Northern Ireland and the continuation of that status for the foreseeable future. It also contributes to the central British objective of improved and systematised cross-border security co-operation. While providing new and important reassurances for unionists, it should make it easier for nationalists to identify with the institutions of government and law enforcement in Northern Ireland, so undermining support for Sinn Fein and the PIRA. Although there will be adverse reactions to it from both communities in Northern Ireland, we believe that it holds out a real hope of long-term improvement. We therefore invite colleagues to agree that:

- i. An Agreement should be concluded with the Irish Government on the lines discussed.



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ii. The Agreement should be signed by the Prime Minister and the Taoiseach in November.

iii. The Agreement should enter into force after approval by Parliament.

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Foreign and Commonwealth Office  
Northern Ireland Office

30 October 1985

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## ANNEX A

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

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.

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## B

## THE INTERGOVERNMENTAL CONFERENCE

## 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 Conference concerned with relations between the two parts of the island of Ireland (hereinafter referred to as "the Conference"), 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 Conference 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 Conference 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 Conference to resolve any differences. The Conference 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 Conference shall meet at Ministerial or official level, as required. The business of the Conference 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 Conference and of sub-groups shall be small and flexible. When the Conference 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 Secretariat shall be established by the two Governments to service the Conference on a continuing basis in the discharge of its functions as set out in this Agreement.

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## ARTICLE 4

- (a) In relation to matters coming within its field of activity, the Conference 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 Conference 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.



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## POLITICAL MATTERS

## ARTICLE 5

- (a) The Conference 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 Conference 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 Conference 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.

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## SECURITY AND RELATED MATTERS

## ARTICLE 7

- (a) The Conference shall consider
- (i) security policy;
  - (ii) relations between the security forces and the community;
  - (iii) prisons policy.
- (b) The Conference 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 Conference'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 Conference may consider policy issues relating to prisons. Individual cases may be raised as appropriate, so that explanations can be given or inquiries instituted.



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LEGAL MATTERS, INCLUDING THE ADMINISTRATION OF JUSTICE

ARTICLE 8

The Conference 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 Conference 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 Conference shall also be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South.

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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 Conference 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 Conference 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.

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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 Conference 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.

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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 Conference shall be reviewed by the two Governments to see whether any changes in the scope and nature of its activities are desirable.

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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.

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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.

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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.)

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## ANNEX B

ANGLO-IRISH SUMMIT MEETING: JOINT COMMUNIQUÉ

1. The Prime Minister, the Rt Hon Margaret Thatcher FRS MP, and 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 Conference 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 by 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 Conference 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 Conference will not normally be announced. But they wish it to be known that, at its first meeting, the Conference 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 at its initial meetings 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 of Terrorism.

8. In addressing the improvement of relations between the security forces and the minority community, the Conference 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 Conference 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



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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.

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