

A084/2902

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

The purposes of your meeting at 2.30 pm tomorrow are:

- 1. To take stock of progress in the talks which I have been holding with Mr Nally.
- 2. To assess the prospects of an acceptable outcome to those talks, and (more narrowly) the prospects for your meeting on 19 November with the Taoiseach.
- 3. To give me instructions for my next meeting with Mr Nally, on 3 November.

4. To consider, in the light of that, what line the Secretary of State for Northern Ireland should take with the parties

2. Since I reported to you on the last meeting with Mr Nally, we have been engaged in the preparation of a "position paper", a copy of which I attach.

(Annex A)

The talks with Mr Nally have of course been entirely exploratory and without commitment on either side.

The position paper seeks to sum up, from the British point of view, where it seems that the possibility exists of a measure of agreement with the Irish Government, and what the outstanding points of disagreement are.

3. The key question is whether you and your colleagues think that there is sufficient prospect of

reaching an acceptable agreement to justify continuing the process; or whether there is not in your view such a prospect and you should use your meeting with the Taoiseach to say in effect that it is all too difficult.

4. As you know, the Irish Government, and particularly the Foreign Minister, have been tending to build up expectations of movement on the Northern Ireland question. In their public speeches they have expressed impatience at the British Government's slowness at producing a British "answer" to the report of the Forum for a New Ireland, though the Taoiseach has been careful to say that the substance of the answer is more important than speed of response. They are deeply, and I think genuinely, concerned about the alienation of the minority in Northern Ireland, and anxious to make visible progress before the local elections in Northern Ireland in May 1985. They fear the prospect that, as a result of those elections, the PIRA could supplant the SDLP as the legitimately elected spokesmen of the minority community; and that political success in Northern Ireland could also lead to greater political success for Provisional Sinn Fein in the Republic. I am told that the Taoiseach is increasingly optimistic about his prospects of winning a referendum for a change in the Irish Constitution to waive the territorial claim.

*to reverse  
that alienation*

What he needs in exchange for that is as significant as possible an "Irish dimension" in the Government of Northern Ireland, particularly but not only in the field of security; and some changes in practical policing which would restore the confidence of the minority community in the police in their areas.

5. On our side, the political case for continuing the process remains the same as the case for embarking upon it. It is essentially that we cannot afford to do nothing, and that the risks of doing nothing are as great as or greater than the risks *that* <sup>*would be*</sup> attendant upon an agreed package; that Unionist opinion in Northern Ireland is readier than formerly for some movement; and that you, recently re-elected with a substantial majority and enhanced political authority, in combination with this Taoiseach, have an opportunity of a kind which has not occurred for many years and may not occur again for some time.

6. The Irish Government undoubtedly think that *their* willingness to go for a referendum to amend the Constitution in order to waive the territorial claim constitutes a very large and, from their point of view, risky step on their part. They see it as a step which they could not take without movement of *corresponding* magnitude on our side. They would in the end, I believe, settle for "institutionalised consultation"

and no more: but they will keep up the pressure on us to go as far as we can within that framework. They will also keep up the pressure for some "restructuring" of the RUC, even if only on a temporary and cosmetic basis,

since they see this as indispensable to

improving the confidence of the minority <sup>in policing</sup> community

I gather that the Taoiseach and his colleagues were thrown into considerable gloom by the visit of the Secretary of State for Northern Ireland and Mr Andrew on 25 October: the Secretary of State and Mr Andrew pointed out that among Unionists the waiving of the territorial claim would be seen as little more than a recognition of reality, and emphasised the practical difficulties and objections surrounding the kind of measures that had been discussed in the Armstrong/Nally talks. This seems to have led the Taoiseach to wonder whether your own position had changed, either as a result of the Brighton bombing or for some other reason, and <sup>whether</sup> you now no longer <sup>hoped for a</sup> wanted a positive outcome to the talks. He is said to feel that, if you have lost interest, it would be better not to have the Summit meeting on 19 November.

7. What we have been discussing in those talks is a package of measures which has an "Irish dimension": that is to say, one which would give the Irish Government some sort of say in the affairs of the Province of Northern Ireland. It is a high risk exercise on both sides: for them because of the

waiver of the Republic territorial claim, for us because of the risks of violent Unionist reaction to any form of "Irish dimension."

8. If you and your colleagues think that the risks are too great, the question is whether there is any alternative. It would be possible to think in terms of a package which was purely internal to Northern Ireland, with an intensified security campaign, measures to meet symbolic minority concerns, and a renewed attempt to establish a devolved government with minority participation. All the indications are, however, that such a package would stand little or no chance of success, in terms of <sup>being conducive to</sup> greater peace and stability: the Irish Government and the SDLP would be very unlikely to go along with it, and the risks of greater <sup>plansahn</sup> in Northern Ireland would be increased, with all that that <sup>would</sup> mean for the violence and <sup>for</sup> the progress of the Provisionals.

(Flags, use of  
the Irish  
language, as  
such things)

9. I recognise your concern that the contacts with the Irish Government may be moving too far and too fast. As I have said, the Irish representatives have both publicly and privately been keeping up the pressure for movement. But we shall not now be making any significant further progress before your meeting with the Taoiseach. The next meeting with Mr Nally will in effect be confined

to refining the position we have reached, for the purpose of setting it out for you and the Taoiseach to consider at the Summit. Even if it is agreed that the process is to continue, <sup>there is</sup> there is a great deal more work to be done before we are in sight of an agreed package. In my judgment, the question <sup>is</sup>

the forthcoming Summit is not whether to go ahead with a package, but whether to continue discussions so that the question of whether to go ahead can be considered at a subsequent Summit meeting. In that case you would need to reach some understanding with the Taoiseach about the pace and timetable of further discussions.

10. You would also need to discuss with him whether there is any general statement that you and he could issue from the Summit. Unless the talks are to be discontinued, the Taoiseach is likely to press for some kind of communique which holds the door open to the future. You will wish to consider with your colleagues whether something on the lines of the draft attached (Annex B) might provide a possible basis for this.

HANDLING

If the <sup>in paragraph 1</sup> agenda is agreed, and subject to any suggested additions to it, the discussion might be structured in the following way:

(i) The Armstrong/Nally Exchanges

You may wish to ask me to open the discussion by summarising the position reached following

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my last round of talks with Mr Nally.  
[I would base myself on the Position Paper which has been prepared by officials for submission to the Secretaries of State for Foreign and Commonwealth Affairs and for Northern Ireland.] You should ask the Foreign and Commonwealth Secretary and the Northern Ireland Secretary for their views on whether the elements of agreement already achieved at official level between the two sides could in themselves (i.e. if no further progress were to be made) constitute a package which would be politically saleable in the South and politically acceptable in the North. If the view is taken that the package would have to be more substantial, which potential ingredients offer the best prospects for enlarging the area of agreement? (You have already recorded your reservations about the Irish proposal for a Ministerial Committee on Northern Ireland and on the possibility of an operational element in the consultative role of a joint security commission.) What would be the political impact, both on the Irish Government and on the IRA, of any signal from the British side that they see no realistic prospect of a useful outcome from the current secret exchanges? The Foreign and Commonwealth Secretary should be invited to comment.



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(ii) Summit Declaration

Subject to the views expressed in the discussion up to this point, you should invite the views of the Foreign and Commonwealth Secretary and the Northern Ireland Secretary on the "Draft Joint Declaration on Northern Ireland" (text attached below) which might be issued at the Anglo-Irish Summit. How would the Unionists be likely to react to it? Should I be authorised to hand over a copy of this draft, amended as necessary, to Mr Nally during my next round of talks with him?

(iii) Line to be taken with political leaders in Northern Ireland

Would an adverse reaction in the North to a Summit declaration on the lines of the attached draft be to any extent defused if the leaders of political parties in Northern Ireland were to be give some general indication of our thinking on the desirability of an Irish dimension: or would any lifting of the veil prior to the Summit be more likely to trigger hostile or unhelpful statements <sup>in the North</sup> which would in themselves reduce the Summit's chances of success? The Northern Ireland Secretary

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should be asked to comment, and to give his views on current expectations in the North concerning the Summit. The Foreign and Commonwealth Secretary should also be asked to comment.

DRAFT: minute/letter/teleletter/despatch/note

TYPE: Draft/Final 1+

FROM

Reference

DEPARTMENT:

TEL NO:

SECURITY CLASSIFICATION

TO:

Your Reference

Top Secret

Secret

Confidential

Restricted

Unclassified

Copies to:

ANNEX A

PRIVACY MARKING

.....In Confidence

CAVEAT.....

SUBJECT: NORTHERN IRELAND: POSITION PAPER

*agreed purpose*  
The ~~subject~~ of the current confidential discussions

between British and Irish officials is to see whether it is possible *hypothetically* to identify a ~~hypothetical~~ package of measures on which both sides might agree as a basis ~~means~~ *of* for promoting security and stability in Northern Ireland and, as a necessary element in that process, helping to strengthen the confidence of the minority community in the forces of law and order and in the political institutions of the Province.

2. It is accepted by both sides that the discussions are ~~strictly~~ exploratory, and are being conducted without commitment; and that any package of measures which may be identified will be for consideration by the two governments, each of which will have to make its own judgement *whether and, if so, on* on the extent to which the package may be acceptable.

3. It is also accepted by both sides that any package of measures which might be agreed upon should be transparent.

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in the sense that it ~~would contain no provisions which~~ <sup>should contain no hidden provisions and no</sup>  
~~or provisions which~~ <sup>might generate suspicions on either</sup>  
~~might be interpreted differently on different sides of~~  
~~the border;~~ <sup>but there were hidden provisions</sup> and durable, in the sense that it would be seen  
 as lasting and not as paving the way for the  
 unification of Ireland.

4. The Irish side, for its part, has stressed that the package must also be adequate to reverse what it sees as the alienation of the minority community in the North.

5. The starting point for the discussions has been that the package might be built on two central <sup>and accepted</sup> balancing elements: on the one hand, action by the Irish Government formally to waive the territorial claim on Northern Ireland which is embodied in the present Irish Constitution and, on the other, action by the British Government to accord the Irish Government a right to <sup>participate</sup> ~~be consulted~~, on a systematic and institutionalised basis, <sup>in the consideration of policy on</sup> ~~about~~ security and other matters affecting the interests of the minority community in Northern Ireland.

by the Northern Government

6. ~~The British side has made it clear that~~ any question of joint authority is excluded: what <sup>might</sup> ~~could~~ be envisaged for the Republic is a <sup>formal arrangement in the British</sup> ~~right to be consulted~~ <sup>Government to consider and for the Irish Government to be consulted.</sup>  
 This was confirmed <sup>as</sup> the Prime Minister's conversation <sup>made clear in her conversation</sup>  
 with the Taoiseach on 3 September, The Irish side,

while recognising that joint authority is not acceptable <sup>to</sup>

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to the British Government, and that the ultimate power of decision on all matters pertaining to the government of Northern Ireland, would continue to lie with the British Government, believes that any arrangements for involving the Irish Government in the affairs of the Province must <sup>be such as to</sup> give it an effective say in security policy and other areas of policy affecting the minority; and <sup>would like to find</sup> ~~that~~ a more positive alternative <sup>than</sup> ~~should be found to the concept of~~ "consultation" as a description of those arrangements.

Irish territorial claim

7. The Irish Government would propose to implement its hypothetical undertaking to waive the Republic's territorial claims by means of a referendum to repeal Articles 2 and 3 of the present Irish Constitution and to <sup>replace</sup> ~~substitute for~~ these two <sup>with</sup> articles/wording which would: substitute ~~the~~ an aspiration <sup>to</sup> ~~of~~ unity for the present territorial claim; make it clear that violence in pursuit of that aspiration was absolutely abjured; and emphasise that the aspiration could not be realised without the consent of the majority of the people of Northern Ireland.

Consultative Arrangements

8. There is ~~general~~ <sup>any</sup> agreement that ~~the~~ right of consultation would not apply to external defence, foreign affairs or finance, which would continue to <sup>be</sup> ~~come within~~ the sole responsibility of the British Government. Similarly, the <sup>right</sup> ~~right~~

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right of consultation would not apply to matters ~~which~~  
~~might be~~ devolved to a Northern Ireland Assembly or  
 Executive. In addition to security (which is treated  
 separately - see paragraphs <sup>10-12</sup> below), the right of  
 consultation would in principle apply to all areas of  
 government and administration which do not fall into  
 either of the two foregoing categories (defence, foreign  
 affairs and finance on the one hand; devolved matters on  
 the other). Examples advanced by the Irish side to which  
 the right of consultation <sup>should</sup> ~~would~~ apply include nominations  
 to public bodies and institutions; nominations to a  
 devolved Executive, should one be established; issues  
 affecting the identity of the two communities in Northern  
 Ireland (flags and emblems, the use of the Irish language  
 etc.); and broadcasting, posts and communications.

and which  
 fall within  
 the executive  
 responsibility  
 of the Secretary  
 of State for  
 Northern  
 Ireland.

and to ~~the~~  
 any bodies  
 set up ~~with~~  
 to give effect  
 to these  
 arrangements

9. Both sides accept that the ~~institutionalised consultation~~  
~~the Irish Government participated in consideration of matters falling within the~~  
~~proposed would take place within the framework of the existing~~  
~~arrangements envisaged would be~~  
 Anglo-Irish Intergovernmental Council (AIIC). But there is  
 an important divergence of view about the <sup>institutional</sup> machinery ~~through~~  
~~which consultation could be conducted.~~ <sup>to be</sup> ~~created for the purpose.~~ The Irish side  
 would wish to see a Ministerial Commission for Northern  
 Ireland, comprising the Secretary of State for Northern  
 Ireland and a member of the Irish Government; and see this  
 Commission as having overall responsibilities <sup>by considering</sup> for all the  
 areas of <sup>policy</sup> ~~consultation~~ envisaged, including consultation

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~~on~~ security. The British side would not wish to see the establishment of a Ministerial Commission, on the grounds that it would give an unacceptable impression of equality of responsibility pointing towards joint authority. The British side accepts however that the Government of the Republic ~~might~~<sup>would</sup> appoint a resident representative in Northern Ireland (who could be of Ministerial rank) and with whom the Secretary of State for Northern Ireland, and any officials acting on his behalf or subject to his direction, would consult on relevant matters. A liaison unit would be established at Stormont to monitor, coordinate and encourage contacts with the Irish representative and to act as a channel for communication with him. He would however be free to contact Northern Ireland Office Ministers or departments on his own initiative. The British side has stressed that executive responsibility on matters which might be the subject of consultation would remain with the Secretary of State for Northern Ireland, as would the ultimate right of decision in each case; ~~but it has agreed to consider~~<sup>and it has not excluded</sup> the possibility of the two governments accepting a formal obligation "to seek agreement" on all issues which might become subjects for the consultative process.

and would  
have  
supporting  
staff

Security

10. It is agreed that there could be a Joint Security

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(JSC)

Commission] comprising the Secretary of State for Northern Ireland and an Irish Minister, assisted as necessary by advisers who would include the Chief Constable of Northern Ireland and the Commissioner of the Garda Siochana. It is also agreed that the Joint Security Commission should have no operational responsibilities: responsibility for police operations would remain with the heads of the respective police forces.

11. Thereafter, views diverge: the Irish side see the *ministerial component in the* Joint Security Commission as comprising their proposed Ministerial Commission for Northern Ireland (i.e. the Secretary of State for Northern Ireland plus the Irish Minister resident in Northern Ireland) *the JSC itself as* and ~~has~~ having a consultative role in the establishment of security policy guidelines, including operational guidelines for the security forces and the prison services in Northern Ireland, in the appointment of the principal officers of the police force and the prison service in Northern Ireland, and the recruitment and training of police and prison officers, in relation to complaints against the security forces, and in the appointment *members* of a Board of Visitors *- including Catholics -* for ~~the prisons in~~ *the prisons in* Northern Ireland. *prison* The British side, while accepting that the ~~Joint Security Commission~~ *JSC* would be within the framework of the AIIC, see it *ministerial component* as comprising the Secretary of State for Northern Ireland and the Irish Minister for Justice, *(who*



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(who is responsible in the Republic for law and order) and its primary function as being to improve security cooperation between the two sides in the fight against terrorism. The British side suggests that the <sup>JSC's</sup> initial work programme should cover such matters as the exchange of intelligence, technical cooperation (in training, forensic matters and the control of explosives), the exchange of personnel, joint inspection arrangements, the planning of joint operations, the establishment and operation of joint units, and the development of a programme of action designed to affirm the position of the police as an accepted part of the whole community. (This work programme overlaps to some extent with the propositions put forward by the Irish side and requires further discussion.) The Irish side see the functions of the <sup>JSC</sup> ~~Joint Security Commission~~ as limited to Northern Ireland; the British side, while accepting that measures discussed in the JSC would relate primarily to Northern Ireland, believes that the <sup>possibility of applying</sup> ~~applicability~~ of such measures <sup>in</sup> ~~to~~ the Republic should not be excluded.

12. The Irish side accept the desirability of establishing a joint body to promote security cooperation (as advocated by the British side, but would prefer such a body to be separate from the proposed Joint Security Commission. But

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*They:*  
have made no ~~detailed~~ proposals as to the membership and function of the separate body, or its relationship to the JSC; and this idea remains to be explored.

Practical Policy <sup>ing</sup> Measures

13. Both sides accept that (a) the operational effectiveness of ~~the Royal Ulster Constabulary~~ <sup>policing arrangements in the Province</sup> should not be impaired; and (b) measures are in principle needed to help the minority community to identify and support the police to a greater extent than at present. The British side has proposed a number of practical measures designed to improve the recruitment of Catholics into the RUC and improve relations between the RUC and local communities. While welcoming these proposals, the Irish side is strongly of the view that they do not go far enough, and that early and visible measures, <sup>including</sup> ~~involving at a~~ ~~minimum~~ some restructuring of the RUC, are needed in order to attract support from the minority community. The Irish want to see predominantly Catholic areas policed by Catholic policemen and have pressed for the establishment of locally based police forces in ~~these areas~~ <sup>Northern Ireland</sup>. In response to British objections, the Irish have asked whether arrangements of this kind might be introduced on a temporary basis - e.g. for a specified period of 5 years - with the avowed purpose of restoring minority confidence

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/in

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in the police force. A suggestion from the British side to establish joint regional crime squads which could be employed in either jurisdiction <sup>has not found favour with</sup> ~~is not acceptable to~~ the Irish side as part of the initial package; but the Irish do not exclude such a development in the longer term, nor would they object to it as a possible subject for study by the proposed Joint Security Commission.

14. In general, it is accepted by both sides that <sup>practical</sup> policing arrangements would be one of the key areas in any package but that further discussion, involving experts on both sides, is needed in order to establish whether mutually acceptable arrangements could be worked out.

Mixed Law Courts

15. It is agreed that it would be an important contribution towards promoting confidence in the judicial system if judges from one jurisdiction could be associated with criminal, and particularly terrorist, trials in the other. To this end, the Irish side has suggested that persons tried in Northern Ireland for terrorist crimes might be tried by a panel of three judges, one of whom would be from the Republic; and that trials for such crimes in the Republic would be by a similar panel of three judges including one from Northern Ireland. The British side has accepted this proposal as a basis for discussion and a number of <sup>implications</sup> ~~detailed possibilities~~ <sup>tentatively</sup> have been explored.

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Both sides agree that these ideas are worth following up but that detailed proposals cannot be formulated without the advice and agreement of the judiciaries of both jurisdictions.

All-Ireland Law Commission

16. The British side has suggested the establishment of an All-Ireland Law Commission to examine whether there are areas of the criminal law, applying respectively in Northern Ireland and the Republic, which could be harmonised with advantage to both countries. The British proposals envisage that the <sup>Commission's</sup> first task would be to define the areas to which harmonisation would apply and thereafter to agree on joint machinery for studying those areas and putting forward recommendations for reform. The Irish side has welcomed the British suggestions as a basis for further discussion.

An Anglo/Irish Parliamentary Body

17. The Irish side believes that a joint Parliamentary body of the kind adumbrated in the Anglo/Irish Joint Studies Report of November 1981 could be a useful element in any package. The British side believes that any such body should evolve pragmatically from the existing

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/Anglo/Irish

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Anglo/Irish Parliamentary Group. There has been no detailed discussion of the possibilities; but the Irish side <sup>s</sup> ~~has~~ expressed general agreement with the idea <sup>that a</sup> ~~start~~ could be made by enhancing the role of the existing Group, ~~by~~ making provision for more regular meetings and giving it a higher profile as a consultative body; <sup>that</sup> | It could receive reports from each government on the progress of Anglo/Irish relations; <sup>that it could</sup> and | itself make recommendations to the two governments or the two sovereign Parliaments which, together with the Northern Ireland Assembly, would then be free to debate them or let them lie.

Bill of Rights

18. The Irish side wishes to see the enactment of a Bill of Rights for Northern Ireland and believes that this would be of significant symbolic and political value in securing the support of the minority community and the SDLP for any package of agreed measures. The Irish have drawn attention to the fact that all the <sup>unionist</sup> ~~unionist~~ parties in Northern Ireland <sup>and the SDLP</sup> ~~now~~ favour such a proposal; and suggest that the most practical way to proceed would be to incorporate the European Convention of Human Rights into Northern Ireland law. They have indicated that parallel action by the Republic to incorporate the Convention into

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domestic law in the South would not be excluded.

The British side has taken note of the Irish proposal, while drawing attention to the practical difficulties including the implications for the rest of the UK.

Devolution

19. Both sides are agreed that, ~~either as part of a possible package or in parallel with it~~, it would be desirable to introduce a system of devolved government into Northern Ireland based on an elected Assembly and Executive. The Irish side believes that the SDLP and the minority community would expect this to be done on a power-sharing basis; but the Irish recognise that the Unionists would be fiercely opposed to this and would be most unlikely to participate in power-sharing arrangements. The British side has pointed out that

devolved government cannot be established without the cooperation of the Northern Ireland political parties; and that involving the Republic in the affairs of the Province on a ~~consultative~~ <sup>the proposed</sup> basis would intensify the hostility of the Unionists to any form of power-sharing.

The Irish side <sup>s</sup> ~~have~~ suggested that . unionist objections might be overcome if the functions of Chief Executive in a devolved, ~~power-sharing~~ <sup>in which both communities were represented</sup> government ~~were to be~~ /exercised

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(or by another  
British  
Minister)

exercised by the Secretary of State for Northern Ireland, who would thus provide a visible assurance of continuing United Kingdom control over the government of the Province. The British side has expressed serious reservations about this proposal, which however remains on the table for further study.

Legal basis for any accord between the two countries

20. The British side has made it clear that detailed discussion of this question would be premature. It has been assumed for purposes of the discussion, however, that the measures agreed on would be spelt out in a formal agreement between the two governments (which for historical reasons the Irish side would not want described as a treaty), which could incorporate a statement of objectives and would provide for the establishment and implementation of the measures agreed on. <sup>The</sup> /agreement would have to be ratified by both Parliaments and registered with the United Nations; and it would enter into force only after Articles 2 and 3 of the Irish Constitution had been amended following a referendum.

Timing

21. The Irish side believes that it is of great importance that any arrangements agreed between the two governments should be in place in time for the local

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elections in Northern Ireland in May 1985. The  
British side has declined to be committed to  
any timetable.

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DRAFT COMMUNIQUE ON NORTHERN IRELAND

The Prime Minister and the Taoiseach agreed that it was a major United Kingdom and Irish interest that there should be peace and stability in Northern Ireland. They further agreed that this common interest would be best served by adherence to the following principles:

- (i) There can be no change in the constitutional status of Northern Ireland as part of the United Kingdom without the consent of the majority of its people.
- (ii) Any attempt to promote political objectives by means of violence or the threat of violence must be rejected, as must those who adopt or support such methods.
- (iii) The identities of both the majority and the minority communities in Northern Ireland should be respected, and both communities should be entitled to give those identities appropriate public, political and social expression.

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- (iv) The institutions of government in Northern Ireland should be such as to provide both communities with the confidence that their rights will be safeguarded and their aspirations respected.

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