



PM/85/17

CDP
07/3PRIME MINISTERAnglo-Irish Relations: Northern Ireland

1. In preparation for your meeting on Ireland on 8 March, Douglas Hurd and I have reviewed the position reached as a result of the latest round of talks between Sir Robert Armstrong and Mr Nally in Ireland on 19 February. Sir Robert's report is in his minute to me of 26 February (attached), which also covers a revised text of the British proposal of 21 January, taking account of points made by both sides in the subsequent discussions with the Irish.

2. Douglas Hurd and I are agreed that an acceptable Anglo-Irish agreement remains a prize well worth having. Internationally, it would relieve us of a lot of pressure, in particular from the United States but also from some European politicians. Within these islands, it could help to reconcile the Northern minority to the political institutions there, and tie the Irish more closely into our security effort against nationalist terrorism. But an agreement cannot be an end in itself. We need to be confident that it will help to make Northern Ireland more rather than less stable; and that we can recommend it to Parliament on that basis. We must be able to claim that, if we have conceded a substantial role to the Government of the Republic (although less than the joint authority they would like) it is for a commensurate return. We must be able to convince the Northern majority that the agreement gives them nothing to fear. This is particularly important after the recent resurgence of terrorist activity.

3. You will recall that when we considered the initial Irish response to the British proposal, we identified three main areas

/of



of difficulty: the range of subjects for the proposed joint body to consider had been widened to include economic and social matters; the significance of security cooperation was played down, with the detail relegated elsewhere; and the idea that the nationalist minority should express its views on devolution through the Irish Government had been strengthened (Mr Powell's letter of 14 February to Mr Appleyard). It is clear from Sir Robert's report that the Irish are prepared to meet us in two out of these three areas; and that the other drafting points in the text which are still outstanding are probably negotiable. The Irish have also now abandoned their earlier attempts to use "joint authority" language in various places, and have accepted the formula "would put forward views and proposals" throughout the text. This is an important step forward.

4. The critical disagreement which remains concerns the range of subjects on which it would be open to the Irish Government to put forward their views and proposals. As Sir Robert Armstrong points out in paragraph 9 of his report, it is of great importance for the Irish Government that the new arrangements should apply to economic and social matters in Northern Ireland. We could settle for an arrangement which gave the Irish a say where there was alleged economic or social discrimination against the minority; and, of course, permitted discussion of economic cooperation between North and South. But they are seeking to include economic and social matters in the round. Although our proposal contains some political and legal elements, they believe that without a provision to this effect the agreement would be seen by nationalist opinion (and particularly by the SDLP) as too concentrated on law and order to be acceptable. The difficulties about this for us are that the inclusion of an economic and social provision would be taken in Northern Ireland as opening up a very wide field for Irish Government interference, thus making it all the more difficult for us to obtain Unionist acquiescence in what is proposed; and that

/giving



giving the Irish Government a right to express views over too wide a spectrum of subjects could lead to endless inter-governmental wrangles which would seriously obstruct the administration of the Province.

5. Linked to the range of subjects which the new arrangements would cover is the question of possible amendment of the territorial clauses of the Irish Constitution; for without such amendment, the arrangements that the Irish Government want may be seen in many quarters - not least by the unionists - as giving the Irish too much for too little. In accordance with what we agreed when we approved the British proposal of 21 January, Sir Robert has pressed the Irish side hard on this, while recognising that, in the last resort, only Irish Ministers can judge whether the arrangements agreed would be sufficient to enable them to carry a referendum on the exceptionally neuralgic issue of the national territory. Although it appears that the Taoiseach has not completely closed his mind to the possibility, the considered position of the Irish Government is that the proposal as it now stands (even with the inclusion of an economic and social provision) is not a basis on which they could hope to mount a successful referendum campaign. They believe that the Irish electorate could be brought to endorse a constitutional change only in return for an Irish share in decision-making in Northern Ireland, as distinct from a right to put forward views and proposals. Whether, if we agreed to include a wider ranging economic and social provision, they might be persuaded to reconsider this view is something which can, I think, be established only at the political level.

6. Meanwhile the alternative outlined in paragraph 4 of Sir Robert's report (a strengthened reaffirmation of the Sunningdale formula entrenched in a formal agreement), although lacking both the political and juridical finality of a constitutional amendment, would not be without value.

/You



You will recall that when the Attorney General was consulted about a proposal on these lines last summer, he was less than sanguine that it would stand up to challenge in the Irish Supreme Court without prior amendment of the Constitution. The Irish side, on the basis of advice from their own Law Officers, are confident that any challenge could be successfully resisted. But they have undertaken to give further consideration to the problem and see whether there are ways in which they could offer firmer reassurance to the Unionists on this point without increasing the risk of constitutional challenge. The trouble is, of course, that unionists will be able to put their own construction on anything short of an unequivocal constitutional amendment: we shall have to meet the argument that if Dr FitzGerald is unable or unwilling to deliver that, it is evidence that opinion in the Republic remains as green as ever, and that admitting the Irish Government to a consultative role in the North will be the thin end of a wedge.

7. In putting forward our proposal of 21 January, we made it clear to the Irish that it was not dependent on the successful introduction of devolved government into Northern Ireland. It was presented as a free-standing proposal, and the Irish have addressed themselves to it on this basis. They would be justifiably dismayed if we were to go back on our position in that respect. At the same time, we clearly cannot move ahead on the inter-governmental front without regard to the prospects for progress internally within Northern Ireland (which have not been helped by John Hume's ill-judged contact with the PIRA). A major objective of the proposed new arrangements from our point of view, and indeed from the Irish point of view, is that they should command the support of the minority community in the North and should constitute a basis on which Mr Hume and the SDLP would be prepared to re-enter the political process and engage in serious discussions with the unionist parties about devolved government. We must therefore make it clear to the Irish that

/our



our willingness to enter into an inter-governmental agreement on the lines under discussion would be posited on the assumption that it would enable the SDLP to participate substantively in inter-party talks on the next steps towards devolution; and that we would look to the Irish to ensure that the SDLP was committed to that effect.

8. On timing, we are under pressure from Dr FitzGerald to clinch an agreement quickly. This is partly because he still believes that it could be of help to the SDLP in the local elections in May; but mainly because of increasingly well-informed public speculation, especially in Ireland, about the direction in which things are moving.

Dr FitzGerald is afraid that delay could mean that the positive effects of an agreement (if and when it comes) will have been undermined by leaks and pre-emptive attacks from Mr Haughey and Fianna Fail. Dr FitzGerald's anxiety is understandable; but Douglas Hurd and I are agreed that we cannot allow ourselves to be stampeded by it into hasty decisions. Although the Irish position in the Armstrong/Nally talks has the full endorsement of Irish Ministers, Cabinet here has not yet been consulted (except in very broad outline last summer); and I am sure that you would want a wider range of colleagues to have had the opportunity of considering what is proposed before we enter into any definitive commitments to the Irish Government.

9. What I think is clear is that the talks with the Irish have for the moment got about as far as they can be taken by officials: the next step should be discussion at the political level to see whether, within the parameters which the official talks have established, an agreement is achievable which would meet the requirements of both sides. The Irish too recognise this; and the Irish Foreign Minister has suggested that Douglas Hurd and I might go to Dublin at an early date to discuss with him and the Tanaiste (Mr Spring) how matters could best be taken forward. Dr FitzGerald would

/no

[But he is responsible for it!]

3



no doubt also want to see us. I think this is a helpful suggestion; and we would propose, if you agree, to take up his invitation on Friday 22 March, which is the only day we both have free over the next few weeks. This date would have the added advantage of coming just before the European Council, at which the Taoiseach will be hoping for a bilateral meeting with you to take stock of the position reached. I think an informal Ministerial meeting with the Irish beforehand, of the kind Peter Barry has suggested, would be a useful way of clearing the ground and getting our basic concerns across to the Irish without being drawn into further discussion of detailed texts.

10. Douglas Hurd has seen this minute in draft and agrees with it. I am sending copies of it to him and to Sir Robert Armstrong.

GEOFFREY HOWE

Foreign and Commonwealth Office

7 March 1985