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PRIME MINISTER

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

1. I have seen Sir Robert Armstrong's minute to you of 3 June and also the Foreign and Commonwealth Secretary's minute, commenting on it, of 5 June.

2. I can confine my own comments to the major point discussed in Sir Robert Armstrong's minute, i.e. how to amend the previous version of the draft so as to give us the possibility of suspending or terminating the activities of the Committee without this involving the termination of the whole Agreement - and also how to achieve this without provoking the Irish into either breaking off the negotiations altogether or themselves proposing a more far-reaching amendment than we would wish to accept. On this, I agree with the analysis in paragraphs 2 to 7 of Sir Robert Armstrong's minute and with the course which he suggests. Specifically, I agree with the advice on the international law rules concerning the denunciability of the Agreement which he reports in paragraph 7 of his minute and I also agree with his assessment (in paragraph 4 of his minute) that if, under paragraph 4 of the draft in its proposed amended form, we were to put forward proposals for changing the activities of the Committee, the Irish, if they wished, could plausibly contend that the Committee should in the meantime continue to function unchanged. Indeed, I think that that contention would not only be plausible but would probably be legally correct.

3. I add only the comment that we should bear in mind that we are engaged in the slightly unreal, or at least unsafe, exercise of discussing the legal interpretation and effect of certain phrases and forms of words as though they were the provisions of a Treaty, despite the fact that they are not at present put forward as Treaty provisions but merely as items in proposals



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for a Treaty. I assume that, if and when we get to the point of translating these proposals into the actual text of a draft Treaty, we shall try to stick as closely as that process permits to the language already negotiated and that we are therefore now consciously trying to move our proposals into the state where that can be done with only minimal changes having to be made to their wording. But it is worth pointing out that, if we are discussing the legal effects of particular formulations, it is the exact words of the final version of the Treaty that matter, not these preliminary proposals. We shall therefore need to be alert to ensure that no alterations are inadvertently accepted in the course of turning the proposals into a Treaty which might affect the interpretations which we are now placing our reliance upon.

4. I am sending copies of this minute to the other members of OD(I) and to Sir Robert Armstrong.

M.H.