

33 Dismissed on 20/6 CDP

Prime Minister

The outcome of the latest round of official discussions. Few problems on the draft agreement except on Joint Courts. But new difficulties on associated confidence-building measures. If nothing else, these make it impracticable to think of a further summit until September.

Ref. A085/1650

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

I had a full day's meeting on 14 June with Mr Nally. The usual small supporting teams of officials were present on both sides.

Agree to start meeting after Cabinet on Thursday? CDP 18/6

Revised Text for an Agreement

2. The Irish officials had not yet consulted their Ministers formally about the new version of the British text, but their own comments on it were positive. They suggested four minor amendments, which are marked in paragraph 1, 2, 5 and 11 on the attached copy. The suggestions in paragraph 1, 2 and 11 do not alter the meaning that we intended. The suggested amendment at the end of paragraph 5, about the question of a secretariat for the Standing Intergovernmental Committee, reflects both the Irish conviction (with which we should find it difficult to disagree) that a permanent secretariat will be needed if the Committee is to function properly and the British position that Belfast should not be identified in the agreement as the location of a secretariat (as it was in earlier versions of our draft), since this would increase the risk of its becoming an early target for terrorism.

3. After consulting their Ministers, the Irish are likely to have further drafting suggestions. The indications so far are that these should not be major. They may, however, suggest yet another version of the title of the Standing Intergovernmental Committee. Subject to that, and assuming that we can accept the four minor changes noted above, there remains one serious problem in the text, namely the sentence about joint courts in

paragraph 17, on which the Irish placed a reserve. They repeated that a commitment to establish joint or mixed courts would be an important element in restoring the confidence of the minority community in Northern Ireland for law and order; in the arrangements they also reminded us that this would be a reciprocal arrangement, operating on both sides of the border. They therefore wanted agreement that joint or mixed courts would be established within a defined period after signature of an agreement. We agreed that the difference between us on this could not be resolved at official level.

4. It was interesting, given the well-known antipathy between the Commissioner of the Garda and the Chief Constable of the Royal Ulster Constabulary (RUC), that the Irish officials stated categorically that the statement at the end of paragraph 5 of the text that the two police chiefs could accompany Ministers to meetings of the new Standing Intergovernmental Committee would on the Irish side mean precisely what it said - ie that Commissioner Wren would attend meetings as appropriate.

Associated Measures

5. The Irish officials laid great stress on the need, not only for the agreement itself but also, outside the text, for "associated measures", ie measures which although not part of the agreement would be intended to demonstrate that the agreement signalled the introduction of a new and improved atmosphere on the ground. They argued that the SDLP would not support an agreement unless there was some visible change in the actual situation at the same time, which would be an earnest of a readiness on our part to take measures to improve the confidence of the minority community in the security forces; and the Irish Government could not sign an agreement unless they knew that the SDLP would support it. Nor would they be able, without associated measures, to counter criticism from Mr Haughey and his supporters on the lines that the agreement



committed the Irish Government to upholding the British security system in Northern Ireland in return only for British professions of readiness to listen to Irish views. It was suggested that associated measures might be announced in British and Irish unilateral statements - or in a communiqué from an Anglo-Irish Summit - at the time of the signature of an agreement.

6. On the Irish side, the principal associated measures outside the agreement would be redeployment of Garda task forces to the border area and announcement of the Irish decision to accede to the European Convention on the Suppression of Terrorism; the agreement itself now includes their commitment on the status of Northern Ireland.

7. As regards associated measures to be undertaken by the United Kingdom, Mr Nally and his team continued to press for some change concerning the security forces. They revived the suggestion made to you by the Taoiseach on 30 March, that a local unarmed community police force be established, primarily to operate in Roman Catholic areas where in the Irish view the RUC is ineffective and out of touch with the people. We explained the very great difficulties that this suggestion would present, and I think that they accepted that it was at best premature (if not actually half-baked - a word they have used themselves about it). We described the measures already in hand to increase confidence between the RUC and the minority community: attempts to recruit more Roman Catholics, the introduction of a new police complaints procedure, the appointment of a Roman Catholic deputy chairman of the Police Authority; and renewed efforts to persuade the SDLP to nominate members to that Authority.

8. We reminded them that more Roman Catholics would probably join the RUC if they were encouraged to do so (instead of being discouraged from doing so) by the SDLP. We discussed with the



Irish an idea they put forward that members of the RUC should sign some sort of declaration in which they would recognise the validity of the two traditions in Northern Ireland. We made it clear that we saw some difficulties about the idea of a declaration; but we agreed to consider whether there might be a new Code of Conduct (with or without a declaration) for the RUC, and possibly for the security forces as a whole, which might confirm the principle of non-discrimination between the communities (much as the new code of conduct for the Metropolitan Police incorporates non-discrimination between races).

9. The Irish officials attached no less importance to changes regarding the Ulster Defence Regiment (UDR). They obviously accepted that it would not be realistic to press for the disbandment of the UDR, and the changes they proposed were moderate: eg for regular British army officers to hold all commands down to company level, and for more training of part-time members.

10. Mr Nally thought that a combination of the measures concerning the security forces that we already have in hand, if they could be related in some public statement to an Anglo-irish agreement, together with a new declaration by members of the security forces and/or a code of conduct and something on the UDR, might provide just enough in the form of associated measures to secure the support of the SDLP. The Northern Ireland Office will now be looking closely at the possibility of a declaration or code of conduct and consulting the RUC. Officials from various Departments, including the Ministry of Defence, will consider whether any changes concerning the UDR, which in themselves might be desirable, could take effect around the time of an agreement's signature.

Talks with the Northern Ireland Parties

11. We told the Irish that the Secretary of State for Northern Ireland planned to start this week a series of individual meetings with the leaders of the political parties in the North to talk about the political scene since the district elections; about ideas for achieving devolution; and in very general terms about the Anglo-Irish talks so as to gain some impression as to how the parties might react to an agreement. Mr Nally and his colleagues argued very strongly that it would be a serious mistake to take the unionists into our confidence at present. Dr Paisley, for instance, would be likely to publish whatever he was told and to present it as inimical to the interests of the Protestants. Opposition to an agreement might become a major theme of the Protestant marches in the coming weeks. Mr Nally urged that we delay opening up with the unionists on the Anglo-Irish talks until nearer the time of signature of an agreement.

Next Steps

12. Mr Nally thought that the Taoiseach, when he meets you in the margins of the European Council in Milan on 28-29 June, would want to take stock of the state of play in the talks, and was likely in particular to raise the questions of joint courts and of associated measures. I think he may also raise the possibility, which his officials urged on us on 14 June, of holding an Anglo-Irish Summit to conclude an agreement and announce associated measures in the second half of July, after most of the Protestant marches have taken place, rather than waiting until September. The Irish see the difficulties of concluding an agreement and announcing associated measures as soon as that, but they are worried that, if we wait until September, there will be leaks and controversy in the meantime, which may make it hard to hold the package together through the Summer Recess.

13. I suggest that you might wish to hold an early meeting with the Secretary of State for Northern Ireland and the Foreign and Commonwealth Secretary to consider next steps. One immediate question is how far the Secretary of State for Northern Ireland, in his forthcoming contacts with the unionists leaders, should lift the veil on the Anglo-Irish talks. Since Mr Hurd is due to meet Mr Molyneux and Dr Paisley on the afternoon of Thursday 20 June (at their request, among other things to discuss security), the best time for a meeting of Ministers might be before or after Cabinet that morning. The meeting might also consider the timing of the Anglo-Irish Summit and have a preliminary word about the line you should take on joint courts and associated measures when you see the Taoiseach in Milan.

14. Mr Nally and I agreed tentatively that our next session of talks might take place on 8 or 9 July. We also plan a meeting of British and Irish officials to discuss the idea of a new Fund, to which the United States Government might be the major contributor, for expenditure on projects in both parts of Ireland but mainly the North. This might be announced in conjunction with an Anglo-Irish agreement (it is hinted at in paragraph 20 of the attached draft), as a major indication of American approval.

15. I am sending copies of this minute to the Secretaries of State for Foreign and Commonwealth Affairs and for Northern Ireland.



ROBERT ARMSTRONG

18 June 1985

Draft of 18 June 1985

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

British Proposal

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 in both their countries, and above all of the people of Northern Ireland, in achieving lasting peace and stability;

recognising the need for continued efforts to diminish the divisions in Northern Ireland and

to reconcile the two major traditions that exist in the two parts of Ireland;

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 the two communities in Northern Ireland is mutual recognition and acceptance of the rights of each community;

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 structure 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 in 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 Standing Intergovernmental Committee

3. There would be established within the framework of the Anglo-Irish Intergovernmental Council a new Committee, to be known as the Standing Intergovernmental Committee, 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 Committee 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 Committee to resolve any differences. The focus of the Committee'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 Committee 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 Committee 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 Committee 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 Committee 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 Committee 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 Committee 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 affected the interests of the minority community.

12. The Committee 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 Committee would consider:

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

14. The Committee 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 Committee 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 also have an application in the South.

16. The Committee would also 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 Committee 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 Committee 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-operation

Security Co-operation

18. With a view to enhancing co-operation between the security forces of the two Governments, the Committee 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 Siochana 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 Committee 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 Committee 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 could be established.