

file



17

10 DOWNING STREET

*From the Private Secretary*SIR ROBERT ARMSTRONG

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

The Prime Minister has considered your minute of 9 October setting out the position reached in official discussions with Mr. Nally and his team and seeking negotiating authority for your next round of talks. She has also seen the Northern Ireland Secretary's views as set out in Mr. Daniell's letter of 11 October. (The Foreign Secretary's views were not available at the time she looked at these papers).

The Prime Minister does not like the proposed amendment to Article 2(a) of the agreement which speaks of the Intergovernmental Committee being "concerned with relations between the two parts of Ireland". She thinks this formulation would be anathema to the Unionists. It would remind them of 1921 and efforts to deal with Ireland as a unity. She would wish you to argue for a formulation such as "between the Republic of Ireland and Northern Ireland".

The Prime Minister considers it essential to maintain the words "decisions and" in Article 2(b) of the draft agreement and in paragraph 4 of the summary.

The Prime Minister agrees with the Northern Ireland Secretary that "permanent" should not be reinserted before "Secretariat" in the last sentence of Article 3 of the draft agreement (and in paragraph 6 of the summary of the draft text).

The Prime Minister wishes to discuss further with the Northern Ireland Secretary, the Foreign and Commonwealth Secretary and the Lord Chancellor the formulations in paragraphs 7 and 8 of the draft communique on the question of Irish accession to the European Convention on the Suppression of Terrorism. The Prime Minister shares the concern expressed by the Northern Ireland Secretary at the final sentence of paragraph 5 of Sir Robert Armstrong's minute about possible changes in the system for the administration of justice. She agrees that officials must avoid suggesting to the Irish side that we have any significant room for manoeuvre in this field.

TWJ

Finally, the Prime Minister does not accept the title "Intergovernmental Conference" since the body concerned is quite clearly not a Conference. It is a Committee and should be described as such.

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

C.D.P.

C.D. Powell
13 October 1985

Ref. A085/2589

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

We had a further meeting with Mr Nally and his team in Dublin on Monday 7 and Tuesday 8 October. The framework of this meeting was set by the conclusions reached by you and the two Secretaries of State at your meeting on 2 October, as recorded in Mr Powell's letter of that date; by your message of 4 October to the Taoiseach; and by the meeting which the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland had with the Tanaiste, Mr Spring, and the Minister for Foreign Affairs, Mr Barry, on 7 October.

Draft Agreement

2. We discussed a number of changes in the draft agreement:

a. The Irish asked for a slight change in Article 1(a), so that it would read "[the two Governments] confirm that any change in the status of Northern Ireland would only come about [instead of "would come about only"] with the consent of the majority of the people of Northern Ireland". The purpose of this change was to bring the formula precisely into line with a formula which you and Mr Haughey agreed at your meeting in 1980, and which appeared in the communiqué issued after that meeting. We accepted this change.

b. Again with the object of diverting Mr Haughey's attack, the Irish Government asked for the reinstatement in the draft of a sentence agreed several months ago but omitted (at Irish request) from later versions, which said that, unlike the existing AIIC machinery, the new Intergovernmental Committee would be primarily concerned

with north/south rather than east/west relationships. After discussion we agreed, ad referendum to Ministers on both sides, to a modification of Article 2(a) of the draft, so that it now states that there is established an Intergovernmental [Committee] "concerned with relations between the two parts of Ireland (hereinafter referred to as "the [Committee]" to deal, as set out in this Agreement

[The Unionists
won't like
this]

c. We proposed the insertion of "decisions and" before "administration of government" in the last sentence of Article 2(b), as agreed at your meeting on 2 October. We explained the background to this, including the need to make it unambiguously clear that the responsibility for decisions rested with the Secretary of State for Northern Ireland. The Irish side had no problem about the substance, but sucked their teeth a good deal about the presentational implications of this change. I emphasised the importance of it from our point of view. It was left that the Irish side would consult their Ministers. We shall have to come back to this at our next meeting. I wonder whether, if the Irish make a great fuss about "decisions and", we could consider the omission of "the decisions and administration of", so that the last sentence would read "There is no derogation from the sovereignty of either the United Kingdom Government or the Irish Government, so that each retains responsibility for government within its own jurisdiction".

[I don't
see why
we should
give way
on this.
It's essential
to our
presentation]

d. We proposed that the sentence about the secretariat at the end of Article 3 should be altered to read: "A secretariat shall be established by the two Governments to service the Committee in the discharge of its functions as set out in this Agreement". The Irish accepted the definition of the secretariat's functions as drafted, but asked us to consider reinstating "permanent" before

"secretariat". We undertook to take this away for consideration. It seems to me that, if we have limited the functions of the secretariat in the manner now proposed and agreed, it would not be damaging to agree to the reinsertion of the word "permanent". I have in mind the thought that it is more important to keep the words "decisions and" in Article 2 (b) than to keep out "permanent" in Article 3. I should be grateful for instructions.

e. We altered the word "constitute" to the word "be" in Articles 4(c), 5(c) and 10(b).

--- I attach a revised version of the text of the draft agreement, incorporating these amendments (underlined).

Draft Summary

3. We proposed the amendments set out in Mr Powell's letter of 2 October:

- The Irish side said that the phrase "an Article confirming the existing status of Northern Ireland" could be very difficult for the Irish Government in presentational terms and was not in any case a full description of the Article. We resolved this problem by in effect deleting the paragraph and keeping only the reference to the preamble and to the provision for review. What is said in paragraph 2 of the draft about the status of Northern Ireland is an accurate summary.
- We agreed that the first alinea in paragraph 4 should end "... views and proposals on certain matters relating to Northern Ireland as provided for in this Agreement".
- The inclusion of "decisions and" in the third alinea of paragraph 4 is subject to the same reference to Irish

Ministers as the corresponding words in the draft agreement.

- The last sentence of paragraph reads "There will be a secretariat to service the [Committee]". If the word "permanent" before "secretariat" is accepted in the draft agreement, the Irish will wish it to be similarly inserted here.
- To bring the second sentence of paragraph 7 more closely into line with the text of the agreement, it is amended to read "The [Committee] will be a framework in which the Irish Government can put forward views and proposals ...".
- The last words of paragraph 7 were changed: instead of "within the [Committee's] remit" they now read "for consideration by the [Committee]". A similar amendment will need to be made at the end of paragraph 9.

I attach a copy of the draft summary as revised.

European Convention on the Suppression of Terrorism

4. We rehearsed the arguments deployed in your message of 4 October to the Taoiseach and by the Secretaries of State in their meeting on 7 October. The Irish side once again emphasised, as their Ministers had on 7 October, that the Irish Government would like to accede to the Convention. It was not so much the problems in the United States with the United Kingdom-United States Supplemental Extradition Treaty as the domestic problems with the Dail that made the Taoiseach reluctant to make an unqualified commitment at this stage. As Mr Barry had said on 7 October, both he and the Taoiseach were on record as expressing doubts about the impartiality of the courts in Northern Ireland. If they could not point to any change in the system for the administration of justice in Northern Ireland, and they asked the Dail to approve accession to the Convention, they

would be accused of committing people to trial in Northern Ireland under a system which did not enjoy their confidence, and they would probably fail to carry the necessary legislation. At the meeting of officials the Irish side made it clear that the Taoiseach was ready to say that the Irish Government intended to accede to the Convention as soon as possible, though it had to be understood that the implementation of that would in practice depend on there being some changes to which they could point in the system for the administration of justice in Northern Ireland.

5. We noted that the Irish Government could not accede to the Convention unless and until legislation had been approved by the Irish Parliament. The preparation and drafting of that legislation, which would be on the lines of our Suppression of Terrorism Act 1978, could take up to 12 months; and the passage of the Bill could take another 6 months after that. Thus they would not in practice be free to accede to the Convention for something like 18 months. The fact that legislation would take up to 12 months to prepare gives a considerable interval of time, within which we should be able to propose changes in the system for the administration of justice of a kind which would meet the Irish Government's needs.

6. After much discussion about how to treat this in the draft communiqué, we eventually agreed to new versions of paragraphs 7 and 8, which incorporated in the list of subjects upon which the new Intergovernmental Committee would concentrate in the first instance the search for measures to give substantial expression to the aim of ensuring that there was public confidence in the administration of justice, and include as a new paragraph 8 a statement of intention by the Irish Government to accede as soon as possible to the Convention. These changes are of course ad referendum to Ministers on both sides.

7. I attach a copy of the draft communiqué as so amended.

Ulster Defence Regiment (UDR)

8. The Irish side welcomed the measures of which we had informed them for improving the training of part-time members of the UDR and for ensuring that, particularly at vehicle checkpoints, UDR detachments were as often as possible accompanied by an officer of the Royal Ulster Constabulary (RUC), who would then make any arrest that was necessary. But they pressed us once again on deployment of the UDR; they said that if it were possible to withdraw even a very few - 50 or 100 - UDR men from a particularly sensitive area (they mentioned a part of Armagh with which Mr Seamus Mallon is particularly associated) and substitute either regular soldiers or the RUC, that would be helpful to the prospects of a successful agreement to an extent far greater than the numbers would suggest. We repeated all the difficulties about "redeployments" of this kind, and made it clear that we could raise no hopes; but we undertook to consult the Ministry of Defence further about this.

Title of the New Body

9. This question remains unresolved. The Irish side are still objecting to "Committee" and we are still objecting to "Commission". No one has been able to think of any more acceptable alternative than "Intergovernmental Conference", which the Irish side would accept, and which the Secretary of State for Northern Ireland would consider acceptable. I recognise that for the moment the title is being used to describe the body set up by the European Council at Milan; but that conference should be functus officio by the end of the year, leaving it clear for this Anglo-Irish body which will (we hope) last longer. I should be grateful to know whether you would be prepared to reconsider your objection to it in this context, and authorise us to settle with the Irish accordingly.

The Secretariat

10. British and Irish Ministers had had a long discussion of this subject on 7 October, and the discussion which officials had

at their subsequent meeting was very similar. The Irish side fully accepted that there could be no question of the secretariat acting as a complaints commission. They felt very strongly that the first meeting of the new Intergovernmental Committee should be in Belfast, either at Stormont or at Hillsborough. They accepted that the Irish side of the secretariat should at least start small, and should not be continuously in Belfast at any rate at first. We agreed that the two secretaries should be designated as soon as the agreement came into force; that they would need to meet before the first meeting of the Committee in order to prepare an agenda and working papers, but at that stage the Irish secretary need not be resident in Belfast; and we agreed that the Irish secretary could stay on in Belfast after the first meeting of the Intergovernmental Committee for the purpose of preparing a record of the meeting and agreeing on follow-up.

11. The Northern Ireland Office had prepared a useful illustrative document showing what the role of the Committee and the secretariat would be in a number of hypothetical cases. We left copies of this document with the Irish side for consideration, and for further discussion at our next meeting.

12. We shall continue the discussion of these matters at the next meeting of officials; but we are also arranging for a representative of the Department of Foreign Affairs to visit Belfast to look at possible accommodation and to pursue the discussion of this subject with the Northern Ireland Office.

Questions and Answers

13. British and Irish officials stayed behind after the main meeting to work on the preparation of a series of draft questions and answers which could be available for you and the Taoiseach if and when an agreement was reached.

Timing of Summit

14. I am reporting separately on this subject.

Judicial Challenge

15. We warned the Irish that there was some reason to think that the Ulster Unionists might seek to mount a judicial challenge to an Anglo-Irish agreement on the grounds that the British Government have no power to sign an agreement which was inconsistent with the Northern Ireland Act 1973. We should seek to ensure that any such challenge was considered by the courts as quickly as possible. If such a challenge were mounted, it was possible that the Speaker would take the view that the agreement could not be debated in the House of Commons until the question of legal validity had been decided; but the present view of the Law Officers was that the Speaker was unlikely so to decide and would probably allow the debate to go ahead. We have been advised that, in that event, it would be possible to exchange notifications that the agreement was acceptable to the Governments and to proceed with the first meeting of the Intergovernmental Committee; it might be prudent to confine discussion at that meeting to matters of procedure and not to go on to matters of substance.

16. We have now asked the Irish whether the proposed Agreement might be challenged in the Irish courts on the alleged grounds that Article 1 about the status of Northern Ireland was not in accordance with Articles 2 and 3 of the Irish Constitution which claim that "national territory consists of the whole island of Ireland". Mr Nally said that the best legal advice available to the Irish Government was clear that the proposed Agreement was constitutional. It was a matter of careful wording, and Article 1 of the draft Agreement, which keeps open the possibility of Irish unity in the future and does not describe Northern Ireland in terms as part of the United Kingdom, steered round the pitfalls. The Irish Government thought it quite possible that an action would be brought



against an the Agreement but expected the courts to rule very quickly against an injunction. The Hight Court might do so in a matter of hours and the Supreme Court within a few hours more. If such an action was begun in the courts before the Dail began or had completed its debate on the Agreement, the Speaker was "80-90 per cent" certain to rule that the debate and the vote on the Agreement should proceed. One reason for this expectation was that the courts had ruled against an injunction concerning the Sunningdale Agreement in 1974. But a more important one, Mr Nally said privately, was that the present Speaker of the Dail was a loyal friend of the Taoiseach. The Irish officials also said that, if a case was introduced or was pending after the vote in the Dail, the Irish Government would go ahead with the notifications of acceptance of the Agreement and with its implementation.

17. Perhaps the most important point that came out in this discussion was the firm view of the Irish officials that, if the courts did rule that the Agreement was unconstitutional, there would be a major political crisis in the Irish Republic and a high risk that the Taoiseach or the Government would fall. Mr Nally said that we could therefore take it that the constitutional dangers had been very carefully thought through. The position in a word was that, while it would be wrong to claim that there was no risk of difficulty in the Irish courts, this risk was very small.

18. After discussion we agreed that we could not in the preparation of the draft agreement and the associated documents allow for the possibility of a judicial challenge. The position of the two Governments had to be that what they were doing was legal, and we would take and deal with the consequences of a judicial challenge as and when it happened after the signature of an agreement.

Conclusion

19. The matters on which I seek further negotiating authority are as follows:

1. In Article 2(b) of the draft agreement, and in paragraph 4 of the summary, if the Irish side are (after reference to Ministers) unwilling to accept the insertion of "decisions and" before administration, would Ministers be content that we should propose the deletion of both "decisions" and "administration", so that the phrase would read:

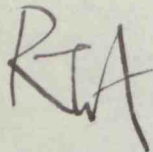
"so that each retains responsibility for government within its own jurisdiction."

2. Would Ministers be content to accept the reinsertion of "permanent" before "secretariat" in the last sentence of Article 3, and in paragraph 4 of the summary?

3. Are Ministers content with paragraph 7 and 8 of the draft communiqué, on the question of Irish accession to the European Convention on the Suppression of Terrorism?

4. Would Ministers accept the title "Intergovernmental Conference" for the new body?

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



ROBERT ARMSTRONG

9 October 1985

SECRET AND PERSONAL

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

As at 8 Oct

(changes from last draft underlined)

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.

B

THE INTERGOVERNMENTAL [COMMITTEE]

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

ARTICLE 4

(a) In relation to matters coming within its field of activity, the [Committee] 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 [Committee] 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.

C

POLITICAL MATTERS

ARTICLE 5

- (a) The [Committee] 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 [Committee] 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 [Committee] 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 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.

D

SECURITY AND RELATED MATTERS

ARTICLE 7

(a) The [Committee] shall consider

(i) security policy;

(ii) relations between the security forces and
the community;

(iii) prisons policy.

(b) The [Committee] 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 [Committee'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 [Committee] may consider policy issues relating to prisons. Individual cases may be raised as appropriate, so that explanations can be given or inquiries instituted.

E

LEGAL MATTERS, INCLUDING THE ADMINISTRATION OF
JUSTICE

ARTICLE 8

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

F

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 [Committee] 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 [Committee] 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

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Garda Siochana his links with the Minister for
Justice.

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 [Committee] 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

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established by the responsible authorities in the North and South for practical co-operation in respect of cross-border aspects of these issues.

G

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

H

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.

I

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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.

In witness whereof the undersigned, being duly

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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.)

As at 8 October 1985
(changes from last draft underlined or sidelined)

Anglo-Irish Agreement

Joint Communiqué (Draft)

1. The Prime Minister, the Rt Hon Margaret Thatcher FRS MP and the 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 [Committee] 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 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 [Committee] 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 [Committee] will not normally be announced. But they wish it to be known that, at its first meeting, the [Committee] 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 in the first instance 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.

8. 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 on Terrorism.

9. In addressing the improvement of relations between the security forces and the minority community, the [Committee] 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.

10. In its discussion of the improvement of cross-border co-operation on security, the first meeting of the Intergovernmental [Committee] 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.

11. 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.

12. The Prime Minister and the Taoiseach held a full and friendly discussion of current international issues, including matters concerning the European Community. They paid particular attention to

13. 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.

Draft as of 8 October 1985
(changes from last draft underlined or sidelined)

Summary of the Anglo-Irish Agreement

Press Release by the British and Irish Governments

(Note: This summary has no legal status)

1. The Agreement begins with a Preamble incorporating a joint statement of objectives.

The Status of Northern Ireland

2. The Agreement commits the two Governments to the view 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; that the present wish of a majority there is for no change in that status; and that, if in the future a majority there clearly wished for and formally consented to a united Ireland, the two Governments would introduce and support legislation in the respective Parliaments to give effect to this. (Article 1)

Framework and Objectives of the Intergovernmental [Committee]

3. The Agreement establishes, within the framework of the Anglo-Irish Intergovernmental Council, an Intergovernmental [Committee] which, subject to the terms of the Agreement, will deal on a regular basis and in relation to Northern Ireland, with:

- political matters;
- security and related matters;
- legal matters, including the administration of justice;
- the promotion of cross-border co-operation. (Article 2(a))

The Agreement provides for a review of the working of the [Committee] after three years, or earlier if either side desires. (Article 11)

4. The [Committee] will proceed on the basis that:-

- the British Government accepts that the Irish Government will put forward within the [Committee] views and proposals on certain matters relating to Northern Ireland as provided for in the Agreement;
- in the interest of promoting peace and stability, determined efforts will be made in the [Committee] to resolve any differences;
- there will be no derogation from the sovereignty of either

Government, so that each retains responsibility for the [decisions and] administration of government within its own jurisdiction. (Article 2(b))

5. The [Committee] will be a framework within which the two Governments work together for the accommodation of the rights and identities of the two traditions in Northern Ireland and 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. (Article 4(a))

Procedures and Membership of the Intergovernmental [Committee]

6. There will be regular and frequent meetings of the [Committee] at Ministerial level as well as meetings at official level, and in particular special meetings may be convened at the request of either side. The Irish Government will be represented by a Minister designated as the Permanent Irish Ministerial Representative and the British Government by the Secretary of State for Northern Ireland. Other Ministers and advisers will participate as appropriate. There will be a [permanent] Secretariat to service the [Committee]. (Article 3)

7. The Irish Government declare their support for the British Government's policy of seeking devolution in Northern Ireland on a basis which would secure widespread acceptance throughout the community. (Article 4(b)). The [Committee] will be a framework in which the Irish Government can put forward views and proposals on the modalities of devolution, in so far as they relate to the interests of the minority community. (Article 4(c)). Should a devolved administration be established, the devolved matters would not be for consideration by the [Committee]. (Article 2)

Political Matters

8. The [Committee] will concern itself with measures to recognise and accommodate the rights and identities of both traditions in Northern Ireland in such areas as cultural heritage, electoral arrangements, use of flags and emblems, the avoidance of economic and social discrimination and the advantages and disadvantages of a Bill of Rights for Northern Ireland. (Article 5(a))

9. Should it prove impossible to achieve and sustain devolution, proposals for major legislation and major policy issues where the interests of the minority community are significantly and especially affected and which come within the administrative responsibility of the Northern Ireland Departments will be for consideration by the [Committee]. (Article 5(c))

10. The [Committee] will be a framework within which the Irish Government may put forward views on the role and composition of certain bodies appointed by the Secretary of State for Northern Ireland. (Article 6)

Security and Related Matters within Northern Ireland

11. The [Committee] will consider security policy issues as well as serious incidents and forthcoming events (eg parades and processions). The [Committee] will develop a programme of action designed to improve the relations between the security forces and the nationalist community. Some of the proposals in these areas may be considered by the Irish Government for application in the South. It may also consider policy issues relating to prisons, and individual cases may be raised. (Article 7)

Legal Matters including the Administration of Justice

12. Both Governments recognise the importance of ensuring that there is public confidence in the system of administering justice in Northern Ireland. The [Committee] will seek measures that would give substantial expression to this aim, considering among other things the possibility of mixed courts in both jurisdictions for the trial of certain offences. The [Committee] will also consider whether there are areas of the Criminal Law in both jurisdictions which might with benefit be harmonised and will be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South. (Article 8)

Cross-border Co-operation on Security, Economic, Social and Cultural Matters

13. The [Committee] will 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 with a view to enhancing co-operation between the security forces of the two Governments in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel and operational resources. The [Committee] will have no operational responsibilities. (Article 9)

14. The two Governments undertake to co-operate to promote the economic and social developments of those areas in both parts of Ireland which have suffered most severely as a result of the instability of recent years. The two Governments will consider the possibility of securing international support for this work. (Article 10(a))

15. The [Committee] will, in the absence of devolution, be the framework for the promotion of cross-border economic, social and cultural co-operation. In the event of devolution, machinery would be needed to deal with co-operation in respect of cross-border aspects of devolved matters. (Article 10(b) and (c))

Inter-Parliamentary Body

16. The two Governments agree that it is for the respective Parliaments to consider whether an Anglo-Irish Inter-Parliamentary body should be established. (Article 12).

SECRET AND PERSONAL

The two Governments agree that they would give appropriate support to any Anglo-Irish Inter-Parliamentary body established by the two Parliaments.