

Prime Minister CCPC
Mr. King has belatedly proposed a large number of amendments. Most of them are manageable: but the

Ref. A085/2735

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

In paragraph 2 of my minute of 25 October, I said that I would submit a further note about points concerning the draft Agreement and other texts.

main one - deletion of any reference to mixed courts - is very difficult
Yes, it should probably go to Cabinet.

2. The Secretary of State for Northern Ireland has proposed that we should suggest to the Irish that a number of further amendments to the texts of the draft Agreement and the draft communiqué, designed mainly to ease the task of presenting the agreement to unionist opinion.

CDD
209/a.

3. His major suggestion is the deletion of the reference to mixed courts in Article 8 of the Agreement. The Foreign and Commonwealth Secretary is seriously concerned at this suggestion; he has pointed out that we have brought the Irish with great difficulty to accept that there is no question of our committing ourselves to the establishment of mixed courts, and that the wording of this part of Article 8 has been approved by yourself and the two Secretaries of State and the square brackets consequently removed. The Irish side are of course aware of that. The Foreign and Commonwealth Secretary and others have assured Irish Ministers that the sentence in question means what it says: ie that, although we see serious practical and political difficulties about the idea of mixed courts, and do not see how or when these difficulties could be overcome, we are prepared to examine it in good faith in the Intergovernmental Committee, along with other possible ways for increasing public confidence in the administration of justice. I have no doubt that insistence upon the deletion of the reference to mixed courts and the addition of "in both

Jim

jurisdictions" at the end of the third sentence of Article 8, which the Northern Ireland Secretary has also suggested, would at least call into question Irish willingness to declare their intention to accede to the European Convention on the Suppression of Terrorism, and could well put the whole Agreement at risk. After all that has passed, we would make ourselves vulnerable to charges of bad faith, if we proposed these further changes to the Irish at this very late stage.

4. The Secretary of State for Northern Ireland has also suggested the following further changes to the draft Agreement:

a. Articles 2(a) and (b). The Secretary of State for Northern Ireland considers that there is too much emphasis on the role of the Intergovernmental Committee in relation to Northern Ireland, and that the words "and in relation to Northern Ireland" should be deleted from the middle of Article 2(a), leaving in Article 2(b) the reference to the Committee being mainly concerned with Northern Ireland. I see force in this suggestion; and, as Article 2(a) is now drafted, the words "and in relation to Northern Ireland" are arguably inconsistent with the rest of it. I recommend that I should be authorised to put this suggestion to Mr Nally on 29-30 October, but should have authority not to insist on the change if the Irish strongly prefer the retention of the present text.

b. Article 3. The Secretary of State for Northern Ireland, like yourself and the Foreign and Commonwealth Secretary, considers it important that the word "permanent" should not appear before "Secretariat". I have already suggested in paragraph 4 of my minute of 14 October that the sentence should read -

"A Secretariat shall be established by the two Governments to service the Committee on a continuing



basis in the discharge of its functions as set out in this Agreement".

I understand that this may be acceptable to the Secretary of State for Northern Ireland.

c. Article 4(a)(iii). The Secretary of State for Northern Ireland suggests that "throughout Ireland" should be replaced by "throughout the island of Ireland", as elsewhere in the text. I suggest that I should put this change to the Irish as an improvement in the interests of consistency, but that it is not an essential change.

d. Article 4(c). The Secretary of State for Northern Ireland has pointed out that the prospects for devolution soon after the conclusion of an Agreement look bleak and that the words "if full devolution has not taken place" are therefore inappropriate and should be deleted; and that the sentence should read:

✓ "The Committee shall be a framework within which the Irish Government may put forward views and proposals on the modalities of bringing about devolution in Northern Ireland, insofar as they relate to the interests of the minority community."

The Irish side have seen the reduction in the role of the Committee if devolution took place as a means of exerting pressure on the unionists to accept devolution. They may therefore suggest that the sentence should read something like -

only as full devolution
 ✓ So long as full devolution has not taken place, the Committee shall be a framework within which the Irish Government may put forward ..."

I suggest that we should be willing to accept such a formulation.

e. Article 7(d). The Secretary of State for Northern Ireland has suggested that the word "explanations" sounds too apologetic and that the sentence should read:

✓ "Individual cases may be raised as appropriate, so that information can be provided or inquiries instituted".

I think that this change is an improvement and I believe that the Irish could be brought to accept it; and I recommend that I should propose it accordingly.

5. The Irish side have meanwhile suggested that the first sentence of Article 2(b) of the draft agreement ("The Committee shall meet on a regular rather than an ad hoc basis") is superfluous, since the third sentence of Article 3 incorporates the same point. I see no substantive disadvantage in this, and it would be an editorial improvement. I suggest that I should acquiesce in it, in the context of securing as many as possible of the changes we shall be suggesting.

6. The Secretary of State for Northern Ireland has suggested the following changes to the draft communiqué -

i. Paragraph 7. Since improved security co-operation will be a major selling point with the unionists, the sub-paragraph on this subject should come no lower than second in the list of three subjects. I would expect the Irish to resist this change, since they attach more importance to the other two subjects in the list. But I suggest that I should try it on them.

ii. Paragraphs 8 and 9. The Secretary of State for Northern Ireland sees an imbalance in these two paragraphs between the attention that is paid to what we shall be doing about the UDR and the RUC and the attention that is



paid to what the Garda will be doing. I fully understand this concern. We shall need to apply steady pressure on the Irish in the Intergovernmental Committee to improve the performance of the Garda in the border areas. Our position for this would be improved if the reference to the policing of border areas at the end of paragraph 9 were expanded on the following lines -

✓) "... and will give attention to achieving a significant and lasting improvement in the policing of border areas".

I suggest that I should propose this to Mr Nally.

7. 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.

CONFIDENTIAL

RS

for ROBERT ARMSTRONG

Approved by Sir Robert and
signed in his absence

28 October 1985