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CABINET
DEFENCE AND OVERSEA POLICY COMMITTEE
SUB-COMMITTEE ON UNITED KINGDOM RELATIONS WITH
THE REPUBLIC OF IRELAND

ANGLO-IRISH RELATIONS

Note by the Secretary of State for Foreign and Commonwealth Affairs
and the Secretary of State for Northern IrelandIntroduction

1. On 16 February 1984 Cabinet authorised an exploratory dialogue with the Irish Government to see whether the basis of an agreement existed which would contribute to the easing of the problems we face in Northern Ireland. Our main objectives throughout the discussions have been to tie the Irish into our policies in Northern Ireland and in particular to maximise security co-operation; to encourage the SDLP to re-enter negotiations about an internal political settlement; and to influence international opinion on Northern Ireland. The dialogue has developed to the point where a possible agreement is now discernible.
2. The purpose of this memorandum is to set out the position reached and to seek colleagues' approval to putting the text of a proposal to the Irish. The text is at Annex A. It contains the outline of a new structure for institutionalised consultation with the Irish on matters affecting Northern Ireland.

Background

3. The course taken by the dialogue is set out fully in

Annex B. In brief, the proposals considered initially with the Irish were that, in return for an amendment to Articles 2 and 3 of the Irish Constitution (which have long offended Unionists by laying claim to the North as part of the territory of the Republic), Dublin would be given some kind of role in respect of security and judicial matters in the North.

4. The role at first sought by Dublin was for some executive responsibility (i.e. a form of joint authority as proposed in last year's New Ireland Forum report and clearly rejected by both the former Northern Ireland Secretary and the Prime Minister); but we made absolutely clear that that was not on offer. The Irish have now been brought to recognise that any executive role for them is wholly unacceptable to us. We have indicated, however, that we might contemplate establishing a formal basis on which they would be consulted about certain aspects of Northern Ireland affairs (although in deference to Irish sensitivities, which on this point it is important that we should take into account, the proposed text does not use the term 'consultation').

5. For their part the Irish have told us that such institutionalised consultation would not be a significant enough prize to allow them to seek to amend their Constitution. This is perhaps not altogether surprising. The Irish Government would face great difficulty in securing any change to Articles 2 and 3 of their Constitution. It would require a referendum which would revive ancient antagonisms and the outcome of which would be very uncertain. The hard line nationalists, including Fianna Fail, the main opposition party, would be quick to denounce any such move as a betrayal of the ideals of the founders of the independent Irish State. Even a formal declaration by the Irish Government that Northern Ireland was and would remain part of the United Kingdom for as long as the majority so wished (such as was made by the Irish Government after the Sunningdale Agreement in 1973) would arouse controversy. But the Irish Government have said that they would be ready to reiterate such a declaration and to enshrine it in a treaty lodged with the United Nations.

6. These two elements - institutionalised consultation accompanied by a constitutional declaration - form the basis of an agreement that we now believe may be attainable.

The latest proposal

7. The current text of a proposal for institutionalised consultation (Annex A) is the latest of a number discussed with the Irish. It is considerably more modest either than the Irish initially sought or than they would like. Nevertheless, although offering no executive role, the proposal would be a significant innovation in relations between sovereign governments, giving formal recognition of the interests of one in the internal affairs of the other.

8. One of the main reasons for seeking an agreement of this type is that without an Irish dimension it is clear that the SDLP will continue to resist participating in the political institutions of the province, thus effectively blocking progress towards any devolved settlement that would command widespread cross community support. By offering consultation on political, security and legal matters (as explained in paragraph 9 below) such an agreement would cover the main areas in which the minority community find difficulty in identifying with and giving their loyalty to the system of Government in the Province. It would thereby contribute to greater political stability.

9. We discuss the impact of such an agreement, and the gains for the UK from it, in paragraphs 12 - 16 below. We would draw attention to the following features;

- i. political matters: the political heading is mainly concerned with areas such as discrimination, national identity and human rights, in which the minority feel unfairly treated;
- ii. security matters: improved security co-operation, which is a major pre-occupation on our part, is balanced by measures to improve relations between the security forces and the

minority community;

- iii. legal matters: this is an important element in the proposed Standing Committee's remit. However, while we are prepared to see the Committee consider matters such as the harmonisation of the criminal law and joint courts, the Irish would wish it to be given the task of making proposals in these areas. We have resisted this, not least because the Lord Chief Justice of Northern Ireland is utterly opposed to joint courts (the Taoiseach has raised the matter informally with him) and the Lord Chancellor believes that few hopes should be pinned on the idea;
- iv. economic and social matters: paragraph 1 of the text restricts the role of the proposed Standing Committee to political, security and legal matters. The Irish are afraid of being seen by the hard line nationalists to be entering into arrangements for closer security co-operation with the British without gaining enough in return. They have therefore pressed strongly for the inclusion also of economic and social matters. We have resisted going any further than offering a role in respect of cross border co-operation on economic and social matters (see paragraph 18 of the text). We do not believe we should give more unless the Irish could contemplate more significant and durable guarantees on the existing constitutional status of Northern Ireland than they are currently offering. The wider the scope of the agreement the greater the difficulties it will present for the Northern Ireland Office (NIO) in terms of practical management;
- v. economic reconstruction: there have been indications recently that the United States (US) Administration would be prepared to make funds for economic reconstruction available to both parts of Ireland in the event of an Anglo-Irish agreement, and suggestions that European Community (EC) funds might also be drawn on for the same purpose. Paragraph 5 of the text commits the two Governments to pursue the possibility. Although nothing has been decided, nor any details yet discussed with

the US or the EC, something on these lines has obvious attractions;

- vi. internal political development: paragraph 6 of the text both enshrines a commitment on the part of the Irish to devolved government in the North and acknowledges that, in the event of a devolved settlement, the arrangements would need to be reviewed. In fact, if devolved government were to be restored in a form that permitted the participation of the minority, the importance of the inter-governmental arrangements should diminish since the minority would then have internal channels to use in pursuit of their interest in devolved matters.

'Confidence Building Measures'

10. During the negotiations the Irish have attached importance to what have come to be known as 'confidence building measures' which might accompany or follow an agreement (but which would not form part of it). For their part the Irish would hope to build up Unionist confidence by their assurance on the constitutional status of Northern Ireland (though this would obviously carry less weight than an amendment of the constitution); they have also indicated a willingness to boost border security by redeploying elements of the Garda special task force to border areas, and consider ratifying the European Convention on the Suppression of Terrorism.
11. On the British side there are two fronts on which the Irish are pressing for action. First there are relatively modest measures such as those referred to in paragraph 8 of the text and the commitment to consider Irish views on certain appointments as in paragraph 10. These have merit in their own right as a means of increasing minority acceptance of Northern Ireland's governmental and constitutional arrangements. We have already given the Irish a copy of the recent consultation document on the reform of the police complaints procedures. Secondly, however, the Irish have suggested measures in the security field with wider implications. They have also expressed a strong belief in the need for a re-organisation of the Royal Ulster Constabulary (RUC) and major changes in the Ulster Defence Regiment (UDR) as well as pointing to the beneficial

effect on the morale of the minority community of the early releases of persons convicted of terrorist offences which have already taken place. The Irish have only a limited understanding of the constraints on what we can do, and there are real difficulties about identifying workable proposals. This is consequently unlikely to be a promising area of discussion, and it remains to be seen how much weight the Irish really put on measures which might build confidence in one community, but only by undermining it in the other.

Impact of Agreement .

12. We believe that, providing the majority community can be brought to acquiesce in an Anglo-Irish agreement of the kind proposed, it would bring us important gains on four fronts; in dealings with the Social Democratic and Labour Party (SDLP); in dealings with the Unionists; in security co-operation; and in our international image. Progress in these areas is, in our judgement, a necessary condition for the eventual defeat of the men of violence.
13. For some time now the SDLP have refused to become involved in the search for a devolved settlement in Northern Ireland unless there is also acknowledgement of the all-Irish dimension to the Northern Ireland problem. They have insisted all the more strongly on the importance of the Irish dimension in the face of the rise of Provisional Sinn Fein (PSF) as a political force. An Anglo-Irish agreement could be presented to their electorate by the SDLP as evidence that the constitutional approach to politics does bear fruit; it might allow them to re-engage in serious discussion of devolution; and it would put pressure on them to contribute signally to greater political stability by encouraging their followers to support the apparatus of the state and the security forces. The scope of an agreement would be important to the SDLP; we cannot be certain how far an agreement that restricts Dublin to a merely consultative role will take us with them, and this needs to be further tested. However, the Taoiseach has assured the Prime Minister that, in the event of an agreement, the SDLP would be more open-minded about an internal settlement

and has undertaken to go on pressing them in this direction. An agreement could re-open the possibility of SDLP participation in the search for a devolved settlement. What is absolutely certain is that without an agreement the SDLP, constantly looking over their shoulders at Sinn Fein, would continue to refuse to contemplate any serious discussion of internal political development, thus blocking the way to any acceptable settlement.

14. As for the Unionists, it would be important to gain their acquiescence to any agreement. Otherwise we might find them refusing to co-operate in the search for a devolved settlement, and possibly taking more extreme measures. We gain nothing if we secure the support of the SDLP only at the price of losing the Unionists. We recognise the risk of a Unionist backlash, and it is certain that even the narrow agreement proposed would in the short term prompt the familiar accusations of treachery. But provided that it was not broadened unduly and was presented with all possible care (and with emphasis on improved security co-operation), we believe that the Unionist reaction could be kept within manageable bounds. And once in place it could bring benefits in our dealings with the Unionists. The Irish constitutional declaration (now offered in the form of a Treaty lodged at the UN) would give them some further reassurance on Northern Ireland's long-term status; and the agreement itself would take Unionists a further step towards acceptance of the role in respect of the North that history, geography and political reality inescapably give to the Republic. It also reminds the Unionists that, if they cannot find an accommodation that gives the minority a role as part of an internal settlement, the alternative may be further development of the inter-governmental relationship.

15. On the security front, co-operation with the Irish remains crucial both to our general security effort in Northern Ireland and to the arrangements we make in Great Britain. At present it still leaves something to be desired. The Irish have made clear that it would be politically impossible for them to be seen to be in a significantly closer involvement with us without some sign that we, for our part, recognised the legitimacy of their wider interest in the affairs of the North. An agreement, therefore

is essential if we are to cement existing arrangements and open the way to the possibility of even closer co-operation to defeat what is a common threat.

16. Finally, the situation in Northern Ireland continues to hold real dangers for our international image - particularly in the US and with our EC partners. As the recent visits by the Prime Minister and the Secretary of State for Northern Ireland proved, American goodwill over Northern Ireland is heavily dependent on our ability to present a united front with Dublin. This is not just a matter of popularity. If we part company with the Irish over Northern Ireland, there would be serious implications. Not only could the flow of money and moral and political support in the US to bodies such as Noraid increase, and the hope of funds for economic re-construction vanish, but it would introduce strains into our relationship with the US Administration and Congress.

Timing

17. It is important that the twin tracks of our policy on Northern Ireland - the search for a system of devolved government acceptable to both communities and the development of the Irish dimension - should proceed together. We must therefore try to ensure that the conclusion of any Anglo-Irish agreement is accompanied by action by the SDLP to join in serious discussion of devolved government. We shall not be able to make progress towards devolution at least until after the local government elections on 15 May. We have not therefore wanted to proceed too quickly with talks with the Irish. Provided that colleagues agree that we should seek an agreement on the lines of Annex A, the next step should be another round of talks at official level. We must then seek to establish whether an agreement of the sort proposed will have the desired effect on the nationalist community and, in particular, persuade the SDLP to participate in a scheme of devolved government. At this stage a further Ministerial meeting may be desirable. The final step would be a Summit meeting to endorse an agreement the lines of which had already been settled.

Conclusion

18. We believe that a limited agreement on the lines of Annex A could be a prize well worth having. We do not see it as an end in itself, but as an aid to the long-term stability of Northern Ireland. If accompanied by a significant move from the Irish to guarantee the existing constitutional status of Northern Ireland, we believe that the adverse Unionist reaction could be kept within manageable limits. Whether it would have the desired effect on the nationalist minority we cannot yet tell; but it is the only opportunity open to us to bring the SDLP back into serious discussion of an internal devolved settlement and therefore to break the political stalemate of recent years. It would also tie the Republic more closely into our policies generally towards Northern Ireland and in particular our security effort - and bring us real benefits in our international relations, notably with the US.

19. We therefore seek the approval of colleagues to continue the negotiations with the Irish and to;

- i. hand over to the Irish the annexed text at an early meeting of officials;
- ii. resist any significant extension of the scope of the agreement and in particular inclusion of economic and social matters on a wider basis unless the Irish saw their way free to an actual amendment of Articles 2 and 3 of their Constitution (which is most unlikely);
- iii. continue to press the Irish to do all they can to get the SDLP involved in - and committed to - the search for stable internal political arrangements in Northern Ireland. (We shall also want to pursue this with Mr. Hume in the context of talks on devolution);
- iv. make clear that while we are ready to contemplate the more modest "confidence building measures" referred to in

paragraphs 8 - 10 of the text, we cannot offer any hope of implementing the kind of fundamental changes in respect of the security forces which the Irish would like to see;

- v. on timing, look to at least one official meeting after the next one, followed by a further Ministerial meeting when the prospects for devolution are clearer; only if we are then clearly in sight of agreement will it be appropriate to think in terms of a summit meeting to set the final seal on the process.

Signed G H

D H

Foreign and Commonwealth Office

Northern Ireland Office

19 April 1985

Draft of 15 March 1985

British Proposal

1. There would be established within the framework of the Anglo-Irish Intergovernmental Council a Standing 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.

Other topics might be added by agreement.

2. 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 an 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, which would thus receive attention at the highest level. There would be no derogation of sovereignty on the part of either the United Kingdom or the Republic, and the British Government would retain full responsibility for decisions; but, in the interest of promoting peace and stability, every effort would be made through the Standing Committee to take account of and so far as possible accommodate views and proposals put forward by the Irish Government before decisions were taken. 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 an application by the Irish authorities in the Republic.

3. The Standing 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 Standing 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. There would be a small joint secretariat in Belfast, within which the Irish Government would maintain an office for the purpose of these arrangements.

4. In relation to matters coming within its remit, the Standing 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.

5. The Standing Committee would examine the scope for joint action to promote the social and economic reconstruction and improvement of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years, including the possibility of securing wider international support to that end.

6. 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. If a devolved Government were to be established, some of the arrangements described in this agreement would need to be reviewed.

7. 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. Nonetheless if full devolution had not taken place, the Standing 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

8. The Standing 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. Measures to be considered in this area in respect of Northern Ireland include the use of the Irish language, changes in electoral arrangements, the avoidance of economic, social and cultural discrimination, and the advantages and disadvantages of some form of Bill of Rights in Northern Ireland.

9. 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.

10. The Standing Committee would provide opportunities for the expression of views and proposals by the Irish Government on appointments to be made by the Secretary of State for Northern Ireland to bodies including the:

Standing Advisory Commission on Human Rights
Fair Employment Agency
Equal Opportunities Commission
Police Authority of Northern Ireland
Police Complaints Board

Security and Related Matters

11. The Standing Committee would consider:

- (a) security policy;
- (b) relations between the security forces and the Community;

(c) security co-operation;

(d) prisons policy.

12. The Standing 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).

13. The Standing 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 Síochána his accountability to the Minister of Justice.

14. With a view to enhancing co-operation between the security forces of the two Governments, the Standing 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, liaison structures, technical co-operation, training and exchange of

personnel, and co-ordination of operational resources. .

15. The Standing 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 Catholics in the RUC.

It would be accepted by both sides that these measures would be directed primarily towards Northern Ireland, with the object of making the security forces more readily accepted by the nationalist 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 Standing 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

17. The Standing 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. It could consider the case for establishing a system of joint courts for trying terrorist crimes and recommend what form such a system might take. 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 in economic, social and cultural matters

18. Unless and until it proved possible to achieve devolution on a basis which would secure widespread acceptance throughout the community, the

Standing Committee would for the time being 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 responsibility.

19. 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.

Interparliamentary relations

20. The two Governments agree that it would be for the Houses of Parliament at 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.

RESUME OF THE ANGLO-IRISH DISCUSSIONS TO DATE

1. At its meeting on 16 February 1984 Cabinet authorised officials to enter an exploratory dialogue on a circumspect and highly confidential basis with officials of the Government of the Republic of Ireland to see whether the basis of an agreement existed between us which would contribute to the easing of the problems which we face in Northern Ireland. Ministers judged that it was important to secure the cooperation of the Irish Republic in the fight against terrorism, and in encouraging the involvement of the SDLP in the political life of Northern Ireland. What was proposed was that in return for a binding commitment from the Republic to acknowledge the Union and to abandon their territorial claim to Northern Ireland HMG might offer the Irish a role (at that point not clearly defined) in the security and judicial processes in Northern Ireland. It was acknowledged that the elements of any such package would raise a formidable array of political, legal and practical problems both for HMG and for the Irish Government. Officials were therefore instructed to explore without commitment whether, and if so how, such difficulties could be overcome.

2. The preliminary discussions led by Sir Robert Armstrong revealed a willingness on the Irish Government's part to enter serious discussion. The exploratory talks proceeded in parallel with the final stages of the New Ireland Forum process to which the Irish Government was committed as part of its public approach to HMG to establish the Republic's claim to be heard on Northern Ireland matters. This complicated but did not directly conflict with the formulation of a British response to the report of the New Ireland Forum, finally published on 2 May 1984. The then Northern Ireland Secretary (Mr Prior) reported to Cabinet on 3 May that the report would need to be studied in detail and that

he would carry out the necessary consultations. In preparation for the Commons debate at the beginning of July on Northern Ireland Mr Prior informed Cabinet on 28 June of the line he proposed to take in that debate, which included announcing discussions with the Northern Ireland political parties and with the Government of the Republic. In the meantime British officials continued to pursue exploratory discussions with a small team of Irish officials on the basis of the approach authorised by Ministers in February. By the time of the November Summit at Chequers, on which the Prime Minister reported to Cabinet on 22 November, the positions of the two sides had become more clearly defined. Irish hopes for some sort of executive role in the North had been reduced to acknowledgement that we were not prepared to offer more than a form of "institutionalised consultation". For our part we recognised that in return for such a limited deal the Irish Government was unlikely to take the risk of seeking to amend their Constitution with its territorial claim on Northern Ireland, but would offer some other form of assurance to us. There was still a considerable gap between the two sides, but both were of the opinion that the dialogue should continue.

3. On this basis, with the approval of the Prime Minister, Sir Robert Armstrong was instructed to put a specific proposal to the Irish Government on 21 January. Its essence was that there should be established within the framework of the Anglo-Irish Intergovernmental Council a joint body to consider on a regular basis and in relation to Northern Ireland a number of topics: legal matters, relations between the police and the community, prisons policy, security coordination, political and human rights questions; other topics to be added by agreement. The Irish Government would be entitled to put forward views on matters relating to Northern Ireland within the body's remit. While the focus of the body's work would be mainly in Northern Ireland some matters under consideration would involve both parts of the island of Ireland and possibly also Great Britain. Every effort would be made to resolve any differences, but there would be no derogation of sovereignty on the part of either the United Kingdom or the Republic, nor any question of joint authority.

4. The Irish made it clear immediately that the British proposal was substantial enough to justify further exploration on their part, but argued that it was too narrowly based for their own Government's domestic requirements. They placed emphasis on the need to widen the range of topics which the joint body could consider, stressing that the British proposal with its strong bias towards security matters would be very difficult for the Irish Government in terms of its own public opinion. This view was repeated by the Irish Foreign Minister, Mr Barry when he called on the Foreign and Northern Ireland Secretaries on 4 February. In his view there had to be further political involvement by the Republic in Northern Ireland affairs. The formal Irish response to the British proposal of 21 January was delivered to Sir Robert Armstrong on 8 February. In form, it was an expanded version of the British proposal, with some reordering of material. The most important of the additional elements was to widen the range of subjects which the proposed new body would consider so as to cover economic and social matters. This proposed extension was limited by a number of qualifications, particularly that it would not apply unless and until attempts to achieve devolution had been abandoned. Although there has been a further round of talks at official level, and the Foreign Secretary and the Northern Ireland Secretary visited Dublin on 22 March for a further exchange with Irish Ministers, no formal reply to the Irish response has yet been given.

5. At the Dublin meeting Irish Ministers were persuaded that it would not be possible to finalise any agreement or hold another Summit before the local elections in Northern Ireland in May. Dr FitzGerald has since told the Prime Minister that while he accepts this he is still anxious to press ahead with all possible speed and would like to see the negotiations completed if possible by mid-June. He has accepted that it would not be right to fix a date for a further Summit meeting without being sure that the outcome would be a successful completion of the negotiations.

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