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CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

SUB-COMMITTEE ON UNITED KINGDOM RELATIONS WITH THE  
REPUBLIC OF IRELAND

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

Note by the Secretary of the Cabinet

INTRODUCTION

The Sub-Committee last reviewed at its meeting on 23 May the talks between British and Irish officials on a possible agreement under which the Irish Republic would be able to advance views and proposals, but would not share in decisions, on defined aspects of Northern Ireland affairs. Since then, I have pursued the talks on the basis of the Sub-Committee's views and under the continuing direction of the Prime Minister, the Secretary of State for Foreign and Commonwealth Affairs and the Secretary of State for Northern Ireland.

The Text of an Agreement

2. The talks are close to agreement on the version of the text attached at Annex A for an agreement proposed by the British side. This version is very similar to the one discussed by the Sub-Committee at its last meeting. The changes are marked in the margin. One important point is not agreed: the reference to Anglo-Irish joint courts to try terrorist offences. The sentence on this in paragraph 17 represents the British position, ie that we are not satisfied that the practical and political difficulties of establishing joint courts are surmountable, and that we are ready to discuss the possibility of establishing joint courts in the new Standing Intergovernmental Committee (SIC) to be set up by the agreement, but can enter into no advance commitment. The Irish have continued to press for an advance commitment to establish joint courts within a defined time.

Steps Associated with an Agreement

3. At its meeting on 24 April, the Sub-Committee concluded that we should resist the Irish pressure for associated (or "confidence building") measures, such as changes concerning the security forces, to take effect at the same time as the agreement. The Irish have continued to argue that they will be unable to defend an agreement domestically, or to secure the support of the Social Democratic and Labour Party (SDLP) in Northern Ireland, unless there are concrete changes in the actual situation as well as the establishment of consultative machinery under the agreement. When the Prime Minister met the Taoiseach on 29 June in the margins of the European Council, she argued that additional measures taking effect simultaneously with the agreement would antagonise the Unionists. The Prime Minister suggested as an alternative that steps should be taken to implement the agreement rapidly and visibly. At my last meeting with Mr Nally on 9 July, I therefore suggested that, when an agreement was signed and subject to circumstances in Northern Ireland at the time, a communiqué

announcing the agreement should also say that a first meeting of the new SIC would take place very soon and that the two sides would then be giving positive consideration to an agenda including a number of the matters where the Irish wish to see changes. I gave Mr Nally a first draft of a passage for a communiqué, attached at Annex B. I told Mr Nally that we would aim, before the first meeting of the SIC, to have reached broad agreement privately with the Irish side on a number of measures that could be announced soon after it.

4. The actions which the Irish would take to implement the agreement rapidly would be the redeployment of task forces of the Garda to the areas close to the border with Northern Ireland and an announcement that the Republic will adhere to the European Convention on the Suppression of Terrorism, a move which should further improve the prospects for securing extradition to the United Kingdom of suspected terrorists in the Republic. Measures for rapid implementation of the agreement on the British side are being considered by officials. The ideas in the field include a code of conduct for the Royal Ulster Constabulary, which would stress the need for non-discrimination between Protestants and Catholics, and perhaps also for the Ulster Defence Regiment (UDR) and the regular army in Northern Ireland; an increase in the training given to part-time members of the UDR; the secondment of more regular army non-commissioned officers to the UDR; consultation with the Irish Government on filling the four vacant positions on the Police Authority for Northern Ireland; the establishment of Anglo-Irish machinery to consider harmonisation of criminal law; and greater contact between the legal professions in the two parts of Ireland.

5. The advantages for us in this approach are that it would transform the Irish concept of associated measures taking effect immediately into an agenda of measures which we should be willing to discuss with the Irish Government and consider favourably once the agreement was in force but without being committed in advance

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In all cases to their precise form or timing. This approach would also ensure that the new Committee was operational before opponents of an agreement had had much time to orchestrate a campaign against it. And it would enable us to press the Irish from the start for delivery of their side of the bargain, namely a rapid improvement in co-operation in the security field.

6. Mr Nally's reaction to this proposal was that there were many difficulties. A highly political judgment about whether a meeting of the Committee could take place before the Dail had debated the agreement would have to be made by the Irish Cabinet. But, subject to consultation with Ministers, Mr Nally thought that these difficulties should be surmountable. It is not yet clear whether the Irish Government will be content with the comparatively modest measures mentioned in paragraph 4, nor whether these will be sufficient to persuade the SDLP to support the proposed agreement.

The Secretary of State for Northern Ireland's contacts with Political Parties in Northern Ireland

7. The Secretary of State for Northern Ireland, in accordance with the Sub-Committee's conclusions at its earlier meetings, held preliminary talks in June with leaders of the political parties in Northern Ireland. Mr Hume of the SDLP said that the kind of agreement being considered, which would not give the Republic a direct share in authority in the North, would have to be accompanied by "confidence building measures" in the field of law and order, including radical changes in the security forces. Given a satisfactory agreement, Mr Hume did not close the door on some form of devolved government. He suggested that an agreement should be presented publicly in a low key, as a modest and sensible achievement. Dr Paisley of the Democratic Unionist Party totally rejected the Anglo-Irish talks. He would not accept the Secretary of State for Northern Ireland's assurances that the constitutional position of Northern Ireland would be unchanged by

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the kind of agreement which is under discussion, because he believes that the long-term objective of any government in Dublin is Irish unity and that the Republic would intend an agreement as a foot in the door. Dr Paisley warned of growing suspicion among the Protestants of the Anglo-Irish talks and of a possible backlash with people taking the law into their own hands. Mr Molyneaux of the Ulster Unionist Party spoke in more moderate terms than Dr Paisley. He was disposed to accept that the Government is not selling out to Dublin. Mr Cushnahan of the Alliance Party was generally supportive of the search for consultative machinery with the Irish Government.

8. On the whole the Secretary of State for Northern Ireland found his meetings with the party leaders encouraging rather than the reverse and saw nothing in them which would suggest change in our policy of seeking an agreement with the Republic. But in the past few weeks there has been a marked increase in tension in Northern Ireland caused partly by the divisive effect of the arrival of 59 Sinn Fein members on District Councils following the May elections, but more particularly by reports of Anglo-Irish negotiations affecting the security forces and the judiciary which has had an unsettling effect on the Unionist community. This in turn had led to clashes with the police whose rerouting of provocative Loyalist marches is thought to stem from requests from Dublin, and to a general raising of the political temperature in the Province. The further we go, beyond where we already are, to meet the wishes of the Irish Government, the greater becomes the risk of violent reactions from the Unionists. As it is, the signing of the agreement would be bound to be strongly denounced by the Unionists and could well lead to some disorder and possibly to industrial action. Much would depend on the prevailing security situation and the presentation of the agreement.

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Outstanding Business

9. The other outstanding problems in the talks with the Irish include:

a. The Timing of Signature of an Agreement

Signature should clearly wait until after the marching season ends in mid-August. There are arguments against delaying too long after the summer break: the risk of major leaks and damaging speculation would become great. This may point towards signature in mid-September, when there are one or two opportunities in the Prime Minister's diary. The Irish have been urging signature in July or late August, but Mr Nally agreed on 9 July that mid-September was the earliest possible time. He suggested that it would be important for the Prime Minister not to be abroad in the period immediately following signature: he no doubt felt that the Prime Minister's authority might well need to be on hand to reassure the Unionists. On present plans, however, the Prime Minister will be out of the country for five days just after mid-September.

b. The Location of an Anglo-Irish Summit to Sign the Agreement

The Taoiseach would like the Prime Minister to visit the Irish Republic for a Summit. But this would be likely to antagonise the Unionists unnecessarily. The Taoiseach would be willing to go to Belfast. Signature at Hillsborough is a possibility, but the security problems would be formidable. If the Taoiseach could be persuaded to come to Great Britain, he would probably wish to avoid Chequers or Downing Street. The Irish Embassy in London (or a double ceremony, one signature in the Irish Embassy and the other in 10 Downing Street) or Leeds Castle might be possibilities.

c. The Arrangements for the Agreement's Entry into Force

Agreements between the United Kingdom and the Irish Republic have not hitherto provided for ratification. Our attempt to resist the Irish pressure for associated measures, to take effect simultaneously with an agreement, by moving rapidly to implement the agreement depends on a meeting of the SIC very soon after signature. If signature took place during the Parliamentary Recess, the agreement entered immediately into force and the new Committee then held a meeting, any debate on the agreement in Parliament - which will clearly be important - would not take place until after activity under the agreement had already begun. That would enable the debate to discuss not only the agreement but also the first stages in its implementation, though that would no doubt be used by opponents of the agreement as an additional line of criticism. On the other hand, if Parliament debated the agreement before it had taken effect, its opponents might try all the harder to secure its abandonment.

d. Presentation of an Agreement

It will be necessary to explain the agreement carefully beforehand to the United States Administration and perhaps to some other Governments (including some European Community Governments). Preliminary contacts with the United States suggest that it should be possible to secure a very positive statement by President Reagan welcoming an agreement, which in turn would reassure the SDLP and others, and that there are good prospects for a major fund for reconstruction and development being voted by Congress, most of which would be spent in Northern Ireland. Officials are working out a programme of consultations with the United States; two elements might be a meeting between the Foreign and Commonwealth Secretary and his United States and Irish colleagues during the celebrations in Helsinki at the end of

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July to mark the 10th anniversary of the signature of the Final Act and a visit to Washington in early September by a special emissary of the Government. The Secretary of State for Northern Ireland would no doubt need to meet the leaders of the Northern Ireland parties immediately after conclusion of an agreement, to seek to convince the SDLP that the agreement would genuinely advance the interests of the Roman Catholic community and to reassure the Unionists that the measures were limited and that a real improvement in security co-operation with the Republic should result.

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Given that we and the Irish Government have different constituencies to reassure about the value of an agreement, there is a risk that in our public statements we shall emphasise different aspects and give a very discordant impression. We propose to discuss with Irish officials in detail the public line which each Government would plan to take on the provisions of the agreement and the steps which might be taken after early discussion in the SIC, so as to ensure that each is aware of what the other is likely to say in public and to achieve a common line as far as is possible.

#### CONCLUSION

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10. The political temperature in Northern Ireland has recently risen. Incidents during the remainder of the marching season could create an unsuitable background for concluding an agreement. But there seems to be a reasonable chance that any incidents will not be serious enough to have this effect. Subject to that, there could be these advantages in proceeding after the summer break to conclude an agreement with the Irish:

- a. clear Irish recognition in the agreement of the present status of Northern Ireland;

b. the prospect of considerable improvement in co-operation with the Irish Republic in combatting terrorism;

c. a greater sense of confidence among the Roman Catholic community in Northern Ireland, which may eventually increase the prospects of achieving devolution on an acceptable basis;

d. political support from the United States for the agreement, and the possibility of security American funds for projects in Northern Ireland;

e. positive advantages for the United Kingdom's relations with the United States and our international standing generally.

11. There could also be risks in concluding the agreement. The Unionists would react sharply and groups among them could resort to violence. The Provisional Irish Republican Army could be expected to make renewed efforts to achieve successful terrorist attacks. But, so far as can be foreseen, these reactions should not be such as to outweigh the advantages of an agreement on the lines now under discussion, if the Irish Government and the SDLP are prepared to accept one on terms which we can offer.

Signed ROBERT ARMSTRONG

Cabinet Office

11 July 1985

Draft of 11 July 1985

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

British Proposal

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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 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 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 combat those who adopt or support such methods;

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

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;

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 of 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 affecting 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 have an application in the South. The Committee could also review the structure, composition and powers of the Police Authority for Northern Ireland.

16. The Committee would 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.

Anglo-Irish Agreement: Draft Passage for a Communique

The first meeting of the Committee will take place on [ ] 1985. The British side will be led by the Secretary of State for Northern Ireland and the Irish side by . The two Governments do not envisage that, in the normal course, the meetings and agenda of the Committee will be publicly announced but they wish it to be known that on this occasion priority will be given to the questions of criminal justice and security that fall within the Committee's remit. The improvement of security co-operation between the two countries will be discussed, as will relations between the security forces in Northern Ireland and the minority community there. The way in which the security forces discharge their responsibilities will be reviewed, and preliminary consideration will be given to the programme of action set out in paragraph [15] of the agreement. The meeting will also discuss how best to pursue matters of common interest in the administration of justice as set out in paragraph [17] of the agreement.