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From: THE PRIVATE SECRETARY

PERSONAL



NORTHERN IRELAND OFFICE

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em

14th November 1985

Dear Charles,

SUPPLEMENTARIES FOR THE PM'S STATEMENT

... I attach supplementaries for the Prime Minister's use when she makes her statement next Monday 18 November. They are largely the same as those submitted by Mr Mallaby to you on 7 November, with some additions to meet further points. We suspect that new questions will be thrown up by events and we stand ready to provide any new supplementaries that may be required.

I am copying this letter to Len Appleyard and Michael Stark.

*Yours Sincerely
Neil Ward.*

N D WARD

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A) THE TERMS OF THE AGREEMENT

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Status of Northern Ireland

a) Q: Article 1 is ambiguous/imprecise about the status of Northern Ireland, says less than the Chequers Communique, etc. What does it mean?

A: Of course the two Governments approach this aspect of the matter from differing historical perceptions and from within differing constitutional frameworks. The Agreement does not change that.

The position is clear. Northern Ireland is part of the United Kingdom.

What Article 1 does is to look to the future and set out - for the first time in a binding international agreement - what is common ground between us: that there will be no change in the present status of Northern Ireland without the freely given consent of the majority of its inhabitants; and that both Governments recognise that such consent does not at present exist.

b) Q: Why has Her Majesty's Government failed to secure the abolition of Article 2 of the Irish Constitution?

A: Questions about the Irish Constitution should be put to the Irish Government. The agreement is the outcome of a thorough process of negotiation in which each side had to take account of the constraints on the other. What is significant is that Article 1 formally commits the Irish Government, like the British Government, to the position

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that the status of Northern Ireland will remain as it is so long as a majority there so wishes.

c) Q: The agreement represents a betrayal of the nationalist cause and the abandonment of the goal of unity.

A: This is more a question for the Irish Government. But as the agreement makes clear, if at any time in the future a majority of the people of Northern Ireland formally consent to unity, then the two Governments will take the necessary steps to bring it about.

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2) The Intergovernmental Conference

a i) Q: What does the Intergovernmental Conference do?

A: The IC provides a framework, more systematic than anything that has hitherto existed, within which the two Governments will 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.

The Irish Government will put forward views and proposals on matters specified in the Agreement.

This will make it easier both to avoid misunderstandings and profit by the views of a neighbour who shares our goal of peace, stability and reconciliation within the Province.

a ii) Q: In what areas will the Intergovernmental Conference have a role?

A: These areas are clearly set out in the Agreement. It will deal on a regular basis with political matters, security and related matters, including the administration of justice and the promotion of cross-border co-operation (including security). Should it prove impossible to achieve and sustain devolution, the Irish Government would be able to put forward views on major legislation and major policy

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issues where the interests of the minority community are especially or significantly affected.

b) Q: What role does the Agreement give the Irish Government in relation to Northern Ireland?

A: The Agreement incorporates formal UK recognition that the Irish Government may advance views and proposals on aspects of Northern Ireland affairs defined in the Agreement which are not the responsibility of a devolved administration in Northern Ireland. It commits both Governments to make a determined effort to resolve any differences between them. It promotes thereby the development of closer and more systematic co-operation between the two Governments - without affecting the position of Northern Ireland as part of the United Kingdom - in a way that benefits all the inhabitants of those islands. The Agreement therefore gives, also for the first time, institutional recognition to the reality that a substantial minority in Northern Ireland aspires to a united Ireland and regards the Irish Government as reflecting the concerns of the Nationalist community.

c) Q: By giving the Irish Government a role in relation to Northern Ireland affairs, surely the agreement infringes sovereignty?

A: No. There is no derogation from sovereignty and the agreement makes this clear.

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d) Q: So is the Irish role merely "consultative"?

Conference

A: The Intergovernmental/will be a unique mechanism. There is no single word to describe its role. It will not have executive functions: Article 2(b) of the agreement makes clear that there will be no derogation from sovereignty and that each Government retains responsibility for the decisions and administration of government within its jurisdiction.

But the Conference will be more than just consultative in that the Irish Government will put forward views and proposals on its own initiative (as well as being invited to do so); there is an obligation on both sides in the Conference to make determined efforts to resolve any differences; and one of the Conference's functions will be to promote cross-border co-operation between North and South in Ireland.

[Note: It is accepted by both sides that the words "consultative" or "consultation" should not be used to describe the agreement.]

e) Q: So the Irish will after all share in the decision-making?

A: As Article 2(b) of the agreement makes clear, each Government retains responsibility for the decisions and administration of government within its own jurisdiction. On matters covered by the agreement, however, the British Government is reaching its decisions will take full account of any views and proposals put forward by the Irish side,

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and also on the obligation on both sides to make determined efforts to resolve any differences.

f) Q: Is the Agreement not setting Northern Ireland apart from the rest of the United Kingdom by giving another country a part in government there?

A: There is a unique situation in Northern Ireland because of the division within the community. The agreement reaffirms the present status of Northern Ireland and makes clear that Her Majesty's Government remain responsible for the decisions and administration of government there.

g) Q: Is the concession of a major role for Dublin not an admission of the failure of British and unionist policy in Northern Ireland over the past sixty years?

A: No. I am concerned with the future, not the past. The agreement shows that the two Governments are determined to work together in seeking peace and reconciliation in Ireland.

h) iQ: The agreement says in Article 2(b) that "Determined efforts shall be made through the Conference to resolve any differences". In the context, these are differences relating to views and proposals which the Irish Government have put forward on matters relating to Northern Ireland. What does this provision mean?

A: Let me start by emphasising the desire of both Governments to implement the agreement in a spirit of co-operation and goodwill. That being so, we are not starting off in the

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belief that we shall continually confront differences; the whole point of meeting together will be to find common ground, bearing in mind that the sentence you quote speaks of serving "the interest of promoting peace and stability". But if there are differences, both sides will work hard to resolve them, recognising that each Government retains responsibility for the decisions and administration of government within its jurisdiction.

ii Q: What happens when differences cannot be resolved in the Intergovernmental Conference?

A: Article 2(b) makes it clear that each Government retains responsibility for the decisions and administration of government within its own jurisdiction. But a key point of the agreement is that we are both committing ourselves to determined efforts to resolve differences. Moreover the agreement reflects the careful consideration that the two Governments have given to minimising differences: it envisages for example a variety of levels at which matters can be considered and also provides for the convening of special meetings up to Ministerial level when required by either side.

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3) Secretariat

a) Q: What is the role of the Secretariat?

A: The Secretariat will service on a continuing basis the Intergovernmental Conference and will act between meetings as a channel of communication between the two Governments. It will have no executive functions. In order to carry out its duties effectively it will be located in Belfast.

b) Q: Where will the Secretariat be located and how will it be staffed?

A: The Secretariat will be very small. Its function will be to service the Intergovernmental Conference which will normally meet in Belfast and to act between meetings as a channel of communication between the two Governments when the Conference is not in session.

c) Q: Will the permanent Irish Ministerial representative have direct contact with the nationalist community in Northern Ireland?

A: The role of the permanent Irish Ministerial representative will be to implement the agreement on behalf of the Irish Government, as joint chairman of the Conference. This will not alter the Irish Government's freedom to maintain contact with the people in Northern Ireland.

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4) Devolution

a) Q: How does the Agreement affect the Government's commitment to finding a form of devolved government acceptable to both sides of the community?

A: The Government remains committed to a return to devolved government in Northern Ireland on a basis widely acceptable throughout the community. That policy is supported by the Irish Government. We hope that the parties in Northern Ireland will respond constructively to the opportunities this Agreement offers and help work out satisfactory proposals for a newly devolved administration. If a devolved administration were set up, devolved matters would not be considered in the Intergovernmental Conference.

b) Q: What proposals does the Secretary of State for Northern Ireland have for encouraging a return to devolved government in Northern Ireland?

A: The Government remain committed to a return to devolved government in Northern Ireland as the best basis for political stability. We will do all we can to identify a scheme of administration acceptable to both sides of the community. We hope that the political parties in Northern Ireland will respond constructively to the opportunities this agreement offers, and will help to work out satisfactory proposals for a newly devolved administration.

c) i) Q: Do you expect the SDLP to support this agreement and to participate more in the political life of Northern Ireland?

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A: We hope that the nationalist community as a whole will see this agreement as evidence that progress can be made by constitutional means.

ii Q: Do you now expect the SDLP to enter the Assembly?

A: The agreement makes it clear that both Governments support a policy of devolution which would command widespread acceptance throughout Northern Ireland. The question of whether the SDLP should enter this or any future Assembly is a matter for that party to decide.

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5) Role of Intergovernmental Conference on Political matters

a) Q: What will the role of the Conference be on political matters?

A: It will 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. These will 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. Although discussion of these matters will be mainly concerned with Northern Ireland their application to the Republic would not be excluded.

The Irish Government will also be able to put forward views on the role and composition of public bodies in Northern Ireland including the Standing Advisory Commission on Human Rights, Fair Employment Agency, Equal Opportunities Commission, Police Authority and Police Complaints Board.

The Conference will also provide a framework within which the Irish Government may put forward views and proposals on ways of bringing about devolution in so far as they concern the interests of the minority.

b) Q: How will the agreement improve the human rights situation in Northern Ireland?

A: The Government has introduced many major improvements in recent years to ensure that human rights in Northern Ireland

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are protected as effectively as possible. The answer to your question is in the agreement. Article 5 in particular provides that the Conference will discuss measures in this field.

c) Q: Do you propose to introduce legislation:

- a) giving the vote at local elections to Irish citizens resident in Northern Ireland;
- b) permitting the use of Irish as an official language;
- c) enabling the Irish tricolour to be flown from City Hall, Belfast and other public buildings in Northern Ireland?

A: All these matters are among those for consideration by the Conference. I should not anticipate that discussion.

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6. Appointments to Bodies

Q: Are you not in Article 6 giving Dublin a right of veto on matters fundamentally affecting the security and well-being of the people of Ulster?

A: No. As Article 6 makes clear, the Irish Government may put forward views and proposals on the role and composition of various bodies appointed by the Secretary of State for Northern Ireland and his Departments. It does not give the Irish Government a veto but every effort will be made by both sides to resolve any differences which may emerge.

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7) Security and Related Matters

a) Q: What is the role of the Conference on security matters?

A: The Conference will consider security policy, relationships between the Security Forces and the community and prisons policy.

The Conference will not have any operational responsibility.

b) Q: How does the Agreement affect the Government's security policy?

A: The Government remains committed to defeating terrorism. As a result of the Agreement, the UK and Irish Governments will further strengthen their co-operation in the fight against terrorism. The Intergovernmental Conference will set in hand a programme of work to this end.

c) Q: The Agreement means that the Irish Government will be able to interfere with the work of the security forces in Northern Ireland. This will greatly undermine their morale and efficiency.

A: There is no question of interference, and the Intergovernmental Conference will have no operational responsibilities. It will be to everyone's advantage to establish a systematic means of taking account of the Irish Government's views about security matters. I very much hope that this will reassure the minority community. The co-operation foreseen in the agreement will not be

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all one way. The agreement will intensify security co-operation between the authorities in both parts of Ireland and this should be greatly welcomed by all who wish to defeat terrorism.

d) Q: Are the SDLP now expected to support the RUC and to encourage Catholics to join the force?

A: Everyone should support the security forces. It has long been the wish of HMG to see more members of the minority community joining the RUC. We hope, following the agreement, that this will happen more and that the SDLP will feel able to encourage Roman Catholics to join.

e) Q: The clear implication of this agreement is that the RUC has failed to discharge its duties fairly and even-handedly in the past. Are you not, therefore, accepting nationalist criticism as valid?

A: We have always had full confidence in the RUC. I hope that following the agreement the minority community will increasingly share that confidence.

f) Q: The UDR are/^aparticular reassurance to unionists in a minority position in border areas. Will you guarantee that the role of the UDR as a bulwark against IRA assassins be maintained in these areas?

A: The UDR will not be disbanded. They are brave and dedicated people who have a major role in providing security in Northern Ireland. I recognise that there are difficulties in the Regiment's

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relations with the minority community. The Government keep the role of the security forces including the UDR under review in the light of community relations as well as operational needs. Improvements will continue to be made.

g) Q: Will you now move towards a general amnesty in Northern Ireland? Will prisoners with indeterminate sentences now be given a definite date for release?

A: Those possibilities do not arise from the agreement itself. Any question of speeding up release from indeterminate sentences, if the agreement led to a real reduction in violence, would be for the Secretary of State for Northern Ireland.

E.R.8) Legal Matters, Including the Administration of Justicea) Q: What is the role of the Conference on legal matters?

A: Both Governments recognise the importance of ensuring public confidence in the administration of justice in Northern Ireland. The Conference will look at ways of giving substantial expression to that aim. It will also look at harmonising the criminal law in both parts of Ireland and the policy aspects of extradition and extra-territorial legislation between North and South.

b) Q: Article 8 represents an intolerable intrusion on the independence of the Northern Ireland judiciary?

A: Nonsense. There is no threat to the independence of the judiciary anywhere in Ireland. The agreement says in Article 8 that the two Governments agree on the importance of public confidence in the administration of justice and that the Conference will seek measures which would give substantial expression to this aim. Surely nobody can quarrel with that. The Government are willing in the Conference to consider the possibility of mixed courts among other things, and we do not exclude the possibility becoming feasible and acceptable at some future time. But we cannot see any easy or early way round the political and other difficulties that would be involved.

c)i) Q: Why are mixed courts highlighted in the agreement?

A: Other ideas, such as extradition and the harmonisation of the criminal law, are also mentioned in the same Article of the Agreement.

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c)ii) Q: Surely if mixed courts are mentioned in the agreement, the Government is seriously contemplating introducing them?

A: We are prepared to consider the possibility of introducing them, but without commitment. We do not exclude the possibility of mixed courts being feasible and acceptable at some future time but we cannot see any easy or early way round or through the political and other difficulties which would be involved.

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

Q: What role will the Conference have on cross-border co-operation

A: It will look at ways of enhancing cross-border security co-operation; and at ways of promoting the economic and social development of those areas in both parts of Ireland which have suffered ^{most}/severely from recent instability.

Q: What guarantees have you got from Dr FitzGerald that the South will cease to provide a haven for IRA fugitive terrorists?

A: No doubt there are fugitive terrorists in the South, as in the North. On both sides of the border strenuous efforts are made to catch them. One of the main purposes of the agreement will be to enhance the co-operation against terrorism which already takes place between North and South.

Article 8 of the agreement foresees further consideration by the two Governments in the Intergovernmental Conference of the question of fugitive offenders. Moreover, the Taoiseach has announced his Government's intention to accede to the European Convention on the Suppression of Terrorism.

E.R.1 The International Dimensiona) Q: Fund

The reports that the United States Government will offer a large sum for expenditure in Ireland suggest that Her Majesty's Government entered into the agreement in order to obtain US financial support.

A: The agreement has been concluded on its merits. We naturally hope that friendly states, including the United States, will welcome it.

[NB: Article 10(a) says that the two Governments will consider the possibility of securing international support for the promotion of economic and social developments in Ireland. It is preferable not to be drawn on the meaning of this until US offers of money have been made].

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11) Arrangements for Review

a)Q:What scope is there for reviewing the working of the IC?

A: After three years (or earlier if required) the two Governments will review the working of the Conference to see whether any changes are desirable.

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12) Interparliamentary Relations

a) Q: Will there be an Anglo-Irish Inter-Parliamentary body?

A: That decision is for the Westminster and Dublin Parliaments.
But the two Governments have undertaken to support any
body which may be established.

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B) MORE GENERAL QUESTIONS ON THE AGREEMENT

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1) Effect of the Agreement

a) Q: Will the Agreement solve Northern Ireland's problems?

A: No single Agreement can resolve the problems of Northern Ireland. But this one is a useful step forward, designed to benefit both Communities. Dr FitzGerald and I have committed ourselves to implementing the Agreement with determination and imagination.

b) Q: Will the agreement not encourage the Provisional IRA in their muderous campaign?

A: One of the main effects of the agreement will be that the British and Irish Governments will strengthen their co-operation in the fight against the men of violence.

(The Provisionals have already denounced the agreement, which

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hardly suggests that they feel encouraged by it].

c)i) Q: What do the majority community in Northern Ireland stand to gain from the Agreement?

A: The majority will gain from the Agreement in several ways. First, there is the Irish Government's internationally binding recognition that the status of Northern Ireland will remain unchanged as long as that is the wish of a majority of its people and that the present wish of the majority is for no change in that status. That must help to promote stability. Secondly, the Agreement provides for closer co-operation between the two Governments in various fields including security. That must produce practical benefits for the people of both Northern Ireland and the Republic. Thirdly, the Agreement provides a better framework than we have had before for ^{the} peaceful, constructive expression of minority views. That must promote reconciliation between the two communities in Northern Ireland and be to the good of the majority as well as the minority.

c)ii) Q: The agreement establishes special channels for conveying the nationalist minority's views to the British Government. Why is nothing comparable proposed for the unionist majority?

A: The question is not comparing like with like. The unique arrangement we have made with the Irish Government reflects the position of a minority which looks to Dublin to express its aspirations. The unionists by definition identify with the United Kingdom; they have, and will continue to have, ready means of access to the British

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Government, including unionist Members of Parliament in Westminster; and the Government pays close attention to their views.

c)iii) Q: This agreement seems to have something for everybody in Ireland except Ulster Unionists. Are there any concessions at all to fundamental unionist concerns in this agreement?

A: The agreement is designed to promote peace and stability to the benefit of all of the people in North and South. There is also much in it which should be of especial value to unionists. For instance, Article 1 confirming the status of Northern Ireland; the intensified security co-operation provided for in the agreement and already beginning to take place; and the Irish Government's acceptance of the validity of the unionist tradition in Ireland. The Taoiseach has also stated his Government's intention to accede to the European Convention on the Suppression of Terrorism .

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2) Possible Legal Challenge to the Agreement

a) Q: Is such an agreement possible without legislation?

A: Yes. We believe the Agreement is fully consistent with statute law relating to Northern Ireland. Any legal challenge is a matter for the courts.

b)i) Q: What is your attitude towards the threat of legal challenge in the Irish Courts?

A: That is a matter for the Irish Courts and Irish Government.

E.R.3) The Forum Report

a) Q. The agreement falls far short of the options in the New Ireland Forum Report.

A. Let us concentrate on what the two Governments have agreed. The agreement represents the outcome of prolonged and serious negotiations. The arrangements it embodies are unique, reflecting both the closeness of the Anglo-Irish relationship and the special problems of Northern Ireland. The New Ireland Forum's meetings and reports helped to create the climate in which these negotiations became possible. The new agreement accords with the spirit of conciliation which characterised much of the Forum Report.

b) Q. Do you still reject the Forum Report?

A. The British Government welcomed many positive elements in the Forum Report. We welcomed such principles as the clear acceptance that political change requires consent, the commitment to the politics of peaceful persuasion, and unqualified opposition to violence and those who support violence. We welcomed the recognition and respect which the Report gave, on the part of nationalists, to the distinctive identity of Northern Ireland unionists including their loyalty to the United Kingdom.

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(If pressed again on the "three illustrative models"): I have already said that I welcome many of the innovative features of the Report. But I do not think anyone would expect the British Government to endorse it in its entirety.

E.R.4) A Referendum in Northern Ireland

- a) Q: In November 1984 in the communique issued after their Summit the Prime Minister and Taoiseach agreed "that the identities of both the majority and minority communities in Northern Ireland should be recognised and respected, and reflected in the structures and processes of Northern Ireland in ways acceptable to both communities". How will the Prime Minister and the Taoiseach test the acceptability of the agreement to the unionist community?

A: The identity of the majority community is already recognised and respected, in the way the majority desire, by virtue of Northern Ireland being and remaining part of the United Kingdom. Article 1 of the Agreement confirms that position. This agreement also provides means for the expression of the identity of the minority. The agreement thus furthers the aim of making the structures and processes in Northern Ireland acceptable to both communities.

The elected representatives of the people of the United Kingdom as a whole will have the opportunity to express their views when Parliament debates the agreement shortly.

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Q: Why does the Government not hold a referendum to test the acceptability of the Agreement as it did with the Border Poll in 1973; and the Scottish and Welsh Referendums

A: The Government has no intention of holding a referendum in Northern Ireland on the Anglo-Irish Agreement. It would be quite inappropriate for an international agreement to be voted on in this way - even more so in just one part of the United Kingdom.

(If pressed)

The NI Border Poll held in 1973 provides no precedent. That poll was intended to ascertain whether the people of Northern Ireland wished to remain within the United Kingdom. That is not at issue. Indeed, one of the main features of the Agreement is that it incorporates formally binding recognition by the Irish Government that there will be no change in the status of Northern Ireland without the consent of a majority of the people there and that the present wish of a majority is for no change in that status.

The devolution referendums held in Scotland and Wales provide no precedent either. These referendums dealt with arrangements for regional government, not with relations between two Governments.

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5) General Political Questions

a) Q. Twelve years ago, the loyalists in Northern Ireland defeated an Anglo-Irish agreement based on power-sharing and a Council for Ireland. Won't they do the same this time?

A. I believe that the great majority in Northern Ireland have a deep longing for peace. The Government have made a decision that action is necessary to support the democratic process in Northern Ireland and that it would be damaging and even dangerous to do nothing. Indeed, the two major unionist parties recognise in their policy documents that it is necessary to take action to accommodate the nationalist tradition. This agreement tries to accommodate both traditions. I am determined that it should work, and work to the benefit of all.

b) Q. Is the agreement not the first step on the slippery slope to Irish unity?

No. The agreement commits the Irish Government to acknowledging the rights and identity of unionists. It 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

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*Note:- The agreement says "would" not "could".

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6) First Meeting of Intergovernmental Conference

a) Q: When will the first meeting of the Intergovernmental Conference be?

A: If Parliament approves the Agreement the first meeting will be as soon as possible after that. It would not be appropriate to announce any date in advance.

b) Q: Does not the Communique indicate that the first Meeting of the Intergovernmental Conference will be concerned with the Republic's view of security (ie security force relations with the minority, public confidence in the administration of justice)?

A: The Conference will look at ways of enhancing security co-operation But good relations with all law-abiding citizens and public confidence are also essential ingredients if we are to defeat terrorism.

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the people of Northern Ireland; and that the present wish of a majority is for no change. This is the most formal commitment to the principle of consent made by an Irish Government, and should provide reassurance to unionists.

- c) Q. Will you now accept that the electoral success of Sinn Fein and the PIRA's campaign of violence including attacks on British cities, have brought both of you together in this agreement today? Is this not confirmation of the success of the ballot box/armalite strategy?

A. Absolutely not. This agreement is a rejection of terrorism. We are seeking to build up hope for the future, where the IRA have sought only to destroy. We are seeking peace and reconciliation, where the IRA have brought only strife, turmoil and tragedy. This agreement will reinforce the position of all who seek peace and stability by constitutional means.

- d) Q: Why were the SDLP and not the Unionists briefed about the Anglo-Irish talks?

A: The Government made no secret of the basis on which the talks are being held. But the details of the negotiations were kept confidential.

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e) Q: Is confidentiality not damaging in that it creates uncertainty?

A: The need for confidentiality created some uncertainty. But public negotiations would have been far more damaging, not least because they could not have been successful.

[If pressed: Negotiations inevitably require explaining why certain courses of action would be impossible and exploring possibilities which are ultimately rejected. This process can only be done in private; but it in no way detracts from Parliament's responsibility to reject or accept any proposals which it must now exercise.