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Sir Robert Armstrong GCB CVO
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Dear Robert,

ANGLO-IRISH AGREEMENT

I had a long discussion with my Secretary of State over dinner last night during which Mr King expressed concern on a number of points in the text of the draft Agreement and the proposed Communiqué. He appreciates that these documents are the result of lengthy negotiations, that they have been considered by Ministers on several occasions and that it may be difficult to make further changes at this stage. Nevertheless, he considers that several changes are required if we are to be confident of getting the Agreement approved by the Cabinet and securing the acquiescence of moderate unionist opinion in Northern Ireland. He has asked me to pursue the following points. I suggest that most of them might be fed into the next round of Armstrong/Nally talks; but I think that the question of mixed courts will have to be pursued at the Prime Minister's meeting on 29 October.

On the Agreement Mr King's points are:

Article 2(a) and 2(b): He considers that there is too much emphasis on the role of the Committee in relation to Northern Ireland. If we could recognise at the outset the reciprocal nature of some of the provisions it would make it easier to defend the Agreement to the Unionists. I think it would meet his point if we could delete the words "and in relation to Northern Ireland" from the middle of Article 2(a), leaving the reference to the Committee being mainly concerned with Northern Ireland in Article 2(b). I know that the Irish recently pressed for the re-instatement of these words; but I think we could argue that they do not fit happily in a position in which they qualify a list of items including cross border co-operation.

Article 3: He attaches importance to deleting "permanent" from in front of "Secretariat". His view is that we must rest on the Prime Minister's latest message to the Taoiseach. Bearing in mind that the Secretariat will be a focus of attack, he does not consider that it should be located in Belfast from the outset; and he is convinced

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that it would be a mistake for the Irish to appoint a senior official with a high profile to head their element of the Secretariat. Mr King made these points to the Irish Ambassador on 17 October.

Article 4(a)(ii): He has suggested that "throughout Ireland" should be replaced by "throughout the island of Ireland", as has been done elsewhere.

Article 4(c): He agrees with the suggestion which I have already put to you separately that the phrase "if full devolution has not taken place" should be deleted.

Article 5(b): He considers that the phrase "shall not be excluded" is too negative and would prefer to see the paragraph read "the discussion of these matters shall be mainly concerned with Northern Ireland, but could include the possible application jurisdiction".

Article 7(d): He considers that the word "explanation" is too apologetic. Could we say "... so that information could be provided or enquiries instituted"?

Article 8: He is seriously concerned that this Article as drafted will be taken by the judiciary in Northern Ireland and by unionist opinion generally as an unwarranted reflection on the current administration of justice in Northern Ireland. He would like to see the addition at the end of the third sentence of the words "in both jurisdictions". No doubt the Irish will say that there is no cause for concern in the South, but it will be difficult for them to dissent from the general proposition. More substantially Mr King remains extremely unhappy about reference to mixed courts, which he would prefer to see deleted altogether. He made his views clear to the Taoiseach and Mr Barry when he sent to Dublin on 17 September. He fears that the inclusion of these words will raise the issue of sovereignty and could prove a sticking point in Cabinet, as well as creating difficulties in Parliament. I emphasised the importance which the Irish side have attached throughout to mixed courts; but Mr King maintains that when he discussed the matter with the Taoiseach on 17 September Dr Fitzgerald appeared to be moving away from his insistence on this point. I have suggested that the matter should be raised with the Prime Minister and Foreign Secretary on 29 October, since it is closely linked with the Irish attitude to the Convention on the Suppression of Terrorism which I understand the Prime Minister wishes to discuss.

On the Communiqué Mr King has three points.

Paragraph 7: He has questioned whether it is realistic to suppose that we can avoid publishing the fact that subsequent

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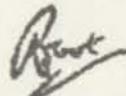
meetings of the Ministerial Committee are taking place, and perhaps holding press conferences afterwards. He fears that the alternative will be leaks and unattributable briefing on which the two sides may diverge. I think that this is something which we could usefully discuss further with the Irish.

Paragraph 7 (indents): He believes that to avoid down-grading security co-operation, which will be a major selling point from the unionist point of view, this item should be restored to at least second place on the list.

Paragraphs 8 and 9: He considers that there is an imbalance between these two paragraphs. If we are going to spell out in detail what we are doing in respect of the UDR and RUC (which is bound to be criticised as interference by Dublin with the security forces) he believes that we must say more about what the Irish are prepared to do by way of security co-operation. He regards as quite inadequate the steps which they have described in their paper on the Garda (about which I have written to you separately) and doubts whether it is sufficient to rely on putting pressure on the Irish in the Ministerial Committee after the Agreement has been signed.

I am copying this letter to David Goodall and Christopher Mallaby.

Yours ever,



R J ANDREW

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