

# NATIONAL ARCHIVES

## IRELAND



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SECRET

### The Overall Package

1. Following is a brief outline of the overall package.
2. It would comprise (a) a new Anglo-Irish Agreement; (b) a series of unilateral actions and unilateral statements as well as joint statements anticipating future actions to be taken following consideration in a new body, the Intergovernmental Conference, in relation to, on the British side, the RUC, the UDR and prisons policy and, on the Irish side, a Garda task force and the European Convention on the Suppression of Terrorism; as well as (c) the provision of international political and significant financial support by the US, to a Fund for Reconciliation and Reconstruction in Ireland. Statements of political support would be forthcoming from the Member States of the European Community as well as Australia, Canada, New Zealand and other countries. It is envisaged that the Community would later consider the possibility of financial aid.

### Irish Government Role in Northern Ireland

3. The general definition of this role is in Articles 2 and 3 of the draft Agreement. A new joint body, the Intergovernmental Conference, will be established within the existing Anglo-Irish Intergovernmental Council "to deal with" a range of matters in relation to Northern Ireland and North/South matters. The Irish Government will put forward views and proposals within this body on a defined range of issues. The key definition of the role of the Irish Government in the decision-making process is in the agreed statement: "In the interest of promoting peace and stability, determined efforts shall be made through the Commission (Committee) to resolve differences". The word "shall" in an international

agreement is mandatory. In other words the Irish Government's role within the decision-making process would not merely reside in putting forward its own views (i.e. "consultation" in its minimal sense) but, more importantly, in a continuing mandatory joint effort to "resolve differences". The importance of this joint effort is underlined by the statement that this is "in the interest of peace and stability", i.e. failure to resolve differences could have implications for peace and stability.

4. The new joint body would be Ministerial, comprising an Irish Permanent Ministerial Representative and the Secretary of State for Northern Ireland. Other Irish and British Ministers could attend. It would meet in Belfast. The body could also meet at official level in sub-committees. There would be a permanent Secretariat - the British accept that this would be established in Belfast.

#### The Range of Issues Involved

5. This would depend on whether or not devolution on a power-sharing basis could be achieved or sustained. There are thus two basic parts to this range of issues:

- those issues which would come within the remit of the body in either event: (i) questions of identity, (ii) human rights, (iii) the law, (iv) Northern Ireland security policy (principally in its human rights dimension) and (v) North-South security co-operation;
- those additional issues which would come within the body's remit in the event that it proved impossible to achieve or sustain devolution: (i) major legislative proposals and major policy issues in the social and economic area within Northern Ireland inasmuch as they bore significantly on the interests of the minority and (ii) North-South social, economic and cultural co-operation.

6. It is also accepted that if devolution is not achieved at the outset the Irish Government would thereafter be involved in relation to the modalities of establishing devolution in Northern Ireland "insofar as they relate to the interests of the minority community".

7. It is also accepted that in the event of devolution, specific "machinery" would be needed between Dublin and Belfast to facilitate North-South cooperation in the fields of social, economic and cultural issues.

#### Nominations

8. Article 6, subject to the general rubric of the nature of the role of the Irish Government (as described above), provides for an Irish role in the process of nomination and on questions arising from the roles of all public bodies hitherto nominated by the Secretary of State of which the Police Authority (which controls and finances the police and nominates its principal officers) is perhaps the most important.

#### The Law

9. It is envisaged that the criminal law North and South should be harmonised under the aegis of the new joint body. It is also envisaged that the joint body would examine the scope for a Bill of Rights for Northern Ireland.

10. The Agreement commits the two Governments to the following:

"The two Governments agree on the importance of public confidence in the administration of justice. The Conference shall seek, with the help of advice from experts as appropriate, measures which would give substantial expression to this aim, considering inter alia the possibility of mixed courts in both jurisdictions for the trial of certain offences."

The Agreement states that "The Conference shall also be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South". The British Government had sought a position whereby the Conference would be concerned with extradition as such: that is not the case. It would have been extremely difficult to secure a position whereby all matters of North-South business were to be included in the ambit of the Agreement except extradition and extra-territorial jurisdiction. On the Irish side there is some advantage in having this aspect of North-South relations within the ambit of the Agreement as it provides an authoritative framework for securing the Irish Government's policy objectives in this area which involve concern to provide protection for the citizen e.g. on the adequacy of evidence and ensuring that there is no questioning or prosecution on matters other than those formally stipulated.

#### Review

11. Article 11 provides for review of the scope and nature of the Agreement after three years or earlier at the initiative of either party.

#### Parliamentary Tier

12. The possibility of the establishment of this body is stated to be a matter for the sovereign Parliaments (Article 12). Pressure to establish a Tier has been developing among a group of Tory Lords and M.P.s at Westminster who have been taking a positive interest in an Anglo-Irish initiative. It is unlikely that the British would in the first instance be prepared to envisage the involvement of members of the Northern Ireland Assembly in a Tier, although an intention to include them at a second stage could realistically be aimed at. The Agreement states that the two Governments would support the Parliamentary Tier - this is an advance on Mrs. Thatcher's earlier position.

Associated Measures

13. The Irish side have pressed strongly that it is essential from the point of view of nationalist, and particularly Northern nationalist opinion, that certain urgent and "visible" measures be taken in relation to the RUC, the UDR and the prisons to accompany the signature of an Agreement. The British for their part have urged the necessity, from the point of view of Unionist reassurance, that the Garda Task Force be re-established in the border area and also that Ireland accede to the Convention on the Suppression of Terrorism. At an earlier point it had appeared that the British were unlikely to accede to Irish requirements in this crucial area but, following the Taoiseach's meeting with Mrs. Thatcher in Milan (at which this whole problem was presented by the Taoiseach as critical to the position of his Government), a good deal of progress has been made.

14. In effect, rather than two sets of unilateral announcements, the Governments are now proceeding on a more elaborate basis: first, the two Heads of Government would, in the event of an Anglo-Irish Summit, "anticipate" in the text of their Communique both the agenda and the outcome of the first meeting of the Intergovernmental Conference which would take place about a week after such a Summit. Aspects of all of the issues concerned, except prisons policy, would be dealt within this Communique. Second, a number of important reforms would be set in train by the time of an Anglo-Irish Summit, notably in the case of the UDR. Third, the British would on their side complete this part of their commitment by a statement in the House of Commons by King in the course of the debate on the Anglo-Irish Agreement in which he would deal with other aspects of the UDR and the question of prisons policy. Copy of a British draft of a statement on prisons policy is available.

RUC : Code of Conduct on the Two Identities.

15. A Code of Conduct is being drafted on the British side which directly and personally commits each member of the Force, under penalty of discipline, to observe and respect equally and specifically the nationalist and unionist identities. The Code will contain other specifications as to conduct of a normal police nature. It will be possible for the first meeting of the Conference to announce either that such a Code of Conduct is in preparation or that it has been completed. It is intended to extend the Code in an appropriate way to the military including the UDR (see paragraph 9 of the draft Joint Communique).

UDR

16. The British have "unilaterally" (although in reality under the pressure of these negotiations) decided to implement on a large scale with a view to universal implementation, save in the most exceptional circumstances, a policy of ensuring that military patrols and checkpoints are accompanied by a member/members of the police who would thus be the point of contact with the public. This is crucial in the case of the UDR whose relations with members of the minority in many areas has involved systematic harassment and in many cases criminal brutality. The implementation of this policy will be applied as rapidly as possible in all operations. The British will in the House of Commons debate unilaterally announce a range of improvements in the levels of training particularly for part-time members as well as an increase in the number of regular British Army personnel in the force. The Code of Conduct will be extended to the UDR. King undertook to the Minister for Foreign Affairs to review the possibility of acting to deal with the specific problems caused by part-timers and in particular the question of their being gradually phased out. The Conference will deal with all questions involving the UDR - deployment, training, phasing-out etc.

### Prisons Policy

17. A British draft statement to be used in the House of Commons by King is attached.

### Garda Task Force

18. The Minister for Justice is taking the appropriate action.

### Convention on the Suppression of Terrorism

19. The Attorney-General has advised that this Convention is not ultra vires of the Constitution. In the Communique the Taoiseach has linked progress by the Irish Government in accession (likely to take two years) to progress on the relations between the security forces and the minority and on improvements in the judiciary.

### International Support

20. Negotiations have taken place on guidelines for a Fund for Reconciliation and Reconstruction in Ireland. Copy is attached.

21. The Minister for Foreign Affairs and Howe met the Northern Ireland Secretary of State in Helsinki on 30 July. The US will, in the event of an agreement, announce an intention to contribute a considerable sum towards such a Fund (the existence of which is anticipated in Article 10 of the draft Agreement). The Administration in Washington seems to be contemplating a minimum of \$250 million. The Speaker of the House is likely to propose a larger sum. Joint contact has taken place with the Administration in Washington by emissaries of the two Heads of Government in recent days which has been judged to be satisfactory both by London and by Dublin.

22. The Taoiseach has spoken to the leaders of several third countries viz. the Heads of Government of all the Member States of the European Community except Denmark, the Prime Minister of

Canada and the Deputy Prime Minister of Australia. In all cases he has encountered a positive reaction in principle to the concept of supporting an Anglo-Irish initiative, should it take place, both politically and financially. The Minister for Foreign Affairs and Howe have spoken to their colleagues in the Community; the Irish and British Political Directors have briefed the Political Directors of the Community; arrangements have been made for joint approaches in capitals by Ambassadors later this week.

### Presentation

23. Discussions have taken place on problems in this area, in the event of an Anglo-Irish Summit. A draft Joint Press Release which describes the Agreement has been prepared with a view to ensuring that both Governments would have common language with which to describe the new arrangement. In general, the approach of the two Governments would be to present the "package" as "important progress towards peace and stability" rather than "a final settlement".

11 November 1985