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ROINN AN TAOISIGH

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SECRET & PERSONAL

Northern Ireland

Taoiseach

The latest meeting of the negotiating group took place in Iveagh House from approximately 8.30 to 11.45 on Sunday night and, on Monday, from about 10.15 a.m. to 3.30 p.m. The subjects discussed were -

- (1) the Fund;
- (2) the Secretariat;
- (3) presentation;
- (4) the courts;
- (5) the UDR;
- (6) texts; and
- (7) the agenda for the next meeting.

Fund

Sean Donlon is now in the States with a view to approaching Speaker O'Neill and, possibly, White House representatives, to firm up on the possibility of a statement of support immediately an Agreement is signed, with an indication of the possibility of a substantial contribution (\$250 million to \$1 billion) to a Fund to be run by trustees appointed by the two Governments.

On the question of a similar approach to the EEC, it was agreed that, if the opportunity arose and the Minister thought it well to do so, mention might be made at the current meeting of Ministers of the Community in New York. A more detailed approach would be made at a Political Co-operation meeting to be held around 20/21 October, with a request that the Governments in each of the 10 (or 12) capitals should indicate support for an Agreement, again with the possibility of financial aid from the Community, coming later.

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Minister Barry is to have an hour's discussion, largely on the Agreement in New York tomorrow, with the Foreign Secretary who is, according to his officials, totally and enthusiastically committed to the idea of an Agreement. The subjects of the discussion are most likely to be -

- (1) the courts;
- (2) the Secretariat; and
- (3) the UDR.

Mr Howe will not be at the Political Co-operation meeting in October - since he must attend the Commonwealth Conference in Nassau. His place will be taken by Mr Rifkind who, according to the British officials, will be briefed sufficiently to deal with the subject at the meeting, should that course be decided on.

The British are slightly hesitant on the subject of "additionality" insofar as Fund monies are concerned. They seem to fear that the Treasury may try to ensure matching reductions in Exchequer expenditure. However, they seem reasonably confident that this difficulty can be overcome.

Secretariat

The British see the Secretariat as an continuing channel of communication but without formal responsibility for taking decisions. which would be, in the normal way, a matter for Ministers. They see it as requiring "teeth". It would not simply prepare agendas and convey decisions but would be part of the decision-making process in each Government, requiring officials of considerable stature and rank. Armstrong agrees that whoever heads the Secretariat on our side should have immediate access to people like Bloomfield, Quigley, etc. in the Northern Ireland civil service. The British emphasise the difference in approach as between North and South in that they have a considerable administrative apparatus already in existence which we do not possess.

I mentioned to Armstrong the rank we had in mind for the person appointed to be Head of the Secretariat. He did not see any necessary conflict with their proposals which, at present, involve the appointment of a person of Counsellor rank from the Foreign Office.

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The British suggested that the first meeting of the Secretariat might be in London, largely for security reasons. We argued strongly against this, saying that location in London would be totally unacceptable. The British proposal was put by Tony Stephens who said that he had been instructed to produce it, by his Secretary of State. I do not think that the British officials really believe that anywhere other than Belfast would meet the need.

There is complete acceptance of the idea that if the Agreement goes ahead, something like the present group should remain in existence for a time, to monitor progress and facilitate communication.

Presentation

A suggestion that a copy of the major texts i.e. the communique, press release, and, perhaps, the Agreement, would be circulated to each household in the country immediately on signing, so as to ensure that "the Agreement is not masked" was considered. Some of the British side had doubts: others accepted the idea which is not, of course, a firm proposal here yet.

Courts

We argued that the statement by the Secretary of State that mixed or joint courts were not on, made it impossible for you to sign an Agreement which proposed that the Commission should look at the "possibility" of such courts. This, in turn, created extraordinary difficulties insofar as the references to the Convention on the Suppression of Terrorism were concerned. We had been arguing the necessity to increase the confidence of the minority in the Northern court system: this argument had been accepted, as the text of the Agreement clearly indicated: now since we had been assured, quite firmly, that one of the major proposals for achieving this objective i.e. the mixed courts, simply was not on, we could not be totally sure of what the attitude of the Dail would be to proposals for legislation to ratify the Convention. The whole thing was illogical: we were arguing that the Northern court system was flawed and, at the same time, would, theoretically anyway, be proposing measures to facilitate extradition to those same courts.

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After some discussion, the British accepted that references to the Convention, in the same text as references to the courts, would not be a good idea. Such references would put both Governments under continuing pressure, both in relation to mixed courts and to extradition. The present situation is that the text of Article 8 of the Agreement would remain i.e.:-

"The two Governments agree on the desirability of ensuring that there is public confidence in the administration of justice. /The Committee 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.7 The Committee shall also be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South."

The reference in the draft passage for a communique to the European Convention of the Suppression of Terrorism will come out of the document and instead a more general reference to combatting terrorism or to the problem of fugitive offenders will go in. We said that law on extradition was being made quite satisfactorily anyway by the courts. On the general question of the Secretary of State's comment on joint courts, Armstrong said that the Secretary of State had been fearful that these courts could be regarded as a breach of sovereignty and that the fact that there would always be a majority of two could lead to practical difficulties in Northern Ireland. It just was not possible at present for the British to enter a commitment now that such courts would come into existence but they were perfectly willing to see the Commission consider the difficulties. These difficulties remain but could change if the result of the Agreement would be to create a better climate. He said categorically that it was not right to say that the British Government had taken the view in principle that there could not be mixed courts. He was not saying that there could be mixed courts: neither was he saying that there could not be mixed courts. That was the position. There were, of course, other ways of creating confidence in the judiciary such as, for example, the appointment of more Catholic judges. We said that this just would not be sufficient.

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UDR

We asked about progress on the five priority areas for change, which had been given to the British. Armstrong said that the scope for movement was very limited. Reading from a brief he dealt with specifically with changes at Kesh, Armagh where, in the Republican estates, the RUC already accompanies the UDR - we argued strongly for change in the rural areas; and Belfast. Stephens said that this coincided with the priority list which the British are looking at already. There was some detailed discussion about changes at the Castle Street entrance to Victoria Avenue in Belfast. The British are going ahead with their plans to have the RUC accompany all UDR patrols, in time. They are also looking at the question of training and of part-timers.

Texts

The British accept "the promotion of" cross-Border co-operation - an answer to the point made by Mallon seeking a reference to cross-border development. The reference to the UDR in the draft passage for a communique will now read to the effect that the first meeting of the Commission will consider "the application of the principle that the Armed Forces (which include the UDR) operate only in support of the civil power, with the particular objective of ensuring as rapidly as possible that there is, save in the most exceptional circumstances, a police presence in all operations which involve direct contact with the community".

The passage on the RUC will now read: "Ways of underlining the declared (instead of "established" to which Mallon objected) policy of the Royal Ulster Constabulary and of the armed forces in Northern Ireland that they discharge their duties evenhandedly and with equal respect for the Unionist and Nationalist identities and traditions".

Article 1(c) of the Agreement has been changed to read that the two Government "will introduce and support legislation".

Article 4 has been changed, as you wished, to omit the word "the" before the word "constitutional", again, in response to Mallon reservations. There is a further minor change in the first sentence of Article 9(a).

The British have taken away the idea that the body might be called a "Standing Inter-Governmental Conference" for further consideration.

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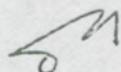
Next Meeting

The subjects for special attention at the next meeting, which is due to be held in London on Monday, 30 September, are -

- (1) the texts of a complete communique, press release and Agreement;
- (2) possible questions and answers which might be addressed by the media to you and the Prime Minister at a press conference, with suggestions for possible answers;
- (3) a detailed timetable for signature, press conference, parliamentary debate, ratification, and Commission meeting; and
- (4) the agenda for that first meeting.

The British are working towards final consideration of the whole issue at Cabinet at the meeting to be held on 3rd October.

I should like to talk to you in more detail about the timing and venue which I mentioned briefly to you yesterday.



24 September 1985

Copy to:

Tanaiste,
Minister for Foreign Affairs,
Minister for Justice,
Attorney General,

Ambassador Dorr, Messrs Ward,
Donlon, Lillis and Quigley.