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SECRET

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Oifig an Taoisigh 12 Feabhra 1985

Memorandum for the Government

Anglo-Irish Exchanges

1. The Taoiseach wishes to inform the Government of the outcome of recent exchanges at official level in relation to the British Proposal and to seek the approval of the Government for the transmission to the British Government of a revised version of the "Response to British Proposal".

2. The Government at its meeting of 6 February 1985 approved a document "Response to British Proposal" to be transmitted by officials to the British side. Irish officials discussed this document with their British opposite numbers on 8 February and again on 11 February. The British officials involved were the Secretary of the Cabinet, the Permanent Secretary and Deputy Permanent Secretary of the Northern Ireland Office and the Deputy Permanent Secretary of the Foreign and Commonwealth Office. The objects of the discussions were (i) to identify elements in the Irish text which could cause serious problems for British Ministers and the Prime Minister in particular and (ii), if possible, to find language which could resolve difficulties while meeting the Irish Government's concerns. The attached working paper, a revised version of the document "Response to British Proposal", represents the outcome of this joint effort. The British officials concerned have undertaken to recommend acceptance of this version, with the exception of of the three instances where alternative wordings remain and where they would not be able to recommend the Irish wording - see paras 13, 21 and 25.

3. In the discussions, it was felt that a number of unilateral actions to be taken variously by the two Governments at the

time an initiative would be launched, and intended to encourage both nationalist and unionist support for the initiative, should remain outside the scope of the agreed document but would be subject to a separate system of co-ordination. These actions in the area of immediate "visible change" would involve: on the British side: action on the UDR and the RUC, a commitment to review prison sentences subject to certain considerations and the establishment with the Irish Government of a fund to aid in the reconstruction of areas in both parts of Ireland badly affected by the consequences of instability; and on the Irish side: a similar commitment on prison sentences, possibly some presentational actions in relation to security co-operation, similar action on the Fund and action (not involving constitutional change) to acknowledge the status of Northern Ireland. The term "Confidence Building Measures" (CBMs) used in East-West arms negotiations and in the CSCE context is used by the British side to describe these measures.

4. The British officials involved have not yet shown the Irish document "Response to British Proposal" to their Ministers. They have indicated that they would wish to do so tomorrow at the latest so as to give their Ministers time to consider the paper before Thursday which will be the last opportunity to discuss the matter before the Prime Minister leaves on an international visit. Another round of official level talks will take place in Ireland next Tuesday which should provide the opportunity for British officials to give their Ministers' formal response to the Irish document.

5. The Taoiseach is satisfied that all the essential desiderata contained in the paper approved by Government on 6 February are met in the reworked version of the paper as attached, excepting the three instances where wording was not agreed.

6. The Taoiseach would wish to draw attention to the omission in this version of an explicit reference to the role of the

Irish Government in relation to the appointment of senior officers of the police and prison services in Northern Ireland which had been in the earlier document. This explicit reference is not necessary (i) because appointments of Chief Constable, Deputy Chief Constable and Assistant Chief Constable are made by the Secretary of State for Northern Ireland on the recommendation of the Police Authority which has itself already been dealt with (paragraph 13) and (ii) because the question of appointments of senior officials in the prison service is covered by implication in paragraph 19. It should be added that an explicit reference of the kind contained in the earlier draft would not, in the opinion of British officials, be accepted by British Ministers.

Decision Sought

7. The Taoiseach seeks the approval of the Government for the transmission to the British of the attached revised document "Response to British Proposal".

Secret and Personal

Response to British Proposal

Introductory

Rather than take a new approach, it has been decided to attempt to outline Irish ideas through a redrafting of the British proposal to take account of concerns both of substance and of presentation.

TEXT

1. There would be established within the framework of the Anglo-Irish Intergovernmental Council a Co-ordinating Committee to deal on a regular basis and in relation to Northern Ireland with:

a. political matters and human rights questions;

b. economic and social matters;

c. issues arising from the interaction of the community and the security system;

d. The Courts and certain legal matters;

e. security co-operation.

Other topics might be added by agreement.

2. 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 an 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. Both Governments would accept that, in the interest of promoting peace and stability, every effort would be made through the Co-ordinating Committee to resolve any differences rather than simply reporting them to the two Governments. Attention at the highest level would thus be given to the matters in question but there would be no derogation of sovereignty on the part of either the United Kingdom or the Republic. 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 an application by the Irish authorities in the Republic.

3. The Coordinating 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. There would be a small joint secretariat. The Irish Government would maintain an office in Belfast for the purpose of these arrangements. When the Co-ordinating 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 Irish and British Ministers could attend meetings as appropriate. 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 as appropriate.

4. The Co-ordinating Committee (and its Sub-Committees of officials) could meet in separate modes for each of its main areas of interest, and additional members, appropriate to the subject matter, would also attend; thus when it met in its legal mode the Attorneys General might attend.

5. The stated objectives of the Co-ordinating Committee, in relation to matters coming within its remit, would be (i) to

constitute a framework for the accommodation of the rights and identities of the two traditions which exist in Northern Ireland; and (ii) to work for peace, stability and prosperity throughout Ireland by promoting through this framework reconciliation, respect for human rights and the development of economic, social and cultural cooperation .

6. The Co-ordinating Committee would examine the scope for joint action to promote the social and economic reconstruction and improvement of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years, including the possibility of securing wider international support to that end.

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. If full devolution had not taken place, the Co-ordinating Committee would constititute a framework within which the Irish Government could put forward views and proposals affecting the interest of the minority community on the modalities of devolving power in Northern Ireland on a basis which would secure widespread acceptance throughout the community.

Political Matters and Human Rights issues

9. The Co-ordinating Committee would concern itself with measures to recognise and accommodate national identity, to protect human rights and to prevent discrimination. It would be accepted that the focus would be on Northern Ireland, but the possible application of any such measures by the Irish Authorities in the South would not be excluded.

10. Measures to be considered in this area in respect of Northern Ireland include the use of the Irish language and changes in electoral arrangements.

11. The Co-ordinating Committee would consider measures to develop the cultural heritage of both traditions throughout Ireland.

12. The Co-ordinating Committee will consider the benefits which might be expected from some form of Bill of Rights for Northern Ireland as well as any difficulties which this might present. If a Bill of Rights were judged to be desirable in Northern Ireland, the Body might also consider whether similar action should be taken in the Republic.

13. The Co-ordinating Committee would

[deal with]

[constitute a framework within which the Irish Government could put forward views and proposals on]

[provide opportunities for the expression of Irish Government proposals and views on]

appointments by the Secretary of State for Northern Ireland to the:

Police Authority for Northern Ireland
Police Complaints Board
Fair Employment Agency
Equal Opportunities Commission
Standing Advisory Commission on Human Rights

Economic and Social Matters

14. Should it prove impossible to achieve or sustain devolution on a basis which would secure widespread acceptance throughout the community, the Co-ordinating Committee would for the time being constitute (1) a framework within which the Irish

Government could put forward proposals and views on policy aspects of matters under this heading affecting the interests of the minority community which were susceptible of devolution and in relation to which the Secretary of State continued to exercise responsibility, and (2) a framework for the promotion of co-operation between North and South in Ireland in relation to cross-border aspects of those matters.

15. It is recognised that, if resposibility 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 cooperation between the responsible authorities North and South in respect of cross-border aspects of those issues.

Issues Arising from the Interaction of the Community and the Security System

16. In this mode, the Body would consider:

- -(a) security policy;
- -(b) relations between the security forces and the community;
- -(c) prisons policy.

(a) Security Policy

17. The Body would address at its regular meetings the security situation. This would provide an opportunity to address policy issues, serious incidents and forthcoming events (e.g. parades and processions).

(b) Relations between the Security Forces and the Community

18. The Co-ordinating 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 might be put in hand which would include:

i. the establishment of local consultative machinery;

ii. training in community relations;

iii. crime prevention schemes involving the community;

iv. improvements in arrangements for handling complaints;

v. action to increase the proportion of Catholics joining the RUC

It would be accepted by both sides that these measures would be directed primarily towards Northern Ireland, with the object of making the security forces more readily accepted by the nationalist community there, but that some of them might be developed by the Irish authorities in ways which might also have an application in the South.

(c) Prisons Policy

19. The Co-ordinating Committee would also 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.

The Courts and Certain Legal Matters

20. In this mode, the Co-ordinating Committee would deal with issues of concern to both countries relating to the enforcement of the criminal law.

21. The Co-ordinating Committee

[would consider and as appropriate make proposals for the establishment of]

[would devise the necessary steps to establish]

a joint court comprising three judges for each case for the trial either in the North or in the South of persons accused of terrorist crimes. These judges would be drawn from a panel of judges half of whom would be drawn from each jurisdiction. When sitting in Northern Ireland, one of the three judges would be from the Republic and the Court would exercise its jurisdiction under the law of the United Kingdom. When sitting in the Republic, one of the three judges would be from Northern Ireland and the Court would exercise its jurisdiction under the law of the Republic. The Co-ordinating Committee could also have the competence to examine the desirability and possibility of devising additional island-wide judicial and legal institutions which would help to promote peace and stability.

22. The Co-ordinating Committee would examine whether there are areas of the criminal law applying in the North and in the South respectively which might be harmonised with advantage to both. The Co-ordinating Committee would also be concerned with the oversight and review of arrangements between North and South for extradition and extra-territorial jurisdiction.

Security Co-operation

23. The Co-ordinating 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 of Justice.

24. With a view to enhancing cooperation between the security forces of the two Governments in the common fight against terrorism, the Co-ordinating Committee would set in hand a programme of work to be undertaken by the Commissioner and the Chief Constable and groups of officials in such areas as:

i. the exchange of intelligence and the preparation of agreed threat assessments;

ii. the establishment of effective liaison structures between the security forces of the two countries;

iii. technical co-operation, eg in communications, forensic matters and control of explosives;

iv. training and the exchange of personnel;

v. cross-border co-operation and co-ordination of operational resources.

Inter-Parliamentary Body

25. Subject to the agreement of the Houses of the Oireachtas in Dublin and the Houses of Parliament at Westminster, an Anglo-Irish Parliamentary Body of the kind adumbrated in the Anglo-Irish Studies Report of November 1981

[would]

[could]

be established.