



An Chartlann Náisiúnta National Archives

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ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE

13th SEPTEMBER, 1988

O V E R V I E W

Possible Objectives

1. (a) The Communique should signal that the security forces in Northern Ireland are required at all times to act within the law (i. e., the Tánaiste to be in a position to say after the Conference that he had been given firm assurances that the security forces were not operating under a new directive and that there was no shoot-to-kill policy).
- (b) The Communique should underline the urgent need for an early political dialogue and, in pursuit of this, should encourage cross-party discussion in the North and between the Northern parties and the two Governments.

Dialogue with Unionists/Devolution

2. At present, the Government and the British interpret political progress differently. We see it as involving a wider dialogue on the island whereas the British see it immediately in terms of cross-party discussions in the North, leading to devolution as envisaged in Article 4 of the Agreement.
3. It should be possible, however, to advance matters by proposing a dialogue which will exclude neither interpretation. Indeed, as the Taoiseach has consistently

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argued, there should be no pre-conditions to any dialogue.

4. In discussions at the Conference, we might make the point forcefully that a purely internal Northern Ireland devolved arrangement will not work. The SDLP would absolutely reject it as they are convinced that no arrangement within Northern Ireland will stick until the Unionists first work out their relationship with the rest of the island. The whole history of devolved administrations in the North, and the various attempts at achieving devolution there, prove this beyond any doubt.
5. Secondly, our information from all sides in the North is that no group (with the possible exception of Alliance and some marginal Unionists) are in favour of devolved Government or see power-sharing as being in the realm of practical politics for the foreseeable future.
6. At the same time, we urgently need to put political progress back at the top of the agenda. The first step in this process should be to encourage dialogue without pre-conditions between all sides - i.e. on a cross-party basis in the North and between the Northern parties and the two Governments. In the light of these meetings, the two Governments could in due course jointly assess the situation and, hopefully, agree on future strategy.
7. The approach outlined above is something of a "fudge" between the British line and our own but at least it would reactivate the political process and it would also have the effect of isolating the Unionists and putting them under pressure to respond positively, while avoiding a (public) disagreement with the British over devolution and Article 4 of the Agreement.

Review

8. We might say that we have at this stage an open mind on the scope of the Review. We feel that to some degree it offers an opportunity to bring Unionists in from the political cold, an opportunity which it might be unwise to let slip. However, how to do this successfully without undermining the Agreement in the process would be a delicate operation.
9. We also have an open mind at present on the timing of the Review. Depending on the political needs of the situation, Article 11 can be read in a number of ways: i.e., "at the end of three years from signature" could be interpreted to mean that the review process need not begin until the 15th November.
10. Perhaps we might best leave the matter over to the October Conference when we could consider all aspects of the Review on the basis of an agreed paper from officials. We should signal that this Conference will be largely devoted to the Review.

Other Conference issues

11. (a) Extradition: The British will again press us to agree to a meeting of the Working Group (the Secretary of State wrote to the Tánaiste about this in early August). If we agree to a meeting of the Working Group, we could put the Criminal Law Jurisdiction Act on the Agenda and let the British have an up-dated paper on the most effective use of this.
- (b) New Security package: The British should be asked for details on this. The completely counterproductive result of any decision to introduce an oath against

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violence should be strongly conveyed to them, e.g. Sinn Féin would probably decide to force a series of bye-elections in areas where they could not lose and on an agenda which would give them maximum publicity; in addition, their strategy would make the British seem politically naive and inevitably weaken the SDLP both in the areas in question and indeed throughout the North.

- (c) Three person Courts: With Lord Chief Justice Lowry now gone to the Lords, it may just be possible to make some headway on this issue. It would certainly be helpful presentationally on extradition if we could do so. Now might be the time, therefore, to pursue the issue actively, along with the other administration of justice/confidence issues under consideration at present (e.g., harassment). We should envisage, and signal, that an early Conference (November) would be largely devoted to these issues.
- (d) Fair Employment, West Belfast, etc.: Other issues can be used to "balance" the Communique.

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Steering Note on Security issues

- Action to stop flow of finance to terrorists

We have had some success on this side of the border with "operation scorpion" which has been aimed at stopping IRA smuggling rackets. We would welcome in principle action by the British side to stop the flow of funds to the paramilitaries from smuggling, extortion, racketeering or other illegal means. The British have been considering legislation entitling them to confiscate monies. They have been very interested in our Offences Against the State Amendment Act 1985 which allowed the State to intervene in the Clancy case to stop monies reaching the IRA.

- Increased role for the SAS in Northern Ireland

We would obviously be concerned by further resort to SAS ambush tactics in the North. There are differences between the Gibraltar SAS operation and the recent one at Drumnakilly, near Carrickmore in Co. Tyrone. The Gibraltar three turned out to be unarmed. That was not so of the Drumnakilly (and Loughgall) incident. The Tanaiste might ask for a briefing on the Drumnakilly shooting on which we have received limited information in the Secretariat.

- SAS ambushes endanger civilian lives (as at Loughgall) and rely heavily on intelligence which may be faulty (as in Gibraltar in relation to arms and the car bomb). These incidents give the impression of a war in Northern Ireland, they increase support for the IRA, especially in the US, and allow the IRA to foster a view of themselves internationally as a legitimate army. We would be very worried by any tendency to increased use of these tactics.

- Right to Silence

The British seem to be thinking of limiting the right to silence in order to get over the ability of the IRA to remain silent for the full seven days of a detention period. The purpose of limiting the right of silence would be to

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prevent the prosecution being "ambushed" in court proceedings, i. e., where a suspect remained silent during the police investigation but then gave explanations without warning in the court proceedings. We have a restriction on the right of silence in our own Criminal Justice Act 1984 but it is restricted to specific points, such as maintaining silence about a spot of blood on clothing.

- Oath Against Violence

We have already told the British that we are opposed to the introduction of an Oath Against Violence for local election candidates. It will only play into the hands of Sinn Fein. They will take the Oath and, when they are subsequently thrown off Councils for violating it, will make it the main issue in subsequent by-elections to the detriment of the SDLP.

- Increasing detention periods to 30 days

The European Court is already considering whether the 7-day detention period should not be limited to 5 days which would be in keeping with the European norm. Increasing the detention period to 30 days could be seen as a step towards internment.

- Overflights

Mr. King may raise the question of IED overflights which were recently renewed from 5 September. The British asked for 2 changes, (1) that the Islander fixed wing aircraft should be included in the procedure, and (2) that the depth of penetration into our jurisdiction should be extended to 500 metres. We were able to agree to the first, but not the second. We will consider it again when the procedure falls due for renewal in six months time. The Tánaiste might wish to note, if he comes under pressure on this, that there was speculation in the summer partly initiated by a British Army pilot about overflights along the border which caused problems for us and did not make the time propitious for further development of IED overflights.

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- The British have also requested ordnance survey overflights of the border area, which would be important to both civil and security authorities in the North and indeed in the South. That matter is being considered by the Taoiseach.

- There was a considerable rise in the number of air incursions during the summer period which received media attention in early August. We expressed our concern in the Secretariat at the increase and asked that the necessary measures be taken to avoid further recurrence. The overall rate of incursions this year is 31 as of 9 September.

- Extradition
The British will raise the use of Carrickarnon as the hand-over point. This will come up shortly in the case of James Pius Clarke. They would prefer departure by air (from Baldonnell) which is the point requested by the State in the Kane case (the court refused after hearing that Kane had medical problems with flying). The military authorities have security objections to Baldonnell. It would be desirable to resolve this matter prior to the Conference.

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