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Secretary of State

cc Mr Bloomfield O/R
 Mr Brennan O/R
 Mr A Stephens
 Mr Chesterton
 Mr Bell

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ANGLO-IRISH AGREEMENTIntroduction

You will by now have studied the latest draft of the proposed Agreement. This minute - which represents my personal views - attempts to summarise the history of the negotiations, to describe the objectives of the various parties, to comment on some of the main issues and to indicate the current state of play. It is intended to serve as a basis for discussion with Mr Stephens, Mr Chesterton and myself next Wednesday and as preparation for your meetings with the Foreign Secretary and the Prime Minister on Thursday. The discussion on Wednesday will enable you to express views before the next round of official talks with the Irish which is scheduled for the end of next week.

History

2. Some two years ago the Prime Minister and the then Secretary of State for Northern Ireland (Mr Prior) concluded that the present state of affairs in Northern Ireland, with continuing terrorist attacks and a deteriorating economic situation which required heavy subsidies from Great Britain, could not be allowed to continue and that a major effort should be made to resolve the problem. The Irish Government under Dr FitzGerald were worried about the alienation of the minority in the North and the rise of Sinn Fein and were ready to co-operate in seeking solutions. It was agreed at the Summit meeting in November 1983 to explore the possibility of some form of Anglo-Irish settlement. Secret talks were begun by a small team of officials headed on our side by Sir Robert Armstrong and on the Irish by Mr Nally, their Cabinet Secretary. The initial basis of discussion was that the Irish might abandon Articles 2 and 3

of the Constitution, which lay claim to the territory of the North, in return for being given some say in the control of the security forces in the North; but the Irish made it clear at an early stage that they would want any agreement to go wider than the security problem, and that unless they were given a substantial role in the North there could be no question of amending their constitution, which would require a referendum which the government might not win.

3. Positions firmed up after the publication in May 1984 of the report of the New Ireland Forum (produced by the nationalist parties of the North and South) and HMG's rejection of its three models of a unitary state, a federal/confederal solution or joint authority. The Irish continued to press for some form of joint authority, which they argued was not incompatible with British sovereignty; but we maintained that any Irish role in the North could be no more than consultative. A major hiccup occurred in November 1984 when, after a Summit meeting which produced a carefully worded communiqué about recognition of separate identities and the need for consent to constitutional change, the Prime Minister upset the Irish by denouncing the three Forum models at her press conference ('Out, out, out'). The Secretary of State (Mr Hurd) also incurred Irish wrath by stating explicitly that there could be no executive role for Dublin in the North. Relations were restored after a good deal of diplomatic activity; the negotiations resumed and the present draft agreement gradually emerged.

4. The original negotiations were handled in great secrecy by the Prime Minister, the Foreign Secretary and the Secretary of State for Northern Ireland with a small group of officials. More recently an Irish sub-committee of the Overseas and Defence Committee (OD(I)) has been established which also included Lord Whitelaw, Mr Heseltine, Mr Tebbit, Mr Biffen, Lord Gowrie and Sir Michael Havers. Within the Northern Ireland Office the officials concerned (apart from ^{myself} / have been Mr Brennan and Mr Stephens (who have taken part in the talks), Mr Bloomfield and Mr Chesterton. Mr Gilliland has recently been brought into the picture and the draft Agreement has been shown on a personal basis to the Permanent Secretaries of the Northern Ireland Departments. Junior Ministers have been kept informed in

general terms by the Secretary of State, but have not seen the text of the Agreement and I suggest should not do so at this stage, though it may be necessary for them to become more involved later when we have to sell the deal to Government supporters in Parliament. Confidentiality is still very important. The Irish are extremely sensitive about a number of leaks which have occurred in the newspapers, most of which they have blamed on us.

Objectives and Attitudes

5. The Prime Minister is attracted by the idea of going down in history as the person who solved both the Rhodesian and the Irish problems (an idea suggested to her by Mr Haughey); but she does not want to be accused by the Unionists (with whom her sympathies instinctively lie) of a sell-out to Dublin. The FCO want an Agreement for its own sake as a means of improving Anglo-Irish relations and because failure to reach agreement would cause serious problems in our relations with the USA and lead to increased support for NORAID. The NIO want an Agreement if it seems likely to lead to reconciliation and greater political stability in Northern Ireland and thus to provide the hope of an eventual reduction in terrorism. We are very conscious that we shall have to implement whatever Agreement is signed and to deal with the reaction it provokes in Northern Ireland. This gives us a rather different perspective from that of the Cabinet Office and FCO and has led to some differences about how far we should go in making concessions to the Irish. The Cabinet Office and FCO tend to be more sympathetic than we are to the Irish point of view; the Prime Minister tends to side with the NIO.

6. From the NIO point of view an Agreement must, I think, fulfil three conditions if our objective is to be achieved:

- a. it must have a sufficiently favourable impact on the minority community to end (or at least reduce) their "alienation" from the apparatus of the state: specifically, it should induce the SDLP to be more forthcoming about participating in a system of devolved government and to support the security forces - eg by taking up places on the Police Authority and encouraging Catholics to join the RUC;

SECRET PERSONAL

b. it must not provoke such a strong reaction from the Unionists that the Province becomes unmanageable: we shall not create political stability by substituting the alienation of the majority for that of the minority;

c. it must be workable: ie it must not involve such a degree of Irish interference in the affairs of the North that the machinery of government becomes unworkable (the Irish are notorious for exaggerating minor incidents into major issues).

7. On the Irish side I think that FitzGerald has a genuine desire to make an historic contribution to resolving the Irish problem. He also fears that unless something is done about the IRA and Sinn Fein in the North their activities will lead to destabilisation in the South. (The IRA's objective is not only to get the British out of the North but to overthrow the Dublin Government and set up a unified marxist state). Other nationalists, including some of FitzGerald's own Fine Gael party, are only interested in a United Ireland and will support an Agreement with Britain only if they think it will lead to that end. In the long term even a consultative Agreement could well develop into a deeper Irish involvement in the North and I suspect this is the way in which it will have to be justified in the South, otherwise the Fianna Fail Opposition Leader Mr Haughey will denounce it as an abandonment of the nationalist aspiration. The Irish Government's difficulty on this point is illustrated by their reluctance to admit publicly that their role in the North will be only consultative: they would still like to achieve some form of joint authority and there have recently been indications that they might try to achieve this through the establishment of a strong joint secretariat in Belfast, which they would like to see having some decision-making powers. Dublin has recently reacted strongly to Mr Scott's use of the word "consultative" in some remarks to Reuters.

8. The Irish have repeatedly said that they will only sign an Agreement if they are assured that it will have the whole-hearted support of the SDLP, which they see as a necessary defence against attacks by Mr Haughey. There are indications that Mr Hume, the SDLP

SECRET⁴⁻¹⁰ **PERSONAL**

leader who has been kept informed by Dublin, will go along with a limited Agreement of the sort currently envisaged. It is less clear that he can carry the whole of his party (including his deputy Mr Mallon) with him. Lack of SDLP support would not only embarrass Dr FitzGerald but would also call in question the value of any Agreement from our point of view. It is therefore desirable that we should obtain an advance assurance that the SDLP will express their support in some concrete form - eg by undertaking to participate in the Assembly after the next elections. You have a remit from the Prime Minister to speak to Mr Hume about this.

Present state of play

9. The current draft Agreement contains four main sections:

- a. Preamble; a series of rather platitudinous statements of principle drawn from Summit communiqués. These are unobjectionable, but it is significant that the two governments cannot even agree on what to call each other - the Irish want to call themselves the Government of Ireland (ie including Northern Ireland) and do not want us to include Northern Ireland in our title! It may be necessary to have two texts, which gives some idea of the fragility of the whole deal (although of course this problem arises frequently in Anglo-Irish relations).
- b. Declaration of Status; both governments recognise that there can be no change in the status of Northern Ireland except by consent. This is all that is left of the original idea of abandoning Articles 2 and 3 of the Irish Constitution. I fear it will not cut much ice with the Unionists.
- c. Intergovernmental Committee: this is the main part of the Agreement and visualises the setting up of what is essentially a consultative committee (although the Irish refuse to use that word) at Ministerial level, in which the Irish will be able to put forward views on a variety of matters in the political, security and legal fields and in which cross-border co-operation in security and other matters could be discussed. Both governments are pledged to support devolution: if it is not achieved the Irish have the right to put forward views on a wider range of policy issues. This is meant to put pressure on the Unionists to agree to devolution, but I doubt

whether they will see it that way. There is to be a permanent joint secretariat in Belfast.

d. Parliamentary Tier: there is no great enthusiasm for this on either side and it is left for the two Parliaments to consider.

10. The text of the draft Agreement is now virtually settled save for one point. Article 8 contains a reference to joint (or more properly "mixed") courts in which a judge from the Republic would sit with two Northern judges to try terrorist crimes in the North, with reciprocal arrangements in the South. This a personal hobby-horse of FitzGerald's, to which he attaches great importance, and he has said that he will not sign unless we commit ourselves to the establishment of mixed courts within a year of the Agreement. There are objections to this proposal of both principle (infringement of sovereignty) and practice (shortage of judges) and it is very strongly opposed by the Lord Chancellor and the Lord Chief Justice among others. We have said that we are not prepared to do more than let the new committee consider the possibility, and we have rejected an Irish suggestion for a secret agreement on this point.

11. The Irish have reluctantly accepted that they are not going to get more than a consultative role, but they are anxious that the Agreement should have an immediate impact on the minority community by demonstrating that changes are taking place in the security forces, whose attitude towards the minority is seen to be the main cause of alienation. They would like to see radical changes in the RUC and the disbandment of the UDR, which is most criticised for discrimination against the minority. We have rejected any radical changes, both for operational reasons since it would reduce the effectiveness of the campaign against terrorism, and for political reasons because it would provoke a violent Unionist reaction. The RUC's action in checking loyalist marches in Portadown this summer has demonstrated a degree of even-handedness which had a considerable impact in Dublin and the Irish now seem to be content that the only change in the RUC should be the introduction by the Chief Constable of a Code of Conduct which will include the need to deal fairly with both communities. Irish efforts are now concentrated on the UDR. We are prepared to offer minor changes, including increased training, more regular Army personnel, and some limitations on powers of arrest; but the Irish maintain this is not enough. The position is complicated by the fact that the UDR is the

responsibility of the Ministry of Defence, who have to be carried with us in any changes.

12. The Irish for their part are prepared to offer the return to the border area of the Garda Task Force which was withdrawn to deal with crime in Dublin and elsewhere. This could be an important selling point with the Unionists; but the Irish have so far been evasive about the extent of the resources to be redeployed. They have also promised to accede to the European Convention for the Suppression of Terrorism which could facilitate extradition, although again they have given no details of what qualifications might be attached. The idea is that both sides would announce their supporting measures at the first meeting of the Ministerial Committee in order to demonstrate that the Agreement was having an immediate and tangible effect.

13. Another matter which has been discussed at some length is the idea of an International Fund, contributed to by the USA and possibly other countries, to buttress the Agreement. The idea is that the US President would express immediate support for the Agreement and that shortly afterwards this would be translated into US financial aid to be given to both parts of Ireland. Preliminary soundings have indicated that both the White House and Congress would be ready to support this. We have given some thought to the way in which a fund might be administered and to the projects on which it might be spent. It is important that there should be no publicity for this in advance of the Agreement; otherwise we shall be accused by the Unionists of trying to bribe them into accepting a deal with Dublin.

Conclusion

14. You will see from this analysis that the outcome of the Anglo-Irish negotiations remains uncertain. We still do not know whether the Irish Government will be prepared to accept the existing text if we are not willing to go further to meet them on mixed courts and on changes in the UDR. There are said to be differences within the Cabinet and the position is complicated by the possibility of a Ministerial re-shuffle in the near future.

SECRET PERSONAL

15. From our point I consider that the Agreement as it now stands has serious shortcomings. I believe it is one-sided, giving the Irish a foot in the door in Northern Ireland which could eventually have profound consequences, in return for very little apart from a promise of enhanced security co-operation which I doubt the Irish are capable of delivering. Our objective has been to reach a political settlement which both sides consider would be helpful, and not to score points off each other; and a one-sided Agreement would be acceptable if we thought it was going to achieve the political stability in the North which is necessary for progress in the fight against terrorism and in the economic field. But while it is evident that there will be very strong Unionist opposition to an Agreement which is bound to be seen as a sell-out to Dublin and the first step towards a United Ireland, I am less confident that it will have the desired effect on the minority. I doubt whether the man in the street in West Belfast is going to change his attitude to the security forces, or whether the SDLP will be prepared to enter a devolved government on any terms which the Unionists (who will have been antagonised by the Anglo-Irish Agreement) could agree to. In the security field I suspect that there will be an increase in terrorism, at least in the short term, coupled with serious public order problems as a result of Unionist protests. I am also apprehensive about the effect of constant Irish interventions under the terms of the Agreement on our ability effectively to govern Northern Ireland.

16. On the other hand, the consequences of not having an Agreement would be extremely serious. The main plank of our present policy would have collapsed and the collapse would be a body blow for the SDLP, who have placed all their faith in the Anglo-Irish talks. It would be a gift for Sinn Fein who would regard it as proof that political means produce nothing and that violence is the only answer. The Unionists for their part would be triumphal and in no mood for concessions to the minority. There would thus be a further polarisation of political parties in Northern Ireland, making the reconciliation and stability which we seek still more difficult to achieve. More generally, I think that we should be criticised in Britain and elsewhere for having missed an opportunity to make some progress

SECRET**PERSONAL**

in resolving the Irish problem (which most people in this country are only too anxious to be rid of). The effect on our relations with Dublin, whose co-operation we would still need in security and other fields, would be grave; and there would be serious consequences in the USA, where most of the 40 million Irish would no doubt be disposed to blame us for the breakdown.

17. In any case, I believe we are now too far committed to draw back. If the negotiations are to be broken off it will have to be because the Irish Government judges that it is not getting enough to make the Agreement saleable to nationalist opinion in the South and North. In that event we may be pressed to go further. I do not believe that we can afford to make any further significant concessions. What would push the Loyalist majority into a reaction which became unmanageable must be a matter of judgment; but I believe that to be seen to make major changes in the security forces at the behest of Dublin would be extremely dangerous. (I have commissioned from _____ a study of possible Unionist reactions which should be available by the end of this month). Equally, we cannot be seen to give way to Unionist pressure once again; and if the Agreement is signed we must be prepared to go ahead, whatever the reaction. And, of course, if the Agreement is signed we in the NIO will do all we can to make the new machinery work satisfactorily.

18. There are a number of issues here which I think you will want to discuss with officials. I suggest the following (some of which have already been touched on during your briefing in Belfast):

- a. any points you may have on the text of the draft Agreement;
- b. further details of the supporting measures proposed by the two sides;
- c. the role, composition and location of the Secretariat;
- d. location of the Summit meeting;

SECRET

PERSONAL

- e. plans for the presentation of the Agreement;
- f. likely reactions to the Agreement by i) the Unionists and ii) the SDLP;
- g. contingency plans to deal with Unionist reactions;
- h. what to do if negotiations collapse.

19. The Cabinet Office will be circulating a note of the last round of Armstrong/Nally talks on 3 September which will be before the Prime Minister's meeting next Thursday. There will be an opportunity to discuss this at your meeting on Wednesday.

6 September 1985



R J ANDREW

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