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Reference Code:	2019/31/45
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DEVELOPMENTS SINCE THE SIGNING OF THE ANGLO-IRISH AGREEMENT

Introduction – The Agreement

1. The Prime Minister, the Rt Hon. Margaret Thatcher, FRS MP, and the then Taoiseach, Dr Garret FitzGerald TD, signed a formal and binding Agreement between their two Governments on 15 November 1985 with the aims of promoting peace and stability in Northern Ireland; creating a new climate of friendship and cooperation between the people of the two countries; and improving cooperation in combatting terrorism. The Agreement deals in particular with the status of Northern Ireland, (Article 1), in which both Governments:

- (a) affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland.
- (b) recognise that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland.
- (c) declare that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish.

The Agreement also provides for the establishment of an Intergovernmental Conference in which the Irish Government puts forward views and proposals concerning stated aspects of Northern Ireland affairs and in which the promotion of cross-border cooperation is discussed and in which determined efforts are made to resolve any differences between the two governments.

2. Since the signature of the Agreement a number of measures and new arrangements have been introduced affecting the lives of both sections of the community in Northern Ireland. While it is true that some of these were already in hand before the Agreement was signed, it is clear that there has been great benefit from the new and substantive cooperation and dialogue between the British and Irish Governments established under the Agreement.

The work of the Intergovernmental Conference and its Secretariat

3. The Intergovernmental Conference was set up, under Article 2 of the Agreement, to deal, on a regular basis, with political matters; security and related matters; legal matters (including the administration of justice); and the promotion of cross-border cooperation. It has provided a valuable framework for the conduct of Anglo-Irish relations with particular regard to Northern Ireland. The Conference, supported by the Secretariat, has provided a forum which has enabled Ministers and senior officials of both sides to maintain close and frequent contact, which has given them a greater awareness of the political and other realities against which the other side has to operate. It has thus reduced the risk of misunderstandings arising over particular incidents and increased the likelihood of problems being resolved in a spirit of cooperation and without acrimony. It has enabled each side to take decisions within its jurisdiction with greater knowledge and awareness of

the likely impact and reactions on the other side. It has also been welcomed internationally, where it has been recognised as establishing a better relationship between the British and Irish Governments and as making a very positive contribution to addressing the fundamental problems of Northern Ireland.

4. The Conference has met frequently since its first meeting on 11 December 1985. The issues discussed by the Conference have been summarised in the Joint Statements published after each Conference meeting. The continuing effort to improve cross-border security cooperation is an important and regular item on the agenda of Conference meetings. A wide range of other matters has also been considered; and the discussions in the Conference are helpful, among other things, in ensuring that minority concerns are taken into account in subsequent policy decisions by the Government. Thus, for example, the Government's proposals which have led to the introduction of further Fair Employment legislation for Northern Ireland have been discussed at many Conference meetings. Other subjects which have benefited from regular discussion include the enhancement of confidence in the system of justice and relations between the community and the security forces. The outcome of many of these discussions is reflected in the body of this paper.

5. Another area in which discussions have proved valuable is the "Making Belfast Work" project launched by the Government in July 1988. The project is aimed at increasing progress in tackling the problems in the disadvantaged areas of Belfast; additional resources have been provided and the "Strategy for Action" was published in January 1989. A detailed programme of further action planned in these areas in the financial year 1989-90, amounting to £15 million in government expenditure, was announced in March 1989. An initiative to stimulate the regeneration of Londonderry was launched in December 1988.

6. Article 3 of the Agreement states that: "A Secretariat shall be established by the two Governments to service the Conference on a continuing basis in the discharge of its functions as set out in this Agreement." The Secretariat is responsible for making the arrangements for Conference meetings. This includes the holding of preparatory discussions between officials, agreeing the agenda between the two sides, recording the discussions at the Conference itself, and, as appropriate, ensuring that work agreed on at the Conference is taken forward.

7. The Secretariat was established at Maryfield outside Belfast. It is headed by British and Irish joint secretaries, with a small supporting staff. As agreed by the two Governments at the first meeting of the Conference, the Secretariat has functioned as a continuing channel of communication between the two sides on all matters covered by the Articles of the Agreement. It enables messages to be passed promptly and potential problems to be swiftly addressed. It has also served as a forum for each side to explain the broad aspects of its security policy and as a channel to convey to the British authorities at high levels the views of the Irish Government in respect of the interests of the nationalist community.

8. The Secretariat is not a 'complaints bureau' nor does it have executive or operational responsibilities.

9. Set out below is a summary of the progress made under each main area of activity of the Agreement.

Rights and identities of the two traditions; human rights and the prevention of discrimination.

10. Progress has been achieved in the following areas:

- (i) Legislation has been enacted ending the anomaly whereby 'I' voters have been unable to vote in District Council elections. (The Elected Authorities (NI) Act 1989).
- (ii) The Flags and Emblems Act (NI) 1954 has been repealed.
- (iii) The Fair Employment (NI) Bill which has been introduced in the current Parliamentary session provides for further measures to eliminate religious discrimination and promote equality of opportunity in employment, including:
 - (a) compulsory monitoring of religious composition of workforce and periodic review of employment practices;
 - (b) establishing a new, and strengthened Fair Employment Commission (and a new Fair Employment Tribunal with wide enforcement powers);
 - (c) economic sanctions – those in breach of statutory obligations ineligible to tender for public sector business or for Government grants;
 - (d) a new Code of Practice to be drawn up by the new Commission;
 - (e) The Commission may issue enforceable directions obliging employers to take affirmative action measures and may issue notices relating to goals and timetables.
- (iv) The Police have been given greater powers to control parades and marches which are likely to give rise to provocation.
(Public Order (NI) Order, 1987).
- (v) The law on prevention of incitement to hatred has been strengthened.
(Public Order (NI) Order, 1987).
- (vi) Irish Language
 - Irish views on the place in the curriculum of the Irish language were taken into account during the formal consultation on education reform in Northern Ireland;
 - guidance has been issued to Government Departments on the use in official business of Irish personal names and on the handling of correspondence in Irish.
 - Ordnance Survey of Northern Ireland (OSNI) has produced and published a dual-language map and gazetteer of Northern Ireland;
 - a question on the Irish language will be included in the 1991 Census.

Role and composition of Public Bodies

11. The British side has provided the Irish side with briefing on the arrangements for public appointments in Northern Ireland and provides information about forthcoming vacancies, and has considered any suggestions made by the Irish side.

Security Policy, Relations between the Security Forces and the Community, and Prisons Policy.

12. The Government believes that creating wider and stronger public support for the police and the armed forces in Northern Ireland is as essential as progress in political, security and economic policies. Security force commanders seek to ensure through training and briefing that the security forces treat members of the public with the highest standards of courtesy at all times. The Conference has devoted considerable attention to ways of improving relations between the security forces and the community. The Irish side have put forward a number of proposals in this area. Measures taken include:

- explicit confirmation of the policy pursued since 1984 that, wherever possible, patrols by the Armed Forces that are likely to come into contact with the public should be accompanied by a member of the RUC;
- improvements in the procedure for handling complaints against the police, including the establishment of an Independent Commission for Police Complaints (Police (NI) Order 1987);
- the RUC has made considerable efforts to increase the level of recruitment from the minority community;
- The RUC Chief Constable has introduced a new Code of Conduct for all RUC officers (Placed in House of Commons Library on 15 March 1988);
- The Police Authority for Northern Ireland and the Chief Constable of the RUC have jointly written to District Councils proposing a widely representative scheme of police/community liaison committees based on police sub-divisions;
- The forthcoming Police and Criminal Evidence (NI) Order will introduce a statutory requirement for the police to liaise with the local community;
- The Army has introduced new procedures to ensure that, wherever possible, allegations of misbehaviour against members of the armed forces will be resolved with a response to the complainant within 3-4 weeks;
- A committee of British officials has been established to keep under review the number and nature of allegations of misbehaviour by members of the security forces and the speed and effectiveness with which they are handled.

13. In June 1988 the Secretary of State announced a special review of all the remaining special category life sentence prisoners, and shortly afterwards a special review of the remaining Secretary of State's pleasure prisoners who had served more than 8 years. Details of the initial results of the SOSOP review were made public shortly before Christmas, and the initial results of the Special Category review were announced in March.

Legal matters, including the Administration of Justice

14. A number of improvements have been made in the system of justice in Northern Ireland, which help improve the confidence of the minority community in that system. These include:

- making all arrest powers exercisable only on the basis of reasonable suspicion – Northern Ireland Emergency Provisions Act (EPA) 1987

- reducing the maximum period that a suspect can be held without further Ministerial authority from 72 to 48 hours (EPA 1987)
- establishing a statutory right of access to a solicitor within 48 hours of arrest (EPA 1987)
- providing that suspects are entitled at the time of their arrest to inform a friend or relative of their arrest and whereabouts (EPA 1987)
- instituting annual independent reviews of the Emergency Provisions Acts, and establishing a fixed term of 5 years on those Acts. (EPA 1987)
- statutory changes to the admissibility of confession evidence, to make clear that confessions obtained by the use or threat of violence are not admissible and that confessions can be excluded in the interests of justice (EPA 1987)
- new powers for scheduled offences to be heard outside Belfast. (EPA 1987)
- regular publication of statistics on the operation of the EPA.
- a number of measures have been taken in recent years to reduce the delay between first remand and trial, which for most cases has been significantly reduced since 1985.
- under the Northern Ireland (Emergency Provisions) Act 1978 (Amendment) Order 1986, a number of offences were added to those which the Attorney General is capable of certifying out of the scheduled mode of trial.

And in the near future

- The Police and Criminal Evidence (NI) Order will, subject to the approval of Parliament, provide the same safeguards for persons detained for police questioning under the ordinary criminal law as are provided in England and Wales in the Police and Criminal Evidence Act 1984.
- a Guide to the Exercise of Emergency Powers will be published and made widely available.

15. There has been continuous discussion of extradition and related matters to ensure that fugitive offenders are brought to justice. The Conference is concerned with policy aspects of extradition and extraterritorial jurisdiction as between North and South and its discussions have improved the understanding of the relevant authorities on these matters. This has helped to ensure that agreement on the need for fair and effective procedures for extradition and for the exercise of extraterritorial jurisdiction is matched by understanding of the procedural and other requirements. Significant developments have been the ratification by the Irish Government of the European Convention on the Suppression of Terrorism, and the narrowing down of the political offence exception, initially by the Irish courts. The two Governments have also reaffirmed the importance of making use of the Criminal Law (Jurisdiction) Act 1976 and the Criminal Jurisdiction Act 1975 in appropriate cases. To try to ensure effective procedures for dealing with the problem of fugitive offenders, a wide range of issues concerning extradition law and procedure have been kept under review. These have included the provision for arrest and detention, the arrangements for the transfer of prisoners where extradition is ordered, and the procedural and other requirements which must be satisfied before extradition can be ordered.

Security Co-operation

16. The Conference has provided the framework through which security cooperation has been developed and extended. Much of the detail must obviously remain confidential but progress has been made in each of the areas identified in the Agreement including joint threat assessments, the exchange of information, liaison structures, technical cooperation, training and operational planning. As well as the provision for regular Ministerial discussion of security matters at the Conference, there is now a series of regular meetings between the two police forces at headquarters and operational levels under the direction of the Chief Constable of the RUC and the Commissioner of the Garda Síochána with whom the operational responsibility lies. These meetings are concerned with a wide range of operational, technical and communications matters to improve the day to day cooperation between the two forces. Among the procedures agreed is one for close cooperation in dealing with suspect terrorist devices located near the border. This procedure has been used on a number of occasions and has proved of great benefit to the bomb disposal experts on both sides. It is the firm intention of both police forces to achieve further improvements in cooperation using the new structures which have been established under the auspices of the Conference.

Cross Border Co-operation on Economic, Social and Cultural Matters

17. The most significant achievement in the field of economic and social cooperation under Article 10 has been the establishment of the International Fund for Ireland. This has already received contributions of more than \$120 million from the United States, Canada and New Zealand. The Fund has also received the bulk of the first instalment of the European Community contribution of 15 million ECU a year (about £10 million). By the end of February 1989 the Fund had approved support of over UK £52 million to over 1,000 projects, which hold out the prospect of some 4,500 new permanent jobs, the preservation of 1,500 more, and the provision of 4,000 jobs in specific construction projects. The work of the Fund has involved close, practical cross border cooperation at many levels. As it moves into its second phase the Fund is devoting a greater proportion of its resources to the areas of greatest need, both in Northern Ireland (which receives 75% of the resources disbursed by the Fund), and in the six border counties of the Republic: of the grants approved by end-February 1989, some two-thirds are located in areas of greatest need. The Fund has also established investment companies in both Northern Ireland and the Republic to provide venture capital, either through equity or loan, on the basis of strictly commercial criteria.

18. There has also been discussion, under the auspices of the Agreement, of further cross-border cooperation on tourism, roads, transport, water quality, fisheries, education and social welfare, as well as consideration of social and economic problems in the North-West. In the field of health, Ministers have introduced arrangements for referrals for certain specialised treatments between Belfast and Dublin; undertaken coordinated health promotion and immunisation campaigns; and ensured exchange of contracts and plans to deal with major accidents. The possibilities of joint investment in specialised equipment and of cooperation in procurement of supplies are being pursued.

19. This paper concerns the main areas of activity of the Conference. It shows that, under the Agreement, there have been constructive and useful exchanges on a wide range of matters. The Review of the working of the Conference, now being completed, looks to the further development of cooperation within the framework of the Agreement.