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OIFIG AN AIRE GNOTHAI EACHTRACHA

Memorandum for the Government

❖ ROUND TABLE TALKS

Summary

Developments in the Round-Table Talks process mean the Government will require to take urgent decisions on:

- (i) Convening or postponing the next Anglo-Irish Conference.
- (ii) Preparing for talks:
 - how to deal with British strategy;
 - decide what outcome might warrant consideration of a referendum on the Constitution;
 - formulate new Irish proposals accordingly;
 - Interdepartmental study on key aspects (Fiscal, EC, security, etc.);
 - early meeting of Strand Three with British.

Department of Foreign Affairs

13 July, 1992

S E C R E T

OIFIG AN AIRE GNOTHAI EACHTRACHA

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Memorandum for the Government

ROUND TABLE TALKS

The Government will need to consider urgently the following matters arising from current developments in the Round-Table Talks:

- A. Convene or postpone the Conference envisaged for week beginning 27th July?
1. The "gap" agreed at the last Conference will end in the week beginning 27th July, (although with provision for 1-2 weeks extension). The DUP have said that convening a Conference would end the Talks.
 2. The two Governments are committed to making a statement to Sir Ninian Stephen on this question on Wednesday, 15th July.
 3. If the Conference goes ahead, Paisley will almost certainly declare publicly the process is at an end. While it might be possible to coax him back in the Autumn, the public here might feel that he had genuinely taken a step forward and that the Governments were being overly "doctrinaire" in not making a gesture to him. On the other hand, the Government must be careful not to allow the Conference to disappear by neglect.

Possible approach:

- (i) Agree a deferral of the Conference to, say, the first half of October and a recess for the talks from 17 July until late August/early September;

(ii) hold a Strand Three meeting in the week beginning 27 July. This meets the requirement of the March 26th statement (all strands launched within weeks of each other). It would also permit inter-governmental contact to help offset the postponement of the Conference. Direct discussion is in any case needed with the British about where they are heading in this process.

B. Preparing the Irish negotiating position

4. Next weeks Talks in Stormont can still be conducted on the level of generalities, since they will involve question-and-answer sessions on the opening presentations, followed by formal responses to these presentations by each delegation. After that, matters will very quickly become specific. The Government may be required to put forward papers on concrete issues such as the constitutional question, economic aspects, the Agreement, etc. These will require careful policy consideration both on the level of substance and tactics.
5. It should be noted there is now a clear British agenda in the Talks and their preparations are in place to pursue it:
 - they wish to accommodate the unionists by confirming or reinforcing the UK status of Northern Ireland (through changing Article 1 of the Agreement in that direction, or securing an amendment of the Irish Constitution, or both).
 - This would open the way for unionist participation in a devolved administration, with proportionate roles for both communities.
 - The "claw-back" provision that devolved matters are removed from the Conference would limit the agenda of

the Agreement to security, confidence issues and aspects of human rights.

- Nationalists would be compensated by the creation of a Council of Ireland on practical issues, predominantly consultative but possibly with a limited executive role on some joint matters.

It seems likely this strategy has been coordinated with the three pro-union parties. It almost certainly pre-dates Mr. Mayhew and was foreshadowed in speeches by both Mr. Hurd and Mr. Brooke at the last Tory Conference. It represents a compensatory shift back towards the unionists and away from underlying thrust of the Agreement.

Implications for Talks

6. This strategy means that the unionists, with British backing, will concentrate on demanding an amendment of the Constitution. The Talks may quickly come to a head on this issue. It is not known whether unionist understandings with the British extend to the aftermath of a breakdown (e.g. minimal application of Agreement, unilateral move on devolution). The fundamental question for the Government is what outcome of the Talks would justify a referendum on Articles 2 and 3. Once that is decided, the Government must then decide on tactics to achieve it or to protect our position in the event of breakdown.
7. There could be different possible "packages" which could be sufficiently attractive to offset the likely opposition to an amendment of the Constitution. These might combine practical measures, such as a Council of Ireland, and political declarations.

Practical Measures

8. The broad options for practical arrangements are already discernible from the discussions to date: They are, in broad summary:
- (a) an eighty-five seat Assembly, elected by PR, with backbench committees;
 - (b) a directly elected "Panel" of three with powers of overseership and representational functions. These institutions would be given extensive devolved powers;
 - (c) some new North/South structures.
9. There is no agreement in Strand One about whether the political Heads of Departments would be elected by the Assembly (e.g. Committee chairmen) or appointed by the "Panel" from the Assembly. The SDLP have not abandoned their proposal for a six-person commission, of which the "Panel" could in theory be the elected half. If proposals referred to the "Panel" required consensus approval to survive, it would amount to an internal nationalist veto. If however it operated by majority rule, its value to nationalists would be highly doubtful.

British preferences

10. The British have given strong private signals to the unionists that they will support the model where the Committee chairmen operate as the executive and are responsible to the Assembly. They have also sought in their drafting to ensure that the "Panel" required consensus to block, rather than to endorse measures (i.e. the most operational veto in the Panel would then be unionist, since appeals from the Assembly would presumably be against the unionist majority there). The Alliance Party has proposed a "Tripartite Council", involving the two Governments and the

Northern Assembly, to coordinate positions on non-devolved matters such as security. The unionist parties have given broad hints they will propose a Council of Ireland type structure on a "good neighbourly" basis. The British are probably flexible as between the two approaches.

Nationalist criteria for new structures

11. Any new structure should address the nationalist aspiration, in particular the need of the nationalist community for links with the rest of Ireland, for alleviation of their in-built minority role in Northern Ireland, as well as catering for North/South cooperation and for possible future convergence between the two parts of the island. This might be done either
 - (i) by expanding the Anglo-Irish Conference to include elected representatives from Northern Ireland (e. g. the "Panel"), provided the role of the expanded Conference was strengthened decisively; or
 - (ii) by establishing a Council of Ireland, broadly on the Sunningdale model with both a consultative and an executive role; or
 - (iii) some satisfactory combination of the two approaches, in the light of what negotiations show to be the most likely basis for agreement.

Constitutional basis for new structures?

12. New North-South structures would of course have symbolic as well as practical value from a nationalist viewpoint. However unionists will insist that they must be based on an acceptance of the British status of Northern Ireland. We would have to decide whether the potential for practical North-South convergence of such structures, particularly if

they encompassed the entire spectrum of unionism, justified major concessions on the level of constitutional theory. The alternative is to keep our constitutional position unchanged, even at the cost of inhibiting some practical North/South contact, and perhaps drawing recriminations from British and unionist sources.

13. There is the further consideration that Northern nationalists set more store by the symbolic aspects of the agreement (i.e. a qualification of the UK status of Northern Ireland) than the practical. They will argue that constitutional changes in one direction must be balanced by constitutional changes in the other (e.g. our acceptance of the requirement of unionist consent by an affirmation of openness to unity). Moreover they would argue that concessions on the level of theory will effectively be irreversible, whereas structures may collapse, or prove meaningless. The "trade-off" envisaged by the British must also be assessed in terms of its likely impact on the whole nationalist community in Northern Ireland. It could increase support for Sinn Fein extremism at precisely the time when a rethink may be in process in those circles.
14. If it is decided that progress can be made only on the basis of acknowledging the validity of both traditions and giving them equal treatment to the maximum possible extent it will be necessary as a matter of urgency to formulate proposals on these lines. Otherwise Irish Ministers will be put on the defensive and any breakdown will be attributed to Irish "obduracy" on Articles 2 and 3, rather than to failure of the unionists or British to accept a more imaginative proposal.
15. Such a proposal might, ideally
 - (i) enshrine a formal statement of equality between the two aspirations;

- (ii) balance recognition of the present status of Northern Ireland against an acceptance of future unity by consent as a valid goal;
 - (iii) propose structures to cater effectively for both aspirations. The EC dimension should be given particular prominence in terms of North/South or Tripartite structures;
 - (iv) propose ground rules both for handling the present minority in Northern Ireland and a unionist minority in any future all-Ireland system.
16. It would be urgent to being preparing draft papers on whatever policy line is adopted by the Government. Even a deferral of the talks after next week would give only some six weeks preparation time for these issues before resumption in autumn. Certain broad issues which go beyond the remit of the Department of Foreign Affairs will require urgent interdepartmental study. These include:
- (i) Economic aspects: (How to address the reality of UK subsidy of £2.1 billion; North/South economic and social comparisons).
 - (ii) EC aspects: (Is there scope for a structured EC approach to Ireland as a whole, rather than the ad-hoc North/South coordination envisaged by British).
 - (iii) The Irish Constitution and international law: (Unionists will agree strongly that the UK is recognised in international law and that we should follow suit).
 - (iv) Security/legal/policing: Joint approaches/structures which might be proposed.

17. We should also avail of the first meeting of Strand Three for a thorough discussion with Mr. Mayhew of the implications of present British policy and the danger that it will send all parties back to their traditional postures, thus undermining the positive changes brought about by the Agreement. This would imply certain broad policy decisions should be taken before that meeting (i. e. before the end of July).

Summary

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