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Outline of Possible Package

6/10/92

SUMMARY

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1. The proposed British "package", which essentially offers us a new "Council of Ireland" structure in return for "unambiguous consensus" on the British status of Northern Ireland is not acceptable. The Taoiseach has made it clear that ~~any such enhanced recognition of the union, must be balanced by enhanced recognition of the nationalist aspiration.~~ *there can be no compromise on*

Internal Structures

2. There is agreement on an elected Assembly in Northern Ireland, on a separately elected watchdog "Panel" of three and (with reservations) a shared devolved executive, either appointed by the "Panel" (SDLP) or elected by Assembly Committees (the unionists). We might accept whatever is agreed between the two sides on devolved structures but seek to strengthen the "Panel" as an internal nationalist veto.

3. Wider Structures

- A modified Anglo-Irish Conference would continue;
- some form of (probably low-key) Council of Ireland is on offer;
- we might seek to build a dynamic towards future convergence, with British cooperation, into the modified Anglo-Irish Conference (with the "Panel" added, where appropriate);
- we could then accept the consensus-operated Council of Ireland on practical matters;
- details of mandates, precise powers, etc. would need to be carefully thought out;
- British political will on the constitutional issue remains the key.

SECRET

OUTLINE OF POSSIBLE PACKAGE

1. Any package will have two elements:

- "language" on the status of Northern Ireland;
- practical provisions for new structures.

(I) Language on Status

- Unionists need something they can sell as enhanced recognition of the Union.
- Nationalists will not agree to shutting the door or raising the hurdles against Irish unity.
- The British will insist that the commitment to no change in the status of Northern Ireland without consent of a majority there is sacrosanct and we would find it very difficult to oppose that.
- The attainable nationalist objective is therefore creating the optimum conditions for unity by consent in the future.
- The British role is pivotal in that respect.

(II) British Objectives

2. The British objectives in the Talks are as follows:

- (i) "unambiguous confirmation" of the status of Northern Ireland as part of the UK;
- (ii) this enables unionists to participate in devolved administration (with nationalist participation also and added nationalist protection in the "Panel");

- (iii) Irish Government to be "compensated" by new North-South structures;
 - (iv) Modified Agreement to continue in place (i.e. with Article One changed, and devolved matters withdrawn from Conference).
3. The Taoiseach has made clear to Mr. Major that this package would be unsaleable to nationalists and that any enhanced recognition of the Union would need to be balanced by equally enhanced recognition of the future option of agreed unity, and not just by institutional arrangements, which could collapse.
4. There is a spectrum of possible British positions on Irish unity. At present they are theoretically neutral, but mostly pro-union in practice. We would need to move them to a position where they are as supportive as possible of the unity option or at the very least committed to a genuinely "level playing field" between the two alternatives.

(III) Structures

Internal

5. There is agreement on an elected Assembly in Northern Ireland, on a separately elected watchdog "Panel" of three, and (with reservations) a shared devolved executive, either appointed by the "Panel" (SDLP) or elected by Assembly Committees (the unionists).

Wider Structures

6. The basic options are broadly as follows, but could be combined in various ways:

- (a) A British-Irish Council, possibly with an Irish subsection: This is the unionist proposal, which they would see as implying Northern Ireland was just another "normal" part of the UK;
- (b) A Council of Ireland shared between the Irish Government and the Northern executive, presumably in equal numbers and on a basis of consensus and reciprocity. The SDLP proposes this Council should vary its membership with the agenda, on EC lines.
- (c) Tripartite Structures (i. e. representatives from North and South with British involvement) dealing mainly with Northern Ireland. This is the Alliance proposal.
- (d) Bilateral Intergovernmental structures on Northern Ireland, e. g. Continuation of Anglo-Irish Conference. The British and the unionists seem to accept a modified Conference will continue in the future.

These options could be associated with corresponding parliamentary bodies.

(IV) Desirable Criteria for North-South Institutions

- 7. (i) the mandate of such institution(s) should be a strong one and, ideally, relate back to a new British position on future unity.

(ii) It should ensure institution(s) have satisfactory scope from the outset, including an executive role and a dynamic towards future convergence.

(iii) Institutions should be given a legislative basis on both sides.

(v) Comparison of different options.

8. The advantage of a Council of Ireland is that it provides a forum for purely "inter-Irish" cooperation and possible executive agencies. The disadvantages are that:

- reciprocity could mean putting significant areas in our jurisdiction outside the control of the Government;
- these areas would be fully exposed to any instability in the North;
- the consensus rule could mean a Northern veto in these areas;
- the North-South format could not deal with Whitehall issues, including, probably, relations with the EC.

9. The Tripartite option would mean a continuing British involvement and there would be less scope to develop purely "Inter-Irish" executive bodies. However, if the British had adopted a more positive constitutional stance, their role could also offer advantages. The format (for example adding the "Panel" to a modified Conference) would be the most practical forum to deal with budgetary, EC matters, etc. where Whitehall has the decisive role). It could reduce the drawbacks of consensus and reciprocity involved in a Council of Ireland model.

(VI) Possible combined approach?

10. We might try to combine all the elements favourable to us as follows:
- (1) a powersharing devolved administration in Northern Ireland on any terms agreed between the two sides but
 - (2) develop the "Panel" as an instrument of internal nationalist veto on fundamental issues (e.g. human rights, budgetary issues, key appointments, general "fairness")
 - (3) add the "Panel" to the modified Anglo-Irish Conference (except perhaps for security) in a "Tripartite format"
 - (4) If the "Panels" role as internal guarantor collapsed its functions to be temporarily assumed by the two Governments (i.e. indirect Governmental guarantor role)
 - (5) give the "Tripartite" Conference a satisfactory mandate, building on the Agreement, to promote agreement in Ireland, including coordination in Europe, etc. including
 - (6) overseeing a Council of Ireland involving only North/South Ministers on devolved matters, but including an executive role in certain areas.

(VII) Prospects

11. The political will of the British Government remains the key to this, or indeed any "package". If that will is favourable, something on the above lines might just be possible, if it included "ground-rules" for change which the unionists felt helpful. The detailed provisions would of course be of great importance in determining how far such a package would appeal to nationalists. Without political will on the British side particularly on the constitutional issue any acceptable package seems remote.

Sean O hUiginn
29 September, 1992