

PUS/L/295/MLR

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PS/Secretary of State (L&amp;B)

cc PS/Mr Scott (L)  
Mr Bloomfield  
Mr Brennan  
Mr A W Stephens  
Mr Chesterton  
Mr Bell  
PS/PUS(B)

ANGLO-IRISH NEGOTIATIONS

A further meeting of the Armstrong/Nally group of officials took place on 13-14 October. Following are some of the main points which emerged from the meeting itself and from contacts in the margin.

Textual amendments

2. A number of amendments to the draft Agreement were discussed. There is still an impasse over the title of the Intergovernmental body: the Irish will not accept "committee" (as too trivial) and we will not accept "commission" (as too executive). In accordance with the Prime Minister's instructions we objected to "the two parts of Ireland" in Article 2(a): it looks as though agreement might be reached on "the two parts of the island of Ireland (which is purely geographical)". The Irish accepted "decisions" in Article 2(b) but pressed for the retention of "permanent" before "Secretariat" in Article 3: it looks as though we could agree instead on the Secretariat being established "on a continuing basis".

3. We had another go at paras 7-8 of the Communique which have now been run together. The three issues of relations between security forces and minority, public confidence in the judiciary and security co-operation are now to be addressed at the "initial meetings" of the Ministerial Committee. The latest text would commit us to work for early progress in these matters, which I think is just about acceptable as regards the judicial system. The Irish have been left in no doubt that there will not be early progress on mixed courts.

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4. The Irish welcomed our paper illustrating examples of how the Secretariat might work and seemed to be in general agreement with it. They were, however, concerned that we should not be too "bureaucratic" and should, as far as possible, work without papers which, if leaked, might reveal that the Irish had asked for more than they received. They now envisage a very small team of perhaps two officials coming up to Belfast to prepare in advance for the first meeting of the Ministerial Committee, recording the meeting and then staying on to deal with business between meetings, with a strong emphasis on "resolving differences" quickly, so that issues do not have to be referred to Ministers. The Secretariat would build up gradually and become more formal in its working methods after say six months. We pointed out that resolving differences could not extend to decision-taking and that in the event of a shooting incident, for example, the Secretariat might be able to do little more than note that a police investigation was in progress. Mr Donlon of the DFA is to come to Belfast on 16 October to discuss accommodation and other matters concerning the Secretariat.

Convention on the Suppression of Terrorism

5. The Irish again emphasised how difficult the issue of extradition had become for them in the light of the McGlinchey, Shannon and Quinn cases, although we pointed out that McGlinchey's successful appeal might be thought to increase confidence in the Northern judiciary. They revealed for the first time that when they introduced legislation in the Dail to enable them to accede to the Convention it would probably have to include other provisions, such as a requirement to provide prima facie evidence in extradition cases. This is a potentially serious development which could end the present backing of warrants procedure and make extradition more difficult. It is disturbing that the Irish appear to be backtracking in this area and this is one of the issues which Ministers will have to discuss at the meeting proposed by the Prime Minister.

Presentation

6. A long discussion over dinner on Sunday night revealed how very thin some of the ice is on which we shall have to skate after the Agreement is signed. Article 1 of the Agreement refers to change in the status of Northern Ireland, but does not say "as part of the United Kingdom" because this would conflict with Article 2 of the Irish Constitution. The Irish appeared to draw back from the words used by Dr FitzGerald at the Chequers Summit and said that we must not refer at the press conference to Northern Ireland being part of the UK, lest this led to a constitutional challenge. We pointed out that the Prime Minister if asked, would certainly say that Northern Ireland was part of the UK and would so remain unless the majority consented to change. The only way to reconcile the two points of view seems to be to distinguish between the de facto and de jure positions; but there is clearly a danger of divergence here, either at the press conference or in subsequent debates. The matter is being dealt with as part of the Question and Answer brief, which Mr Brennan will submit shortly.

UDR

7. We handed over our consolidated note on the measures we had taken or were proposing to take on the UDR. The Irish undertook to study it and let us have comments at the next meeting. They emphasised the importance they attached to withdrawing the UDR from the Castle Street checkpoint. In return they handed over a paper on the steps they are taking to reinforce the Garda in the border area. This has been sent separately to Mr Stephens for study.

8. The Irish expressed great concern over the incident at Dunmurry over the weekend when an unarmed youth in a stolen car had been shot (not fatally) after failing to stop at a UDR checkpoint and running down two soldiers. They urged that there should be some action like automatic suspension of the soldier concerned in such cases. They also questioned why the UDR had been operating in this area and why they had not been accompanied by a police officer. I explained that we could not comment in detail while the incident was the subject of a police investigation, but that I did not think

that suspension from duty could be justified unless there was a clear prime facie case that the soldier had been at fault.

Dunmurry was a mixed but predominantly Protestant area and the UDR had been properly operating there. There did not appear to have been a police officer present, but the policy of a police presence was being introduced gradually, starting with the predominantly nationalist areas.

#### Leaks


9. As I have reported separately, Mr Nally told me that the allegation that a NIO junior Minister had shown the draft Agreement to a journalist in Blackpool was based on a misunderstanding: the incident had taken place before the party conference and the culprit had been a Cabinet Minister. I have asked Sir Robert Armstrong to set the record straight in his report to the Prime Minister. The Irish continue to be much preoccupied by the danger that the Agreement will appear in the press and for this reason are urging early signature. We have explained the Prime Minister's views, but the Taoiseach may well press for an earlier date. (I have conveyed the Secretary of State's views to Sir Robert Armstrong and understand that you may follow this with a letter).

#### Attitude of Mr Haughey

10. I questioned Mr Nally over lunch on Monday on the likely attitude of Mr Haughey to the Agreement in the light of reports that he was now totally opposed to it. Mr Nally confirmed that this was the case. In his latest weekend speech Mr Haughey had condemned the negotiations and claimed that the Irish Government was simply helping the British Government to remain in Ireland and therefore setting back the cause of unity. Mr Nally expected Fianna Fail to vote solidly against the Agreement in the Dail but thought that the Government would be able to muster a majority of about half a dozen. This seems to be a somewhat precarious basis on which to proceed, with the likelihood that Mr Haughey will be Taoiseach before very long; but Irish officials say that, once an Agreement is signed, it will be difficult for Mr Haughey to repudiate it.

15 October 1985

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R J ANDREW