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FROM: D A L COOKE  
SIL  
7 MARCH 1991

cc Mr Pilling - B  
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Mr D A Hill - B  
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ANGLO-IRISH PLANNING GROUP: ANGLO-IRISH RELATIONS POST INITIATIVE

It was agreed at the last AIPG that thought needed to be given to our Anglo-Irish posture in the event that the Brooke Initiative did not go forward.

2. I attach a draft paper, to which as you know Mr Hill has made a major input, and which might, in the light of comments from copy recipients, be turned into either an AIPG paper or, if needed earlier, into an annex to a submission. The attached version is no more than an early prototype. It deals "blind" with a number of matters where work is currently in progress (eg security co-operation): these passages will need to be worked up in the light of colleagues' comments and kept under review. At this stage it deliberately omits any concluding set of recommendations: it seemed sensible to defer this until colleagues had had a chance to comment on the substance. I should be most grateful for comments by the end of next week.

(SIGNED)

D A L COOKE  
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4 MARCH 1991  
OAB EXT 6587

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ANGLO-IRISH RELATIONS AFTER THE BROOKE INITIATIVE

This paper responds to a remit from the meeting of the Anglo-Irish Planning Group on 15 February that thought should be given to what might be the appropriate tone to aim for in Anglo-Irish relations in the event that we do not bring the current political process to a successful conclusion. It assumes this outcome but makes no judgement as to how likely it is.

What are the relevant considerations?

2. Much will depend on the precise circumstances in which the current process breaks down; which side we might (privately) blame; and which side is generally perceived to have frustrated progress. Issues like this may colour our response, and will certainly create public expectations about Anglo-Irish relations which we might be able to ride with, or which might, conversely, give rise to a need for us to work quite hard to overcome them.

3. Substantive items on the Conference agenda other than political development may supply reasons of their own for postures towards the Irish ranging from mutual congratulation through co-operation and hard negotiation to public displeasure. A fresh appreciation of cross-border security co-operation is underway. Confidence issues will continue to have a high profile. The Irish might be faced within the next few months with a Supreme Court decision confirming our assertion that Irish extradition legislation should be amended on the question of the political offence exception. Economic and social matters cover individual items with implications for Anglo-Irish relations across the whole range from close co-operation to fierce competition. Any post-Brooke initiative activity on political development will also have clear implications for Anglo-Irish business, as the Irish have recognized by initiating a study of local government in Northern Ireland.

4. There are also wider considerations of East/West relations, such as the implications of the Gulf ceasefire and aftermath issues such as burden-sharing; European defence arrangements and East/West security co-operation; and the scope for making a degree of common cause with the Irish on EC issues such as the McSharry proposals for reforming the Common Agricultural Policy and our (at present) mutual opposition to the substance of some of the Schengen Convention.

5. The tone we aim for will inevitably be influenced by our analysis of what turn out to be the key underlying obstacles to general agreement on a basis for talks. The Secretary of State would no doubt have in mind the criterion of likelihood of assisting movement down an alternative path of political development in considering what tone to adopt in Anglo-Irish relations. He may wish to take account of a range of considerations such as the desirability of maintaining and strengthening the relationship built up with the Unionist leaders and the Unionist parties' apparent readiness to renew political dialogue (with the Government at least if not the SDLP); the importance of maintaining political pressure on the Republican Movement; domestic UK political considerations; and the difficulty of presenting overseas any development which appeared to involve a difference of view between the British and Irish Governments or any diminution of our commitment to the Anglo-Irish Agreement.

Talks breakdown scenarios: options for Anglo-Irish relations?

6. Anglo-Irish relations following any breakdown of the Initiative could fall anywhere on a spectrum from selective criticism of the Irish Government through business as usual to a whole-hearted rededication to the Anglo-Irish process. Whatever happens, the Government is likely to have some choice as to which tone to aim for. Paragraphs 7-9 below outline three options intended to illustrate the possible range.

7. It could plausibly be argued that a key obstacle to progress has been the Fianna Fail refusal to acknowledge the political reality that Northern Ireland is likely to remain part of the UK for the foreseeable future, and their failure to "interiorise" the principle of majority consent to change. This has of course been exacerbated by the ambivalence of the SDLP leadership. An acceptance of these realities by the Irish Government and SDLP would have made it very much easier to construct an agreed basis for talks and could have transformed Unionist attitudes to responsibility-sharing within Northern Ireland and towards North/South relations. Public and political opinion within the Republic and within the wider SDLP membership seemed ready to accept those realities. On this first scenario, the Government might point more in sorrow than in anger to the obstacle to agreement presented by the Irish Government's particular position on the "constitutional question" and seek to capitalise on the emergence in the Republic over the past year of a more pragmatic attitude towards the constitutional issue. Recent remarks by Mr Lenihan and other Fianna Fail politicians suggest that there may be a new spirit of pragmatism within parts of that Party which we may be able to exploit. There certainly seems to be a latent wider consensus in Irish political and public opinion that Articles 2 and 3 should be replaced. Exploitation of these factors would be a difficult task requiring some subtlety of approach but it would have potentially fundamental long-term value. An approach on these lines might succeed in giving impetus to pressures for change within Fianna Fail and to renewed attempts to replace Articles 2 and 3. It would also provide significant reassurance for Unionists and perhaps encourage them to maintain positive relations with the Government. There would be a price to pay in terms of a probable deterioration in Anglo-Irish relations, at least in the short term.

8. At the other end of the scale, HMG's approach to Anglo-Irish relations might reflect a view that the fundamental

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obstacle faced by the Brooke Initiative had been the Unionist failure to face up to the historical and geographical logic of their position on the island of Ireland and to the need to accommodate minority interests in the government of Northern Ireland. In its most extreme form the lesson drawn from this thesis might be that the Unionists should be put back in the dungeon for a further 5 years. The argument might run that, since the Unionists could not bring themselves to agree to the generous terms offered by the Irish Government for a renegotiation of the 1985 Agreement, Anglo-Irish relations should remain strong and positive, with the Agreement being operated with renewed vigour. The scope of cross-border cooperative ventures in the economic and social field might expand. "Direct rule", subject to Irish influence, would continue in Northern Ireland and political development might resume - after a (long) pause - when the Unionists were in a mood to compromise.

9. A third scenario, one of relatively unacrimonious and neutral breakdown, might be associated with the following option package for Anglo-Irish relations. In the absence of agreement on an alternative, the existing Agreement would continue in operation but HMG would seek to avoid developments favoured by the Irish which might provide a renewed focus for Unionist opposition. The Secretary of State's attention might focus on preserving and extending his relationship with the Northern Ireland parties. On a benign scenario he might be able to promote "internal" talks between the parties on new arrangements for the government of Northern Ireland (as it were "talks under Article 4 of the Agreement"). At the very least he might aim to maintain contact with the various parties and pursue possibilities for improving the operation of direct rule. Steps he might take in this regard (which could also be seen as putting in place some of the foundations for a more comprehensive political accommodation in due course) might include: changes in legislative procedures; changes in the structure and powers of local government; the

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establishment of (informal) consultative groups; the introduction of proportionality in the distribution of seats on Council Committees; and extending the formal protection of human (and perhaps communal) rights in Northern Ireland.

A possible agenda for Anglo-Irish relations in the aftermath of the Initiative

10. The three sets of options sketched in paragraphs 7-9 above provide a useful analytical focus, but there are some qualifications which need to be noted. First, it is important to give due weight to the considerations beyond political development outlined in paragraphs 3-4 above. Secondly, we do not know at this stage exactly how any breakdown will come about and what its main features will be; but this will inevitably have some influence on our choice of Anglo-Irish posture. Thirdly, the three sets of options sketched above do not pretend to be exhaustive or to entail mutually exclusive prescriptions for handling Anglo-Irish relations across the full range. For instance, we could privately blame Fianna Fail attitudes for contributing to any breakdown without concluding that we should be seen to question the value of the Agreement in a way which might have the effect of undermining support both for Fine Gael and for those in Fianna Fail who are looking for a more pragmatic approach. Conversely, privately blaming the Unionists need not entail not trying to get movement out of the Irish on, say, security co-operation.

11. It may also be worth noting some considerations from the Irish perspective which have a bearing on our choice of Anglo-Irish posture post-Initiative. The likelihood is that both the UK and the ROI Governments will seek to avoid fiercely blaming each other over any breakdown. The Irish do not seem to want this. The DFA are doing calm contingency planning for a post Initiative pause. There is a clear sense in the Republic of Mr

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Brooke's personal popularity and of the welcome which the people of the Republic have given his initiative. The instinctive DFA reaction will be to blame the Unionists if public blaming is to be done. The commitment of the ROI Government to the Agreement remains very strong. The DFA will continue to bleat about aspects of the British performance in operating it. But any suggestion that the British were thinking twice about their commitment to it could, in the absence of a political settlement, damage the prospects of elements in Irish politics (ie Fine Gael, Labour, to some extent the PDs and some progressives in Fianna Fail) who are sympathetic to more specific points on the British agenda. Conversely, it ought to be possible for us legitimately to criticise aspects of the ROI Government performance on Conference agenda items without casting doubt on our own commitment to the Agreement. We could plausibly argue that what we wanted was to see it operated more intensively or effectively.

12. Allowing for the impossibility of knowing at this stage quite what the Anglo-Irish atmosphere post-breakdown might be, and for the consideration that matters are still developing in such key areas as security co-operation, extradition and Irish politics, a possible post-Initiative agenda for Anglo-Irish relations might have the following ingredients. Where there is scope for significant differences of approach depending on which of the sets of options in paragraphs 7-9 is favoured (and in some cases there may not be) this is noted.

(a) We would continue to co-operate with the Irish Government on East/West and wider (eg EC) Anglo-Irish agenda items where it was in our interests to do so. It is hard to see that even pursuit of an internal settlement post Initiative could supply sufficient reason for not doing so.

(b) On any analysis we would continue to argue in private

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for replacement of Articles 2 and 3 of the Irish Constitution. The position paper "Strengthening the assurances about the status of Northern Ireland in the light of the McGimpsey judgement" discusses a possible replacement formula in paragraph 19. On the key question of whether replacement of Articles 2 and 3 should be pursued overtly, that paper comes down against, on the basis that the current political climate in the Republic is unlikely to make it achievable. This conclusion needs to be reviewed in the light of the analysis in paragraph 7 above. Indeed it is arguable that the present circumstances of Irish politics in conjunction with the Brooke Initiative have brought about (or may soon do so) a psychologically critical moment which might enable us to secure an historic shift in the Irish approach to the constitutional question. (This was the thesis of the report in last Sunday's BBC "On the record" programme.) That in turn could profoundly affect the political situation within Northern Ireland and the Unionist attitude to North/South relations. As paragraph 7 recognizes, there would also almost certainly be a price to pay in terms of deterioration of relations with the Irish Government which would affect other elements set out in this paragraph. But there is a difficult judgement to be made as to whether a carefully controlled public exposition of our case could in the present Irish political landscape help to consolidate the latent wider consensus in Irish political and public opinion that Articles 2 and 3 should be replaced. There is a risk that we might undermine our friends in the Republic. John Bruton's support for unilateral replacement is not shared by everyone in Fine Gael and the Irish Labour Party. [We will have a better idea in the light of this weeks Fianna Fail Ard Fheiss as to how solid the Party is on the Irish Government's approach.] The wider implications of such a move on our part could perhaps be

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summarised by saying that pursuit of other items on the Anglo-Irish agenda would become more difficult whereas political development within Northern Ireland might be helped. This latter consideration raises the question whether alternative political paths in Northern Ireland are likely to be pursued before the next General Election: this is relevant to the timing of any public attack by HMG on Articles 2 and 3.

(c) We would not weaken our commitment to the Agreement. But we could readily argue that it should be operated more rigorously, effectively and realistically. Whether we go further and in some way rededicate ourselves to the Agreement and the Anglo-Irish process (although that is a loaded and ambiguous term) might depend on how persuasive we find the line of argument in paragraph 8.

(d) On security co-operation, we might seek to develop a new and more effective agenda, pursue it more vigorously through the Conference, perhaps in conjunction with reform of the Restricted Security Session, tone down gradually the post Conference Joint Statement references to the excellence of security co-operation, do some background press briefing on our objectives and, when the time was ripe, perhaps make some carefully selective criticism of the Irish response on specific points, taking care to emphasise that this was a matter of seeking to make the Agreement work better, not of distancing ourselves from it. Much of this agenda would be compatible with each of the three scenarios in paragraphs 7-9, although the Irish might be tempted to see it as a Unionist approach. This perception could be countered.

(e) On confidence issues, we might consider linkage with progress on security co-operation, make the most of

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forthcoming concessions during Report or in the Lords in the EP Bill, similarly make the most of specific outcomes such as the PVCP review, and challenge the Irish in private, and perhaps also on suitable occasions in public, to do more to acknowledge improvements which we had made.

(f) On extradition, we might have a further meeting of Working Group II to resolve any issues left over from Ellis and re-establish as far as possible that there were no obstacles which the Irish Government could plead to amending their 1987 legislation if the Supreme Court upholds the High Court decision on Sloan, Magee and McKee.

(g) On political development, there might be no significant post-Initiative pursuit of alternative political paths this side of a General Election. But if there were, we might aim to offer early and full briefing to the Irish Government without according them the status of a negotiating party on the same basis as the others. (It could be argued that an approach along the lines of paragraph 7 above might lead us to be less forthcoming than this, but in practice we would be constrained by Articles 4 and 2(b) of the Agreement.) We would ensure that the Irish consulted us fully over their study of local government in Northern Ireland, and point out any inadequacies privately and, if need be, in public.

(h) On social and economic items we would seek to distinguish clearly between those whose pursuit was mutually beneficial, those offering useful exchanges of information, and those where our interests were in competition with those of the Irish. This is an area which, perhaps more readily than others, offers scope for fine-tuning in the light of our other Conference and wider Anglo-Irish objectives. At the same time we could pursue

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other objectives such as the need to dispel prejudices in Irish politics based on an out of date acquaintance with Northern Ireland affairs.

(i) The International Fund for Ireland has been turned round by its present Chairman, John B McGuckian. It is important both for social and economic improvements in Northern Ireland and for better North/South co-operation and understanding. We and the Irish have mutual interests in the search for future funding which may usefully be pursued in concert. While this is largely a self-standing ingredient it would be possible to downgrade our commitment to the Fund as part of any more confrontational approach to Anglo-Irish relations.

(j) There may be scope for operating the mechanics of the Agreement and Conference more effectively. We could improve our record on advance consultation: there are good objective arguments for doing so, although clearly it would be possible to take a different line if a confrontational posture were preferred. On any approach, any tendency for nationalist complaints to be routed through the DFA and Secretariat to the exclusion of the proper authorities in Northern Ireland should be resisted.

(k) We would continue to encourage North/South visits and exchanges and to make the most of the opportunities offered by the Robinson Presidency. Again, this is an element which could in principle be played in different ways, but it is likely to be counter-productive deliberately to shut off these opportunities in the hope that that will enable us to pursue other objectives.

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