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bc PC

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

Your minute of 11 November offered the Prime Minister a chance to make any final comments on the draft text of the Anglo-Irish Agreement, the joint summary of the Agreement for release to the press and the Summit communiqué.

The Prime Minister has not had a further opportunity to go through these texts since our last discussion. But on the assumption that the Northern Ireland Secretary and the Foreign Secretary are content she would not wish to propose any further amendments.

I have two small suggestions which you may like to consider.

- (i) I know that the word "competence" in paragraph 7 of the communiqué continues to trouble the Prime Minister because of its overtones of jurisdiction and legal authority. Would it be possible to envisage some such phrase as "... in all the fields... which it is agreed it shall discuss"?
- (ii) I also wonder whether anyone will believe paragraph 11 of the draft communiqué though I see the point of having it.

I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and Secretary of State for Northern Ireland.

CHARLES POWELL

12 November 1985

30A

RPC

I wonder if the words 'entitled' are any better than 'competence'?

Prime Minister

Ref. A085/2894

PRIME MINISTER

DTA seeks your authority to agree to texts attached. They have not changed since you last saw them. The

Anglo-Irish Relations: Northern Ireland

I attach final drafts of:

Secretary-General has combed through them thoroughly.

- 1. The Anglo-Irish Agreement: 2. A term which you might challenge is the word
- 2. The joint summary of the Agreement for release to the press; "competence" in paragraph 9 of the Communiqué (flagged). It has overtones of jurisdiction and legal authority. "which it is entitled to discuss" would be better.
- 3. The Summit communiqué.

2. The meeting which I am due to have with Mr Nally tomorrow afternoon will be the last at which we can discuss these texts with Irish officials and agree amendments. After that we envisage that the texts of the Agreement and the communiqué will go to press, so that a White Paper can be issued first thing on Monday 18 November. Amendments to the communiqué at the Summit meeting need not be absolutely out; but we need to get the text set up in print beforehand, and make any last-minute amendments at proof stage.

3. All these texts have been agreed with the Irish side, and there are no outstanding points of difference. May I assume that the texts are acceptable to you and the two Secretaries of State unless I hear otherwise?

4. I am sending copies of this minute and the texts to the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland.

RIA

ROBERT ARMSTRONG

11 November 1985

As at 11 November 1985

DRAFT AGREEMENT BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF
IRELAND.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland;

Wishing further to develop the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Community;

Recognising the major interest of both their countries and, above all, of the people of Northern Ireland in diminishing the divisions there and achieving lasting peace and stability;

Recognising the need for continuing efforts to reconcile and to acknowledge the rights of the two major traditions that exist in Ireland, represented on the one hand by those who wish for no change in the present status of Northern Ireland and on the

other hand by those who aspire to a sovereign united Ireland achieved by peaceful means and through agreement;

Reaffirming their total rejection of any attempt to promote political objectives by violence or the threat of violence and their determination to work together to ensure that those who adopt or support such methods do not succeed;

Recognising that a condition of genuine reconciliation and dialogue between unionists and nationalists is mutual recognition and acceptance of each other's rights;

Recognising and respecting the identities of the two communities in Northern Ireland, and the right of each to pursue its aspirations by peaceful and constitutional means;

Reaffirming their commitment to a society in Northern Ireland in which all may live in peace, free from discrimination and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government;

Have accordingly agreed as follows:

A

STATUS OF NORTHERN IRELAND

ARTICLE 1

The two 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.

B

THE INTERGOVERNMENTAL CONFERENCE

ARTICLE 2

(a) There is hereby established, within the framework of the Anglo-Irish Intergovernmental Council set up after the meeting between the two Heads of Government on 6 November 1981, an Intergovernmental Conference (hereinafter referred to as "the Conference"), concerned with Northern Ireland and with relations between the two parts of the island of Ireland to deal, as set out in this Agreement, on a regular basis with

(i) political matters;

(ii) security and related matters;

(iii) legal matters, including the administration of justice;

(iv) the promotion of cross-border co-operation.

(b) The United Kingdom Government accept that the Irish Government will put forward views and proposals on matters relating to Northern Ireland within the field of activity of the Conference in so far as those matters are not the responsibility of a devolved administration in Northern Ireland. In the interest of promoting peace and stability, determined efforts shall be made through the Conference to resolve any differences. The Conference will be mainly concerned with Northern Ireland; but some of the matters under consideration will involve co-operative action in both parts of the island of Ireland, and possibly also in Great Britain. Some of the proposals considered in respect of Northern Ireland may also be found to have application by the Irish Government. There is no derogation from the sovereignty of either the United Kingdom Government or the Irish Government, and each retains responsibility for the decisions and administration of government within its own jurisdiction.

ARTICLE 3

The Conference shall meet at Ministerial or official level, as required. The business of the Conference will thus receive attention at the highest level. Regular and frequent Ministerial meetings shall be held; and in particular special meetings shall be convened at the request of either side. Officials may meet in subordinate groups. Membership of the Conference and of sub-groups shall be small and flexible. When the Conference meets at Ministerial level the Secretary of State for Northern Ireland and an Irish Minister designated as the Permanent Irish Ministerial Representative shall be joint Chairmen. Within the framework of the Conference other British and Irish Ministers may hold or attend meetings as appropriate: when legal matters are under consideration the Attorneys General may attend. Ministers may be accompanied by their officials and their professional advisers: for example, when questions of security policy or security co-operation are being discussed, they may be accompanied by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana; or when questions of economic or

social policy or co-operation are being discussed, they may be accompanied by officials of the relevant Departments. 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.

ARTICLE 4

- (a) In relation to matters coming within its field of activity, the Conference shall be a framework within which the United Kingdom Government and the Irish Government work together
- (i) for the accommodation of the rights and identities of the two traditions which exist in Northern Ireland; and
- (ii) for peace, stability and prosperity throughout the island of Ireland by promoting reconciliation, respect for human rights, co-operation against terrorism and the development of economic, social and cultural co-operation.
- (b) It is the declared policy of the United Kingdom Government that responsibility in respect of certain matters within the powers of the Secretary of State for Northern Ireland should be devolved within Northern Ireland on

a basis which would secure widespread acceptance throughout the community. The Irish Government support that policy.

- (c) Both Governments recognise that devolution can be achieved only with the co-operation of constitutional representatives within Northern Ireland of both traditions there. The Conference shall be a framework within which the Irish Government may put forward views and proposals on the modalities of bringing about devolution in Northern Ireland, in so far as they relate to the interests of the minority community.

C

POLITICAL MATTERS

ARTICLE 5

- (a) The Conference shall concern itself with measures to recognise and accommodate the rights and identities of the two traditions in Northern Ireland, to protect human rights and to prevent discrimination. Matters to be considered in this area include measures to foster the cultural heritage of both traditions, changes in electoral arrangements, the use of flags and emblems, the avoidance of economic and social discrimination and the advantages and disadvantages of a Bill of Rights in some form in Northern Ireland.
- (b) The discussion of these matters shall be mainly concerned with Northern Ireland, but the possible application of any measures pursuant to this Article by the Irish Government in their jurisdiction shall not be excluded.

(c) If it should prove impossible to achieve and sustain devolution on a basis which secures widespread acceptance in Northern Ireland, the Conference shall be a framework within which the Irish Government may, where the interests of the minority community are significantly or especially affected, put forward views on proposals for major legislation and on major policy issues, which are within the purview of the Northern Ireland Departments and which remain the responsibility of the Secretary of State for Northern Ireland.

ARTICLE 6

The Conference shall be a framework within which the Irish Government may put forward views and proposals on the role and composition of bodies appointed by the Secretary of State for Northern Ireland or by departments subject to his direction and control including

the Standing Advisory Commission on Human Rights

the Fair Employment Agency

the Equal Opportunities Commission

the Police Authority for Northern Ireland

the Police Complaints Board.

D

SECURITY AND RELATED MATTERS

ARTICLE 7

- (a) The Conference shall consider
 - (i) security policy;
 - (ii) relations between the security forces and the community;
 - (iii) prisons policy.
- (b) The Conference shall consider the security situation at its regular meetings and thus provide an opportunity to address policy issues, serious incidents and forthcoming events.
- (c) The two Governments agree that there is a need for a programme of special measures in Northern Ireland to improve relations between the security forces and the community, with the object in particular of making the

security forces more readily accepted by the nationalist community. Such a programme shall be developed, for the Conference's consideration, and may include the establishment of local consultative machinery, training in community relations, crime prevention schemes involving the community, improvements in arrangements for handling complaints, and action to increase the proportion of members of the minority in the Royal Ulster Constabulary. Elements of the programme may be considered by the Irish Government suitable for application within their jurisdiction.

(d) The Conference may consider policy issues relating to prisons. Individual cases may be raised as appropriate, so that information can be provided or inquiries instituted.

E

LEGAL MATTERS, INCLUDING THE ADMINISTRATION OF
JUSTICE

ARTICLE 8

The Conference shall deal with issues of concern to both countries relating to the enforcement of the criminal law. In particular it shall consider whether there are areas of the criminal law applying in the North and in the South respectively which might with benefit be harmonised. The two Governments agree on the importance of public confidence in the administration of justice. The Conference shall seek, with the help of advice from experts as appropriate, measures which would give substantial expression to this aim, considering inter alia the possibility of mixed courts in both jurisdictions for the trial of certain offences. The Conference shall also be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South.

F

CROSS-BORDER CO-OPERATION ON SECURITY,
ECONOMIC, SOCIAL AND CULTURAL MATTERS

ARTICLE 9

- (a) With a view to enhancing cross-border co-operation on security matters, the Conference shall set in hand a programme of work to be undertaken by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana and, where appropriate, groups of officials in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel, and operational resources.
- (b) The Conference shall have no operational responsibilities; responsibility for police operations shall remain with the heads of the respective police forces, the Chief Constable of the Royal Ulster Constabulary maintaining his links with the Secretary of State for Northern Ireland and the Commissioner of the

Garda Siochana his links with the Minister for
Justice.

ARTICLE 10

- (a) The two Governments shall co-operate to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years, and shall consider the possibility of securing international support for this work.
- (b) If it should prove impossible to achieve and sustain devolution on a basis which secures widespread acceptance in Northern Ireland, the Conference shall be a framework for the promotion of co-operation between the two parts of Ireland concerning cross-border aspects of economic, social and cultural matters in relation to which the Secretary of State for Northern Ireland continues to exercise authority.
- (c) If responsibility is devolved in respect of certain matters in the economic, social or cultural areas currently within the responsibility of the Secretary of State for Northern Ireland, machinery will need to be

established by the responsible authorities in the North and South for practical co-operation in respect of cross-border aspects of these issues.

G

ARRANGEMENTS FOR REVIEW

ARTICLE 11

At the end of three years from signature of this agreement, or earlier if requested by either Government, the working of the Conference shall be reviewed by the two Governments to see whether any changes in the scope and nature of its activities are desirable.

H

INTERPARLIAMENTARY RELATIONS

ARTICLE 12

It will be for Parliamentary decision in Westminster and in Dublin whether to establish an Anglo-Irish Parliamentary body of the kind adumbrated in the Anglo-Irish Studies Report of November 1981. The two Governments agree that they would give support as appropriate to such a body, if it were to be established.

SECRET AND PERSONAL

I

FINAL CLAUSES

ARTICLE 13

This Agreement shall enter into force on the date on which the two Governments exchange notifications of their acceptance of this Agreement.

22

SECRET AND PERSONAL

NOIAAP

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in two originals at.... on the..... day of
..... 1985

For the Government
of the United Kingdom
of Great Britain and
Northern Ireland

For the Government of
the Republic of
Ireland

(Note: each original would be signed on behalf of both Governments. In the Title, in the names of parties at the start of the Agreement, and in the signature blocks above, the original retained in London would be as typed, whereas, in the original retained in Dublin, "of Great Britain and Northern Ireland" and "the Republic of" would be omitted, and the Irish signature block would be on the left side.)

Att. to RTA to PM 11/11.

As at 11 November 1985

Summary of the Anglo-Irish Agreement

Joint Press Release

(Note: This summary has no legal status)

1. The Agreement begins with a Preamble incorporating a joint statement of objectives.

The Status of Northern Ireland

2. The Agreement commits the two Governments to the view 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; that the present wish of a majority there is for no change in that status; and that, if in the future a majority there clearly wished for and formally consented to a united Ireland, the two Governments would introduce and support legislation in the respective Parliaments to give effect to this.
(Article 1)

Framework and Objectives of the Intergovernmental
Conference

3. The Agreement establishes, within the framework of the Anglo-Irish Intergovernmental Council, an Intergovernmental Conference concerned with Northern Ireland and with relations between the two parts of Ireland which, subject to the terms of the Agreement, will deal on a regular basis with:

- political matters;
- security and related matters;
- legal matters, including the administration of justice;
- the promotion of cross-border co-operation.

(Article 2(a))

The Agreement provides for a review of the working of the Conference after three years, or earlier if either side desires. (Article 11)

4. The Conference will proceed on the basis that:-

- the United Kingdom Government accepts that the Irish Government will put forward within the Conference views and proposals on certain matters relating to Northern Ireland as provided for in the Agreement;
- in the interest of promoting peace and stability, determined efforts will be made in the Conference to resolve any differences;
- there will be no derogation from the sovereignty of either Government, so that each retains responsibility for the decisions and administration of government within its own jurisdiction. (Article 2(b))

5. The Conference will be a framework within which the two Governments work together for the accommodation of the rights and identities of the two traditions in Northern Ireland and for peace, stability and prosperity throughout Ireland by promoting reconciliation, respect for human rights, co-operation against terrorism and the development

of economic, social and cultural co-operation.
(Article 4(a))

Procedures and Membership of the Intergovernmental
Conference

6. There will be regular and frequent meetings of the Conference at Ministerial level as well as meetings at official level, and in particular special meetings may be convened at the request of either side. The Irish Government will be represented by a Minister designated as the Permanent Irish Ministerial Representative and the United Kingdom Government by the Secretary of State for Northern Ireland. Other Ministers and advisers will participate as appropriate. There will be a Secretariat to service the Conference on a continuing basis. (Article 3)

7. The Irish Government declare their support for the United Kingdom Government's policy of seeking devolution in Northern Ireland on a basis which would secure widespread acceptance throughout the community. (Article 4(b)). The Conference will be a framework in which the Irish Government can put forward views and proposals on the modalities of

devolution, in so far as they relate to the interests of the minority community. (Article 4(c)). Should a devolved administration be established, the devolved matters would not be for consideration by the Conference. (Article 2)

Political Matters

8. The Conference will concern itself with measures to recognise and accommodate the rights and identities of both traditions in Northern Ireland in such areas as cultural heritage, electoral arrangements, use of flags and emblems, the avoidance of economic and social discrimination and the advantages and disadvantages of a Bill of Rights for Northern Ireland. (Article 5(a))

9. Should it prove impossible to achieve and sustain devolution, proposals for major legislation and major policy issues where the interests of the minority community are significantly or especially affected and which come within the administrative responsibility of the Northern Ireland Departments will be for consideration by the Conference. (Article 5(c))

10. The Conference will be a framework within which the Irish Government may put forward views on the role and composition of certain bodies appointed by the Secretary of State for Northern Ireland or his Departments. (Article 6)

Security and Related Matters within Northern Ireland

11. The Conference will consider security policy issues as well as serious incidents and forthcoming events. A programme of action will be developed with the particular object of improving the relations between the security forces and the nationalist community. Elements of the programme may be considered by the Irish Government for application in the South. The Conference may also consider policy issues relating to prisons, and individual cases may be raised. (Article 7)

Legal Matters including the Administration of Justice

12. Both Governments recognise the importance of public confidence in the administration of justice. The Conference will seek measures that would give

substantial expression to this aim, considering among other things the possibility of mixed courts in both jurisdictions for the trial of certain offences. The Conference will also consider whether there are areas of the criminal law in both jurisdictions which might with benefit be harmonised and will be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South.

(Article 8)

Cross-border Co-operation on Security, Economic,
Social and Cultural Matters

13. The Conference will set in hand a programme of work to be undertaken by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana with a view to enhancing co-operation between the security forces of the two Governments in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel and operational resources. The Conference will have no operational responsibilities. (Article 9)

14. The two Governments undertake to co-operate to promote the economic and social development of those areas in both parts of Ireland which have suffered most severely as a result of the instability of recent years. The two Governments will consider the possibility of securing international support for this work. (Article 10(a))

15. The Conference will, in the absence of devolution, be the framework for the promotion of cross-border economic, social and cultural co-operation. In the event of devolution, machinery would be needed to deal with co-operation in respect of cross-border aspects of devolved matters. (Article 10(b) and (c))

Inter-Parliamentary Body

16. The two Governments agree that they would give appropriate support to any Anglo-Irish Inter-Parliamentary body established by the two Parliaments. (Article 12)

As at 11 November 1985

Anglo-Irish Summit Meeting

Joint Communiqué (Draft)

1. The Prime Minister, the Rt Hon Margaret Thatcher FRS MP and the Taoiseach, Dr Garret FitzGerald TD, met at on 15 November 1985. It was the third meeting of the Anglo-Irish Intergovernmental Council to be held at the level of Heads of Government.

2. The Prime Minister was accompanied by the Secretary of State for Foreign and Commonwealth Affairs, the Rt Hon Sir Geoffrey Howe QC MP, and the Secretary of State for Northern Ireland, the Rt Hon Tom King MP. The Taoiseach was accompanied by the Tanaiste, Mr Dick Spring TD, and the Minister for Foreign Affairs, Mr Peter Barry TD.

3. The Prime Minister and the Taoiseach signed a formal and binding Agreement between their two Governments, with the aims of promoting peace and stability in Northern Ireland; helping to reconcile the two major traditions in Ireland; creating a new

climate of friendship and co-operation between the people of the two countries; and improving co-operation in combatting terrorism.

4. The Agreement deals in particular with the status of Northern Ireland and the establishment of an Intergovernmental Conference in which the Irish Government will put forward views and proposals concerning stated aspects of Northern Ireland affairs; in which the promotion of cross-border co-operation will be discussed; and in which determined efforts will be made to resolve any differences between the two Governments.

5. The Prime Minister and the Taoiseach committed themselves to implementing and sustaining the measures set out in the Agreement with determination and imagination and undertook to encourage people of both the unionist and nationalist traditions in Ireland to make new efforts to understand and respect each other's concerns with a view to promoting reconciliation.

6. The Agreement provides for entry into force as soon as each Government has formally notified the other of acceptance. This exchange of

notifications will not be completed until the Agreement has been approved by the British Parliament and by Dail Eireann. The two Governments intend that action to implement the provisions of the Agreement should begin once the exchange of notifications has been completed. The first meeting of the Intergovernmental Conference will take place as soon as possible thereafter. The British side will be led by the Secretary of State for Northern Ireland and the Irish side by the Minister designated as the Permanent Irish Ministerial Representative.

7. The two Governments envisage that the meetings and agenda of the Conference will not normally be announced. But they wish it to be known that, at its first meeting, the Conference will consider its future programme of work in all the fields - political, security, legal, economic, social and cultural - which come within its competence. It will concentrate at its initial meetings on:

- relations between the security forces and the minority community in Northern Ireland;

- ways of enhancing security co-operation between the two Governments; and
- seeking measures which would give substantial expression to the aim of underlining the importance of public confidence in the administration of justice.

In the interests of all the people of Northern Ireland the two sides are committed to work for early progress in these matters. Against this background, the Taoiseach said that it was the intention of his Government to accede as soon as possible to the European Convention on the Suppression of Terrorism.

8. In addressing the improvement of relations between the security forces and the minority community, the Conference at its first meeting will consider:

- a. the application of the principle that the Armed Forces (which include the Ulster Defence Regiment) operate only in support of the civil power, with the particular objective of ensuring as rapidly as possible that, save in

the most exceptional circumstances, there is a police presence in all operations which involve direct contact with the community;

b. ways of underlining the policy of the Royal Ulster Constabulary and of the Armed Forces in Northern Ireland that they discharge their duties even-handedly and with equal respect for the unionist and nationalist identities and traditions.

9. In its discussion of the enhancement of cross-border co-operation on security, the first meeting of the Intergovernmental Conference will give particular attention to the importance of continuing and enhanced co-operation, as envisaged in Article 9(a) of the Agreement, in the policing of border areas.

10. In addition to concluding the new Agreement, the Prime Minister and the Taoiseach reviewed the wide range of work being done under the auspices of the Anglo-Irish Intergovernmental Council to develop further the unique relationship between the two countries. The fact that in the past year there have been more than twenty meetings between Ministers of the two Governments demonstrates the

closeness of co-operation. Among the areas where progress has been made in the past year is the planning of new areas of co-operation in education, notably in curriculum development between schools. The Prime Minister and the Taoiseach decided that the work under the Council's auspices in these various fields should be actively continued, in the interests of friendship between all the people of both countries.

11. The Prime Minister and the Taoiseach held a full and friendly discussion of current international issues. They paid particular attention to East-West relations and to European Community matters.

12. The Prime Minister and the Taoiseach agreed to meet again at an appropriate time to take stock of the development of relations between the two countries and of the implementation of the Agreement which they have signed.