

NATIONAL ARCHIVES

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SECRET

Draft Anglo-Irish Agreement - the Nationalist Case

1. The current negotiations have been the subject of a plague of "leaks" which have often been a cause of dismay to the Government and to nationalists generally. This is because the "leaks" have come overwhelmingly from the British side and have been intended to stress only the limits of what is proposed from our point of view and in a way which has been intended only to reassure unionists. The Government and those in the SDLP who have been following the negotiations have refrained scrupulously from touting the gains involved from the nationalist viewpoint. The reality is that those gains are significant and now in large measure totally unsuspected and should provide considerable reassurance to nationalists on publication.

2. Irish Ministers would in their comments on an Agreement, and especially during the first week before the debate in the House of Commons and the following week before ratification, have to be extremely circumspect and not make statements which would be seized on by unionists and thus become the subject of direct contradiction by British Ministers. Nevertheless it would be important that the potential of the Agreement from the nationalist viewpoint be understood. Nationalist spokesmen will however have to exercise care not to "over-sell" the significance of the Agreement and in particular will have to avoid saying that the Agreement is tantamount to the first major step on the path of British withdrawal and Irish unity.

3. The following are points of significance from the nationalist viewpoint.

Sovereignty

4. Whatever British Ministers say, the reality of the Agreement is that it involves a substantial invasion of British

sovereignty in Northern Ireland. Would it be conceivable that British sovereignty in the Falklands would not be impaired were the British Government to involve the Argentinian Government in all the internal affairs of the Falklands, with an Argentinian "presence" there and with a binding international obligation to make determined efforts to resolve any differences on all of those issues? Would British sovereignty in Gibraltar not be impaired if such an arrangement were offered to Spain? Would not our sovereignty in the South be undermined if we invited the British to offer us views and proposals on our internal affairs, with a non-diplomatic "presence" in our Government and with a corresponding binding obligation to make determined efforts to resolve differences with them? It is illogical, however politically necessary, to pretend that there is no change in British sovereignty in Northern Ireland. A historic shift, which is irreversible, is involved in the Agreement.

The Implications of Article 1

5. Article 1 is in three parts: the first part states that change in the status of Northern Ireland would come about only with the consent of a majority of the people of Northern Ireland and the second, that consent for change does not now exist. Both of these propositions are consistent with the Constitution, existing Government positions, existing Opposition positions and the Forum Report. There is no concession therefore on the nationalist position.

6. The third section of Article 1 involves a commitment by the British Government to implement Irish unity on its own initiative in the event that consent to this on the part of a majority of the people of Northern Ireland emerged. This is a positive move in the direction of Irish nationalism in three respects: first, in an international Agreement it fully legitimises the objective of Irish unity from a British point of view, because the British commit themselves to support Irish unity actively in certain circumstances; second, this commitment is the inverse of the "guarantee" in that it moves

the British some distance towards supporting Irish unity as the eventual outcome: logically this must be so, as without this important implicit shift, it would make no sense for the British to commit themselves to supporting Irish unity if (a) they opposed Irish unity or (b) they preferred some other conceivable "change"; third, it excludes the possibility that Britain would invoke any factor other than consent or its absence as a means to stand in the way of Irish unity: this means that, by virtue of an international Agreement, factors such as territorial sovereignty or strategic interest can not be invoked by the British as obstacles to Irish unity.

Review and Withdrawal

7. One of the central realities of the proposed arrangements is that the consequences for Britain of backing out of the Agreement would be so great as to inhibit any attempts to withdraw on the part of the British Government in any circumstances short of an extreme deterioration in Anglo-Irish relations. These consequences would be in two categories: (i) the vindication of the path of violence as the only means of advance open to nationalists, with the chaotic consequences that would inevitably flow from that; (ii) the extremely difficult international position that Britain would find herself in in withdrawing from an arrangement which had enjoyed powerful international support. On the other hand the Irish Government can withdraw and what is more the British are clearly aware of and nervous about this capacity on our side. This particular leverage has been referred to by the British on several occasions during the negotiations as a "power of nuclear impact".

8. It is also a reality that the Review Clause (Article 11) could not be used to restrict the role of the Interministerial body; in practice it is only conceivable that it would be used to expand it. This is so because no Irish Government could agree to a restriction on the Irish Government's role and a review could only result therefore either in a withdrawal by

the Irish Government, which would create major problems for the British, or an expansion of the role of the Irish Government. It is politically unlikely that the stipulated review (after three years) would result in no change.

Protecting the Government's position within an Agreement

9. This brings up the extremely important question of the range of levers available to the Irish Government within the process to protect our interest. They are as follows:

- A Raise the matter in the Secretariat
- B Raise the matter at a regular meeting
- C Call "special" meetings (Article 3)
- D Call an Anglo-Irish Summit of the AIIC
- E Threaten to call for a review (Article 11)
- F Call for a review (Article 11)
- G Threaten to withdraw
- H Withdraw

Of these possibilities the British could only avail of A, B and C in practice; they would be most unlikely to call for D and could not in practice use the remaining possibilities.

10. This means that the Irish Government's capacity to defend itself within the arrangement is fairly satisfactory and its capacity to develop the scope of the Agreement in the future is a built-in reality.

Nature of the Irish Government's role

11. As with all other elements of the Agreement which give an advantage to Irish nationalists, the nature of the Irish Government's role in the intergovernmental arrangement is significantly more substantial than any leaks have hitherto suggested. That is because the leaks so far have come from the British (mainly the N.I.O.) and have been aimed at reassuring the unionist side. The Irish Government's role is

defined in Article 2(b) as involving an acceptance by the British Government of the Irish Government's right to put forward proposals and the obligation under an international agreement that "in the interest of promoting peace and stability, determined efforts shall be made through the Conference to resolve any differences". The non-compliance with this legally binding obligation on the part of the British Government would of course have immediate implications for "peace and stability". What this means in practice is that the Irish Government will play the role of a partner in a system of de facto joint authority in Northern Ireland.

Note: In exchanges about the way in which certain questions would be handled, the British have agreed that they would say that the role of the Irish Government was "more than just consultative", while not "executive".

Range of Irish Government's role

12. The reality is that the Irish Government would be involved in a very extensive range of issues in Northern Ireland i.e. all issues except foreign policy, external security and central exchequer matters. Attached is a list of the principal issues in which the Irish Government will be involved and on which "determined efforts to resolve differences", as a matter of legal obligation, will have to be undertaken.

13. It is worth noting that the "leaks" hitherto have failed to bring out the range of these issues to any extent. Also there has been no "speculation" on two key political roles of the Irish Government in the Agreement:

- a role (subject as always to the resolution of differences obligation) on the modalities of introducing devolution;
- a role on the issues which could be devolved, if there is no devolution, and a renewal of that role should devolution break down: this provides (i) a major

reassurance to nationalists who could, secure in the knowledge that the Irish Government would come back into its role on the issues involved, withdraw from devolution if the unionists abused their majority position; and (ii) it creates a major pressure on unionists not to abuse devolution should devolution ever be agreed.

The Interests of the Northern Minority

14. Successive Irish Governments have been criticised by the minority in Northern Ireland for sloganeering but in reality doing very little to alleviate their condition. The question has to be faced whether an Irish Government today which claims to be guided by its concern for the minority could afford to, as it were, "turn down" the role envisaged in the draft Agreement, a role with considerable future potential. The reality is that there is no prospect of a present or likely future British Administration (least of all, given its record, a Labour Administration) declaring itself in favour of withdrawal "out of the blue". This is far more likely to be achieved gradually through the development of a process, a point which is clearly understood in London and also clearly by unionist politicians in Northern Ireland who see the Agreement, the full substance of which they are not as yet aware of, as an irreversible historic step.

15. In the short term the Agreement, combined with the Communique, gives substantial reassurance to the minority that their immediate concerns on human rights, law and order and the prisons will be addressed as priority matters. The international fund should create hope of economic development and employment for a people who have suffered generational deprivation. The Irish "presence" in Belfast should also reassure nationalists through (a) the meetings there of the Intergovernmental Ministerial Conference with its Irish Permanent Ministerial representative and (b) the Joint Secretariat in Belfast with its Dublin component. The arrangements, if pursued successfully by Dublin in close

co-operation with the SDLP, offer the hope of substantial progress in the short term in the areas of major concern to ordinary people: dignity, equality, prosperity, stability and peace.

The National Position

16. The constitutional position is secured by the Agreement and indeed the prospects for pursuing Irish unity as a reality are advanced in two ways:

- first, through the British commitment in Article 1(c) to introduce and support legislation to give effect to Irish unity in certain circumstances as part of an international Agreement and;
- second through the establishment of a process within the working of the Agreement itself which has the potential for dynamic development in only one direction i.e. the enlargement of the role of Irish sovereignty in Northern Ireland.

As stated at the outset, however, this particular achievement cannot be claimed overtly by nationalist spokesmen without inviting British contradiction before the Agreement has even been ratified.

5 November 1985