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"Political Development" - British proposals

1. This paper is an effort to think out where we now stand in relation to these proposals. It is written following a discussion this afternoon with the Taoiseach and immediately before the meeting with British officials which is to take place tomorrow and the Government meeting with the SDLP which has been fixed for Thursday.
2. The paper is divided into five sections as follows:-
 - A. The British position - motivation and timing
 - B. The British position - what do they propose?
 - C. Analysis and background to the issues which arise
 - D. Taoiseach's instructions
 - E. Proposed handling of meeting of 7 March with British officials

A. The British position - motivation and timing

3. The British argue that there is a "window of opportunity" at present. It may not last:-
- (a) Summer will bring the marching season
 - (b) Beyond that lies a pre-election period with all its uncertainties
 - (c) Politicians in Northern Ireland are quitting or switching off. They cannot be counted on indefinitely to stay and provide leadership
 - (d) There is something of a current beginning to flow towards integration at present particularly since the Conservative party began to organise in Northern Ireland.

There is perhaps something of a veiled threat underlying references to point in recent discussions with the British side.

4. Brooke plans to meet the Unionists again on 15 March. He says that he wants to do so "with a comforting assurance" that the Irish Government understands and accepts what he is about in exploring the possibilities for progress. Following a query from the Minister for Foreign Affairs at the Conference meeting of 2 March as to why he needed to move so quickly it is possible that Brooke may defer this meeting somewhat but he is unlikely to do so for more than a very short time.
5. The next meeting of the Anglo-Irish Conference will be on 19 April. The British thinking seems to be that at that meeting the next succeeding meeting could be fixed so as to provide a "natural gap". This would allow an interval of either two (Irish position) or three (British position) months for talks to get under way.
6. At the end of that "gap" the Conference would meet again on whatever date had been fixed on 19 April for its next meeting. It appears that the British hope that by then either :-
- (i) There would be a successful outcome or
 - (ii) The Unionists would tolerate the work of the Conference resuming and continuing in parallel with the talks.

In any case, they say, the Conference would resume without fail on the date agreed.

B. The British position - what do they propose?

7. At the meeting at official level on 27 February the British handed over a speaking note together with three short papers dealing with "Unionist pre-conditions", "Objectives", and "Format" respectively. The following account of British intentions is based on these papers and on what Mr. Brooke said to Irish Ministers at the Conference meeting in London on 2 March.

Unionist Pre-conditions

8. To date three Unionist pre-conditions have proved an obstacle to talks. Of these the first - that both Governments should declare their willingness to consider an alternative to the present Agreement - has been met by Mr. Brooke's Bangor speech of 9 January and the Taoiseach's statement of 22 January in reply to the Nicholson/Allen interview. The second pre-condition - that the Conference should be non-operative for a period - can be met by the "natural gap" referred to above. The third pre-condition - the non-operation of the Secretariat - cannot be met and the Secretariat must continue to function. But the Unionists can rely on two points as a fig-leaf or fudge:

- (i) The British Joint Secretary (though not the other British staff) would be diverted to working on any talks which might take place; and
- (ii) The Unionists could argue that during the gap in Conference meetings the Secretariat's role in servicing the Conference would be in abeyance - although its other work would continue normally.

Objectives

9. The "principal objective" (as Brooke put it "the most likely outcome - if there is an outcome") is devolution of (certain) powers to local elected representatives on a widely acceptable basis. This cannot be made more specific pending the outcome of any talks which might get under way.
10. Judging by the positions of all Northern Ireland parties negotiations about internal arrangements require also agreement on external aspects - that is Belfast/Dublin and Dublin/London relationships. The need to cover all these aspects, it is suggested, could conceivably lead to a new political settlement (what Brooke called "an Agreement Mark II"). This is not the direct objective of either Government but, granted their stated positions, both Governments should be willing to accept it if it emerged.

11. Such an Agreement Mark II, according to Brooke would involve as well as devolution of powers to local representatives, a continuing need for a Secretariat (presumably to deal with non-devolved issues which would remain a matter between the two Governments). It would also involve some unspecified link between North and South to deal with cross-border cooperation on issues where power had been devolved. These points however appear to be conceived in outline only at this stage.
12. The British side (Ambassador Fenn in particular) made the point that in getting from the present situation to the "new political settlement" which they discern in outline as a possibility, Irish Nationalism would have a double veto in that any structure would require the agreement both of the SDLP within Northern Ireland and of the Irish Government.

Format

13. The British envisage agreement at the outset that each of the three major strands or aspects (see above) must be addressed but the starting point would be internal arrangements within Northern Ireland. Their approach is as follows:-

(a) Internal arrangements

The process would begin with talks involving the parties in Northern Ireland probably under the Chairmanship of Mr. Brooke. There would be also a way of giving "due weight" to views and proposals from the Irish Government on the modalities of devolution affecting the interests of the minority (this is in accord with Article 4 (c) of the Agreement).

(b) Link between new NI Administration and Dublin

This would not start until initial progress had been made on (a) above. It would involve the Irish Government in direct discussion with the Northern Ireland parties and the British Government.

(c) Dublin/London relations

This would probably be addressed directly by the two Governments, with due weight for the views of (and possible involvement at some point of) the Northern Ireland parties.

C. Analysis and background to the issues which arise

British objectives

14. The British proposals are presented as starting with the "principal objective" of devolution of powers on a widely acceptable basis - an objective which both Governments can be said to accept in virtue of Article 4 of the Agreement. On to this they have grafted the idea of a new political settlement ("Agreement Mark II") as something which though not directly sought at the outset, might emerge. The steps in the argument which get them from what is claimed to be the main objective (devolution) to what may be the real objective (a new political settlement) are:-
 - (i) The "stated positions" of all of the parties in Northern Ireland that agreement on internal arrangements requires also agreement on North/South and East/West relations; and
 - (ii) The willingness of the Irish Government, as stated by the Taoiseach on 22 January, "to contemplate, in agreement with the British Government, a new and better structure, agreement or arrangement to transcend the existing one".
15. These steps in the argument however gloss over two points:-
 - (a) Insofar as the objective is really devolution (in general accord with Article 4) then there is, strictly speaking, no need for a series of new structures to cover all the other relationships. All that would be needed is "machinery" under Article 10 (c) of the Agreement for practical cooperation between North and South on cross-border aspects of economic, social or cultural issues on which power has been devolved. For the rest, the Agreement would remain in being; and the Conference, reduced in scope to the extent that powers had been devolved, would continue as the framework in which to handle those issues where powers had not been devolved.
 - (b) Views differ considerably on what would constitute a "new and better structure".

Point (b) is of particular importance. It raises a question as to whether, by "better" one side means something more than the existing Agreement while the other side means something less in certain important respects.

The "structures" of various efforts to deal with Northern Ireland

16. In considering this last point in particular it is necessary to look back briefly at the structure of successive attempts over the years to deal with the problem of Northern Ireland. On the basis of the fundamental idea in each case, the following different approaches can be identified:-

(a) 1920/1972 The Stormont Model

Key idea: majority rule

Northern Ireland was governed under powers devolved to a majority rule legislature and executive in Stormont (psychologically if not legally almost equivalent to the Irish Government in Dublin). There was North-South Cooperation to an extent on an ad-hoc basis between Dublin and Stormont.

(b) 1973/1974 The Sunningdale Model

Key idea: power sharing within NI + evolving N/S link (Council of Ireland)

The central idea was a power sharing executive drawn from an Assembly and exercising devolved powers within Northern Ireland together with a (proposed) Council of Ireland as a North-South link with some executive functions and a capacity for growth.

(c) 1980 - the totality of relationships

Key idea: Develop the E/W (inter governmental) relationship

The new concept here was to build the Dublin-London axis - that is the East-West relationship as the main framework within which the other relationships could ultimately be handled. The institutions which emerged from this approach were the Anglo-Irish Inter-Governmental Council and the joint studies of 1981.

(d) 1985 - the Anglo-Irish Agreement

Key idea: A role as of right for Dublin in the internal affairs of NI

The Conference established under the Agreement was explicitly within the framework of the Anglo-Irish Inter-Governmental Council (see Article 2) and it continued the Inter-Governmental, East-West approach of 1980. What was new however was that the Conference as such now explicitly focused on Northern Ireland (and on North-South relations)

and that the Irish Government, for the first time ever, was given a role, as of right, in regard to the internal affairs of Northern Ireland.

17. For the sake of clarity two further positions may be noted here as additions to this list of varying approaches to the problem:-

- (i) The Unionist position - as it might be called in very broad terms. The central idea here is that a Northern Ireland structure, of whatever kind, once established, could develop "good neighbourly relations" with Dublin and cooperation on certain practical matters but without any intrusive role by Dublin into the affairs of Northern Ireland as such. It is generally understood that the Unionists have modified their demand for model (a) above by accepting some elements of (b). So far at any rate, the question to be settled in negotiation seems to be how far they may have moved from model (a) towards model (b).
- (ii) The Irish Government and SDLP position simply put - that the Anglo-Irish Agreement must be held to, but that it could be transcended by whatever might be agreed if the Unionist community (and not Northern Ireland as such) were to sit down and work out its relationship with the rest of the island. This would open up a whole new set of possibilities within which structures could be worked out to give expression to the three inter-locking relationships (between the communities in NI, North/South and East/West).

The central Unionist objections to the 1985 Agreement

18. In looking at the possibilities now for a "new and better agreement" it is necessary to consider why there has been such strong and sustained objection by the Unionists to the Anglo-Irish Agreement of 1985 (model (d) above). These objectives are based on two points:-

- (a) ^{On} Resentment that they were not consulted or involved and that the Agreement was imposed as a "diktat" (to use Roy Bradford's word)
- (b) The intrusive role given to "the old enemy" Dublin, in the internal affairs of Northern Ireland.

19. On the first point, (which is arguably less fundamental) it could be said that Unionist leaders were fairly well aware of what was emerging in 1985 and that the SDLP as such were also not consulted or involved. Furthermore it could be argued that the basic Unionist position was met to the extent that Northern Ireland would continue to exist as such - unless and until change took place in its status in accordance with Article 1. Granted this, the real issue it can be said, was to measure what would be needed to end the Nationalist alienation to a degree where they could live with the existing situation unless and until it changed, by agreement, as provided for in Article 1.
20. However of the two points on which the Unionist objection is based, the second - the intrusive role granted to Dublin - seems to be much the more fundamental. From a Dublin viewpoint, it is perhaps difficult to understand the offence and the psychological disorientation caused to Unionists by the change from (a) a situation where they felt they had their destiny in their own hands through Stormont (a Government which appeared in some respects on the same footing as Dublin and which was even able to block concessions to Dublin during the Anglo-Irish negotiations of the 1930s) to (b) a situation today where they have no role or involvement except an ineffectual one at Westminster, where they see Dublin civil servants sitting at Stormont; and Irish Government Ministers involved as of right in the internal affairs of Northern Ireland.
21. Present efforts on all sides to draw in the Unionists have tended to focus mainly on the first objection (ie (a) above). The hope is that a new and more broadly based agreement could now be achieved if the Unionists, as well as the other parties in Northern Ireland were somehow drawn into talks about how to bring it about. But the issue which now arises for us is how far this can be done without also meeting the second and main objection (the intrusive role of Dublin) and whether we are prepared if necessary to pay that price?

What would a "better Agreement" mean?

22. This raises again the question of what "a new and better structure/agreement" would mean; and whether this same phrase is now being used by Unionists and Nationalists with very different meanings?
23. Put simplistically and focusing only on the role in relation to internal Northern Ireland matters accorded to the Irish Government under the present Agreement, it seems clear that in any "new and better structure" the Irish Government and the SDLP would both want a greater Dublin role while the Unionists would certainly want a lesser or more probably no intrusive role for Dublin on internal matters. This would mean that there is no possibility of agreement.

24. It could be argued however, that a "new and better agreement" could be achieved in one of two other ways:-

- (a) There could be some variant of the present Agreement allowing for a role for the Irish Government on internal Northern Ireland matters but achieved following new discussions in which the Unionists would be involved. It could be argued that such a variant of the present Agreement would be "better" because it would be more broadly based rather than because it either increased or diminished the scope or depth of Irish Government involvement.
- (b) An agreement based on some kind of trade off on the part of Irish Nationalism of Dublin's role against an increasing role for the SDLP in Northern Ireland. This is in many ways the logic of the devolution provisions of the present Agreement but, granted the Unionist aversion to the 1985 Agreement, it would probably have to be arrived at through new discussions "outside the Agreement".

Each of these possibilities is considered further below.

25. As to (a) above it appears that it is simply not on as far as the Unionists are concerned. There is no evidence whatever that they are at all prepared to accept either the present Agreement with its role for Dublin or "another and different agreement" which gives Dublin a role at least equal to that with which it was accorded in 1985. What they want above all is to end the offence of Dublin's intrusive role.

26. (b) Power sharing as a trade off against Dublin's role?

As to (b) above the argument would be that the role of Irish Nationalism in general in relation to the internal affairs of Northern Ireland would not be diminished if there were a trade off (either in whole or in part) between the role of Dublin as surrogate voice of the minority and involvement of the minority itself through power-sharing in an internal administration in Northern Ireland.

27. This would mean an approach based on some such structure as the following:-

- (i) Devolution on a power-sharing basis of certain powers within Northern Ireland
- (ii) A residual role for Dublin through the Conference under the Agreement on issues on which power had not been devolved

- (iii) A new link between Dublin and the devolved administration on cross-border/cooperative aspects of economic and social issues on which power had been devolved;
 - (iv) Cross-Border cooperation on security between the two Governments through the Conferences as at present
 - (v) A Secretariat in Belfast to deal with functions remaining to the Conference.
 - (vi) The (newly established) Inter-Parliamentary body, now perhaps with Unionist participation
 - (vii) The Anglo-Irish Inter-Governmental Council of 1980/81 continuing for purely East-West relationships
28. It is just possible - though there is no clear evidence to this effect - that the Unionists might be able to live with this even though it involves a residual functioning of the Conference established under the Agreement. Dublin would continue to have a role in relation to the internal affairs of Northern Ireland through the Conference in respect of matters where power had not been devolved - including presumably security matters. Logically this should be acceptable but granted their aversion to any intrusive role for Dublin, it must be questioned whether the Unionists would indeed accept it. It would also be necessary to get them to see the schema outlined as different from that envisaged in the devolution provisions of the Agreement and thus not tainted by association with that Agreement.
29. A further problem, not considered in detail here, is that the IRA might be expected to step up their campaign in such a situation and thus put to a very severe test the measure of agreement between the Unionists and SDLP which had gone into the building of the devolved administration in Northern Ireland. Would a fragile power-sharing devolved administration seeking to deal with economic and social matters (but presumably with no responsibility for security) be able to withstand this over the initial six months?
30. The more fundamental question for us in structural terms however is whether the Irish Government could or would accept such an approach involving a diminution of Dublin's role in return for a role for the SDLP in a power-sharing administration as being indeed "a new and better structure, agreement or arrangement" transcending the existing Agreement?

D. Taoiseach's Instructions

31. At a meeting in his office on 6 March, the Taoiseach was quite categorical in stating that this outline schema or any arrangement which gave the Irish Government a lesser role in relation to Northern Ireland than that provided for in the Agreement would be totally unacceptable. He was very concerned that the British might feel, even at the present stage, that they had drawn us into a discussion or negotiation which could have no hope of a successful outcome from our point of view; and his initial view was that we should not go ahead with the meeting with British officials of 7 March.
32. In discussion we put it to the Taoiseach that there is no commitment whatever on our side; that the Minister in his discussions with Brooke had many times adverted to the need first for clarity as to what the British side were proposing and then for reference by him back to Government in Dublin before he could become involved in any discussion other than a preliminary clearing of minds. We suggested to the Taoiseach that it would be preferable not to cancel the meeting with officials at this late stage but to go ahead with it on the basis of making clear our views, in accordance with his instructions.
33. The Taoiseach agreed to our going ahead with the meeting if we felt courtesy obliged us to do so while continuing to express great doubt about the danger of having given rise to false expectations on the British side even by the present degree of involvement, limited as we had explained it to be. He ruled out quite categorically as unacceptable any arrangement that "paid for" a lesser degree of involvement of the Irish Government by the granting of power-sharing within Northern Ireland involving the minority or North-South links which he dismissed as of little account. He directed that we should be quite clear in our talks with the British that any discussions on the basis of the papers which they had put forward or indeed any likely variant of them would be unacceptable; and that only discussions leading to an equal or greater role for the Irish Government and engaged in from the outset on a tripartite and simultaneous basis would be acceptable.
34. In further discussion we drew attention to the possibility that the British side might thereafter seek to put the "blame" on Dublin for impeding the possibility which seem to some people to exist at present for political progress. The Taoiseach is aware of this possibility but believes that there could be no misunderstanding or political difficulty for the Government once it is clear that they are holding to the Agreement rather than engaging in discussions which might lead to its being diminished or weakened or abandoned.

35. Beyond this the Taoiseach was also quite categorical about the unacceptability of any tampering with the Secretariat; and he dismissed as unacceptable the "fudge" approach outlined in the British paper which seems to envisage that the Secretariat would continue to function as normal apart from the absence of the British Head of Secretariat who would be servicing the talks and that the Unionists would nevertheless be allowed to claim that it had been suspended without any rebuttal from the Irish Government.

E. Proposed handling of meeting of 7 March with
British officials

36. In the light of the Taoiseach's instructions we shall have to be fairly clear with British officials at the meeting on 7 March. We may expect eventually that they will probably try to get the Minister for Foreign Affairs to meet with, or accept a call from Mr. Brooke.
37. The Taoiseach said at one point that we might tell the British that we would not propose to go any further with anything until the Government have had a chance to talk to the SDLP. It may be preferable however not to make this point too explicitly to the British side tomorrow since it may lead them to argue that the Government are dependent for their policy on the SDLP. The forthcoming meeting between the Government and the SDLP could of course be adverted to in a more general way.
38. Beyond this it would seem desirable to focus a lot of attention on the unacceptability of the third pre-condition - that in relation to the Secretariat in its present form or in any likely variant which the British may envisage.
39. We should however also and most centrally press the British on the point that while they profess to have as their principle objective devolution broadly in accord with Article 4 of the Agreement, there is in fact no evidence that the Unionists are willing to accept or work with anything like this - so that the real objective of the talks they envisage has to be what amounts to a new Agreement. This turns the focus onto the basic point of the role accorded to Dublin under the present Agreement and whether it is to be increased or diminished. We could then stand firmly on the point that we want clarity on this; and that the Irish Government having committed themselves to the Agreement are not now prepared in the hope of securing wider acceptance, to accept a diminished role in relation to the affairs of Northern Ireland than that accorded to their predecessor Government in 1985 by an agreement to which the British still profess to be fully committed.

N. Dorr
Secretary, DFA
7 March, 1990