

Paper 3

COOPERATION WITH THE REPUBLIC IN MEASURES TO CURB TERRORISM

INTRODUCTION

1. Recent events in the Republic, and in particular the killing of two members of their security forces, coupled with outrage at the recent bombings in London have created an atmosphere in which proposals to curb terrorism are likely to receive a more favourable reception than usual. Probably more clearly than ever before, the Government and the public in the South perceive that they face a common enemy and share a common peril with those in Northern Ireland.

MEANS OF ACHIEVING CLOSER/MORE EFFECTIVE COOPERATION

2. In order to deal effectively with this common problem it is essential that the security forces cooperate closely at all levels. Regrettably this does not seem to be the case at the moment. The note at Annex A briefly discusses the reason for the present suspension of contacts between the RUC and the Garda at senior levels, and suggests that there should be careful examination of ways to restore, and if possible to improve upon, the cooperation which existed between the two forces before the current difficulties arose.

3. The note at Annex B raises the differences, and sometimes wide differences, which exist in the legislative measures which are taken in the North and South to deal with broadly similar problems. The note argues that both sides may have much to learn from the experiences of the other - particularly in areas such as control of the media, rules of evidence and the operation of exclusion provisions - and there will be practical as well as presentational benefits in bringing our measures to combat terrorism more closely into line.

CONCLUSION

4. Both notes recommend that these issues be raised at the forthcoming meeting between the Secretary of State and the Minister for Justice. They should be raised in general rather than specific terms and in a way which carries no implication or hint of criticism, or blame, particularly in relation to the current cooperation problems between the RUC and Garda. The aim should be to conduct reviews of both issues in a suitable forum or forawith a view to reporting back to Ministers at the earliest opportunity.

quarterly meetings between the two of them; a Joint Consultative Committee was to be set up at Deputy Chief Constable level (subsequently ACC level) to meet more frequently to iron out any operational difficulties. In 1978 the JCC established 'Border Superintendents' to act as the focal points for cross-border operational cooperation and below these there were working contacts, as necessary, between the uniformed police, CID and Special Branches of the 2 forces. All but the bottom tier of contacts have lapsed.

(c) Ministers have continued to meet over the years to exchange views on security matters.

4. Comment

(a) After the Baldonnell agreement officials noted that the close bilateral contact which emerged between the RUC and Garda was essential if the confidence of the Garda was to be gained. It was clearly recognised that such a scheme would depend to a large extent upon individual relationships, which carried with it inevitable dangers. To some extent these fears have been realised, and it is essential that the former harmonious relationship between the 2 police forces be restored as quickly as possible.

5. Proposals

(a) Some degree of Ministerial impetus will be needed to resolve the impediments to and then re-establish the former degree of contact between the RUC and Garda. At the forthcoming meeting with the Republic's Minister for Justice, the Secretary of State may wish;

- (i) to reach agreement on the need to re-establish as quickly as possible that effective cooperation at all levels between the two forces which emerged from the agreements reached by the Baldonnell panels, and which have subsequently been refined in the light of experience.
- (ii) to agree to further meetings - possibly at official level initially - to identify and if possible help to resolve any impediments to the re-establishment of such contacts.

- (iii) to agree to review the current cooperation machinery with a view to improving it where necessary, and also to examine whether any further supervisory mechanisms or liaison arrangements are necessary to identify problems at an early stage and prevent any deterioration in cooperation. Without being too precise at this early stage it could be indicated that we would welcome an examination of the need for some form of supervisory body, such as a forum for inter-governmental contacts on security.
 - (iv) possibly, to agree to extend such an examination to cover any practical measures for increasing liaison and cooperation which are currently worth considering, or which might emerge from the work being done in the Forum.
- (b) Some careful thought will have to be given to the different roles which the RUC/Garda, Officials and Ministers might undertake in these reviews, and it might not be possible to resolve this until after initial contacts have been established between officials.

NORTH-SOUTH ANTI-TERRORIST MEASURES

1. Problem

There are some anti-terrorist legislative measures which are common to both the Republic and Northern Ireland (or the UK as a whole), such as the Joint Extra-territorial Jurisdiction legislation and extradition/backing of warrants arrangements. However, for the most part the Republic and the UK are dealing with common problems in different ways. In some cases the differences are slight but in others they represent a fundamentally different approach. This gives rise at a presentational level to usually ill-informed criticism that one side or the other is not doing enough to combat terrorism, or protect human rights, and at a practical level can cause difficulties to our law enforcement agencies. The forthcoming Criminal Justice Bill in the Republic could serve to widen this gap.

2. Aims

(a) To examine existing and proposed differences in the legislative approval to anti-terrorist measures in the Republic and in Northern Ireland [possibly the UK] to determine whether there is any advantage in harmonising powers.

(b) To examine what, if any, new measures could be brought in jointly to curb terrorism.

3. Examination of Existing Joint Measures

(a) There are welcome indications that the Courts in the Republic are showing greater determination not only to deal with cases under Extra-territorial Jurisdiction but also to reject defences of 'political motivation' and return offenders to Northern Ireland for trial under their Extradition Act. It would be counter-productive to imply that we saw any great weaknesses in the way in which these measures were now operating: in any event the Attorney Generals are currently in touch to identify and remove any weaknesses. It may be useful, however, to refer to the operation of these measures in favourable terms if the opportunity arises.

(b) There are many examples of Dublin and Westminster taking radically different approaches to deal with terrorism. For example in the Republic measures have been introduced to control broadcasts by terrorists and of terrorist activities; rules of evidence have been altered to allow the word of senior police officers to be admitted as prima facie evidence in the trial of someone accused of membership of a proscribed organisation; their new Criminal Justice Bill will attempt to remove to a limited degree a suspect's right to silence. In the UK we have introduced powers to exclude terrorists either from a part of the UK or from the country as a whole. Aside from these examples of major differences, there are a host of minor differences of approach. There may be advantage to both sides if there were to be a joint review of the formulation and operation of anti-terrorist measures, with a view to exchanging information of the value and effectiveness of each of these measures and, perhaps, moving towards some degree of harmonisation. Such a review could include consideration of the measures in the Republic's Criminal Justice Bill, and any new measures which might emerge either from the Baker Review or the Forum.

5. Examination of any other new measures

From any informal examination of existing and proposed measures for combatting terrorism it is conceivable that the need for some new joint measures will emerge. There may be scope for extending any consultations to cover such measures as for example the introduction of further measures to control the manufacture of home-made explosives. Similarly it might be that some contingency measures could be considered, such as the joint introduction of selective detention, as means of curbing escalating violence.

6. Proposals

At his forthcoming meeting with the Republic's Minister for Justice The Secretary of State may wish to explore the possibility of establishing a joint review - possibly under the auspices of a joint Security Council (see Annex A) covering:

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- (a) current and proposed anti-terrorist measures in the North and South to determine whether there is any scope for improvement or increased harmonisation in the light of each other's experiences,
- (b) any new measures or contingency arrangements deemed to be necessary or desirable either separately or jointly.

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