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SECRET

PAPERS ON THE REVIEW

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AN ROINN GNÓTHAÍ EACHTRACHA
Department of Foreign Affairs



ANGLO-IRISH SECRETARIAT
DUBLIN

REVIEW OF ANGLO-IRISH AGREEMENT

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PRELIMINARY IRISH SUBMISSION

6 January 1989

We would have hoped to be in a position to make an overall positive assessment of the achievements of the Agreement during its first three years. The comments which follow indicate, however, that we see the record as mixed and, in many respects, as seriously disappointing. We cannot be sure that the Agreement increasingly risks being seen by the Unionist community in Northern Ireland as failing to respond adequately to its central concerns.

Mr. Dermot Gallagher
Assistant Secretary
Department of Foreign Affairs

The balance sheet for the last three years undoubtedly shows a number of achievements which should be examined and given their full weight in the course of the Review. But the Review exercise, to be

I enclose for the record the final text of the preliminary Irish submission on the Review which was given this week to the other side as instructed.

Yours sincerely

A view is occasionally put forward that the Agreement has done as well as might be expected in the circumstances. The major inhibiting circumstances are the non-acceptance of the Agreement and, more generally, the fact that the Agreement adapts slowly to psychological and structural changes and that, therefore, dramatic change is not to be expected within a three year

Sean O hUiginn
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Joint Secretary

It is profoundly regrettable that the Unionist community has failed to recognise the potential benefits of the agreement for society in Northern Ireland and for relations within and between the two islands. There has, rightly, been a consistent effort on the part of both Governments to reassure Unionists that fairness for nationalists does not imply any unfairness to the majority community. But the terms of that reassurance to the Unionist community should not put in question the role and significance of the Agreement. The phenomenon at which the Agreement was primarily directed was

REVIEW UNDER ARTICLE 11 OF THE ANGLO-IRISH AGREEMENT

PRELIMINARY IRISH SUBMISSION

1. We would have hoped to be in a position to make an overall positive assessment of the achievements of the Agreement during its first three years. The comments which follow indicate, however, that we see the record as mixed and, indeed, in some respects, as seriously disappointing. We cannot be unconcerned by evidence that the Agreement increasingly risks being seen by the nationalist community in Northern Ireland as failing to respond adequately to its central concerns.

2. The balance sheet for the last three years undoubtedly shows a number of items on the credit side. These should be examined and given their full weight in the course of the Review. But the Review exercise, to be meaningful, should clearly amount to more than a trading of positive and negative lists. The core questions are: Has the central thrust of the Agreement been respected? Has the balance of the text been matched by a balance in implementation?

3. A view is occasionally put forward that the Agreement has done as well as might be expected in the circumstances. The major inhibiting circumstances cited are Unionist non-acceptance of the Agreement and, more generally, the fact that any society adapts slowly to psychological and structural changes and that, therefore, dramatic change is not to be expected within a three year period.

4. It is profoundly regrettable that the Unionist community has failed to recognise the potential benefits of the Agreement for society in Northern Ireland and for relations within and between the two islands. There has, rightly, been a consistent effort on the part of both Governments to reassure Unionists that fairness for nationalists does not imply any unfairness to the majority community. But the terms of that reassurance to the Unionist community should not put in question the role and significance of the Agreement. The phenomenon at which the Agreement was primarily directed was

that of nationalist alienation; reassurance to Unionists must take place in parallel with, and not at the expense of, the Agreement's central objective.

The nationalist community has legitimate expectations following signature of the Agreement. They were firmly based on the commitments made in, and the institutions established by, the Agreement. The Agreement, in its very uniqueness, accepted implicitly the premise that radical change is both necessary and achievable in Northern Ireland. If, as we believe, the scale and the pace of change in the past three years have been inadequate and unsatisfactory, the review process must confront this.

5. In our view, the future health of the Agreement can only be secured if a new dynamism is brought to the implementation process. This will be our overriding preoccupation throughout the review exercise. While an assessment of developments to date is of course essential, we see the review exercise as primarily a forward-looking exercise which will identify priorities for action in the period ahead.

Procedures

6. We have suggested that a Review committee and a series of sub-committees should be established immediately to initiate the internal aspects of the review (the external aspects will obviously need to be handled separately). Given that Articles 2-10 of the Agreement come within the ambit of the review, we would suggest that a coherent structure might be something on the following lines. We would envisage these groups being organised on pragmatic and flexible grounds, with variable membership to allow each aspect of the Agreement to be considered as thoroughly and efficiently as possible.

Review Committee: To oversee and give direction to the work of the five sub-committees set out below:

Sub-Committee 1: Section B of the Agreement: The Intergovernmental Conference. (Articles 2, 3, 4).

Sub-Committee 2: Section C of the Agreement: Political Matters (Articles 5, 6)

Sub-Committee 3: Sections D and E of the Agreement: Security and Related Matters, Legal Matters, including the Administration of Justice (Articles 7, 8)

Sub-Committee 4: Cross-Border Co-operation on Security Matters (Article 9)

Sub-Committee 5: Cross-Border Co-operation on Economic, Social and Cultural Matters (Article 10)

7. In order to lay the basis for an early series of meetings of the Review Committee and the sub-committees, it may be helpful at this stage to indicate the approach we would intend to take in relation to the review of the working of each of the relevant Articles of the Agreement. We therefore set out below some summary comments on Article 2-10 of the Agreement, which will of course be amplified in our discussions during the review.

ARTICLE 2

8. This crucial Article sets out

- the right of the Irish Government to put forward views and proposals in a range of specified areas;
- the commitment that "determined efforts" shall be made through the Conference to resolve differences.

The Government over the past three years have put forward views and proposals over the range of areas covered by the Agreement. In some areas, notably fair employment, there has been a degree of responsiveness to our views. In other areas, including the administration of justice, we have seen a less forthcoming attitude. Even leaving aside the areas of particularly high sensitivity, such as the administration of justice, it is dismaying that substantial progress has not been possible in areas of significantly less sensitivity - for example, appointments to public bodies.

9. Among the problems to be addressed under Article 2 in the course of the review are:

- The need for the Irish Government to be made aware in advance of initiatives under (internal British) discussion, or decisions anticipated, in the relevant policy areas. Clearly the right to put forward views and proposals, and the commitment to make determined efforts to resolve differences, is meaningful only if both sides are familiar with policy options under consideration at a particular time, and there is an adequate interval for Irish Government views to be submitted and taken into account;
- The necessity, for the credibility of the Agreement, of public recognition of the role of the Conference. The Agreement has suffered through a failure to acknowledge publicly a Conference input into the decision-making process. Even more damaging, there has been on occasions what appears almost to be a deliberate disavowal of any role for the Conference in reaching policy decisions. It is, of course, accepted that the Conference input cannot always be appropriately spelled out in public. However, the nationalist community expects substantive, as opposed to symbolic, achievements from the Agreement. A frequent dissociation of the Conference from developments viewed by the nationalist community as positive can, therefore, only lead to an undermining of the Agreement in the eyes of this crucial constituency.

ARTICLE 3

10. The Review will need to take up the procedural aspects of Conference meetings: the rhythm and location of meetings; the balance achieved in the agendas; the allocation of time as between the various component parts of Conference meetings. We would, in this regard, see merit in advance scheduling of conferences so that, insofar as possible, our deliberations are issue-oriented rather than crisis-reactive.

11. The general operation of the Secretariat will also fall for consideration under this Article. Both Governments are agreed that the unique role of the Secretariat must not be diluted or diminished. Ways of safeguarding and ideally strengthening the Secretariat's role will be important items for discussion.

12. Article 3, in stating that "officials may meet in subordinate groups", makes provision for the setting up of Working Groups. Two have been established to date, dealing respectively with administration of justice and extradition issues. We would see merit in establishing additional Working Groups in areas of particular mutual concern.

ARTICLE 4

13. A major focus of this Article is on the devolution of powers "on a basis which would secure widespread acceptance throughout the community".

At present the prospects of achieving devolution on the terms envisaged in the Agreement do not appear encouraging. Any realistic proposals on possible future structures of government within Northern Ireland obviously need to be based on an informed view of the thinking within both communities.

ARTICLE 5

14. Some progress has been achieved under this Article, including the repeal of the Flags and Emblems Act, the tabling of legislation on fair employment and also on the "I" voters' issue.

We welcome the programme of work now underway aimed at the economic development of West Belfast. We would suggest, in the course of the Review, a full appraisal of the present operation and future direction of this programme. We would suggest also that the establishment of similar schemes in other disadvantaged areas should receive urgent consideration.

15. The recognition of the cultural ethos of the minority is an important aspect of the Agreement which deserves greater attention than it has received to date. The Irish language is an important part of the cultural heritage of the nationalist community. We recognise that, in the new educational proposals, some attempt has been made to accommodate the concerns of those wishing to secure a place in the school curriculum for the teaching of Irish. However, the position remains unsatisfactory, as indicated in a recent paper submitted in the Secretariat. Moreover, lack of progress in the acceptance of Irish language place-names and street signs continues to cause resentment in the nationalist community. We would also urge greater support and funding for

Irish language organisations and educational/cultural activities, including the provision of facilities for secondary level education through the medium of Irish and the provision of a generous scheme of Gaeltacht scholarships.

16. No progress has been made in relation to a Bill of Rights. We continue to believe in the value of a Bill of Rights in Northern Ireland and would suggest that work on this issue be re-activated during the course of the Review.

ARTICLE 6

17. A recent submission detailed our concerns about lack of progress in appointments to public bodies. The imbalances in the composition of public bodies reinforces nationalist perceptions of unionist domination of society in Northern Ireland. Given the prerogatives of District Councils and various interest groups in making nominations, the odds are significantly weighted against the nationalist community achieving a fair proportion of vacancies. A clear determination on the part of Central Government to rectify imbalances is necessary to bring about change. Our experience in persuading nationalists to go forward for nomination, and subsequently having a majority of those nominations turned down, has been distinctly discouraging. We would hope, in the course of the Review, to reach agreement on a new approach to public appointments which would hold out the promise of significant progress in rectifying the present unsatisfactory situation.

ARTICLE 7

18. We acknowledge the substantial progress towards more impartial policing of the marching season. It is undeniable, however, that the confidence of the nationalist community in the security forces has been deeply shaken by a series of developments over the past year in particular.

19. We continue to be very seriously concerned about the evidence of harassment of the nationalist community. We have conveyed a significant number of complaints about harassment through the Secretariat and have received a highly unsatisfactory response rate. Equally disturbing is the fact that little or no progress has been made towards increased accompaniment

of UDR patrols; if anything, the situation is now substantially worse than during the first year of the Agreement.

ARTICLE 8

20. Public confidence in the administration of justice is a matter of crucial importance - for many, indeed, the touchstone of a democratic society.

The effective ending of supergrass trials is a welcome development.' However, the lack of progress on three-judge courts is widely seen as a major failure of the Agreement. Indeed, the whole method of operation of the Diplock Courts continues to arouse widespread concern. Lack of consultation within the Conference on the changes relating to the right to silence was also widely seen as placing a question-mark over the consultation process set up under the Agreement.

Reflecting our particular concern about the continuing serious problems in the security/legal area, we recently submitted a detailed paper relating to Articles 7 and 8 of the Agreement, including proposals for future action. We would hope that progress on these proposals can be made both in parallel with, and as part of, the review exercise.

ARTICLE 9

21. There is mutual agreement that cross-border cooperation on security matters has very significantly improved since signature of the Agreement. We will be making available in the course of the Review a detailed listing of steps taken by the Irish Government over the past three years consistent with this Article.

ARTICLE 10

22. We are strongly of the view that the potential for the achievement of cross-border economic and social cooperation has not been fully realised. We shall be making proposals in the course of the Review for an expanded programme of work in this area - to which we attach special importance - with particular reference to the impact of 1992 on North/South cooperation in these areas.

23. The foregoing is intended as a preliminary overview of some of the concerns we would wish to see considered in the course of the Review put forward as a general preparation for the meetings of officials which the Conference has agreed should begin work on the Review. We would hope to develop and amplify the points raised in the course of these meetings.

Anglo-Irish Secretariat

20 December 1988

Review under Article 11 of the Anglo-Irish Agreement
Article 5

1. Article 5 is one of the most wide-ranging articles of the Agreement and a review of its operation therefore necessarily touches on a considerable number of areas. This paper looks briefly at some individual elements of Article 5 and makes a number of specific proposals. However, we would preface these proposals with some general remarks on the scope and operation of Article 5. We would also make the point that Article 5 is to be read in conjunction with, and is usefully illuminated by, the preamble to the Agreement, particularly paragraphs 3, 5, 6 and 7.

Operation of Article 5

Rights and Identities

2. It is widely accepted that the Northern Ireland problem arises to a significant degree from the clash of identities between the two traditions, and that this conflict of identity must be acknowledged and addressed if there is to be any real progress towards a solution. The wording of Article 5 suggests an outreach role for the Conference in concerning itself with "measures to recognise and accommodate the rights and identities of the two traditions in Northern Ireland". The use of "accommodate" in particular suggests a forthcoming attitude, and implies a readiness to facilitate, and indeed initiate, proposals to give expression to the identities of both traditions. Given the history of Northern Ireland, and the dominant economic, social and cultural position of the unionist tradition, it is reasonable to interpret Article 5 as holding particular promise for the nationalist tradition.

3. The truth is however that three years after signature of the Agreement, the nationalist community does not have a sense of an imaginative and forthcoming attitude on the part of the British Government towards accommodation of the nationalist identity. The feeling is instead of concessions always having to be fought for, sometimes won, sometimes lost, sometimes so diluted in the

achievement as to be emptied of substance. The issue of the place of the Irish language in the new school curriculum is perhaps a good illustration. In the light of the wording of Article 5, it would not have been unreasonable to expect the British Government to start from a position of considering some provision for Irish teaching in Northern Ireland parallel to the arrangements for teaching of the Welsh language in Wales; in fact, even the revised British Government proposals, as amended after strong representations from the nationalist community, fall very significantly short of the Welsh model.

4. There are other illustrations where the outcome is even less satisfactory: the failure to repeal the legislation prohibiting street signs in Irish is, for example, incomprehensible to the nationalist community. Beyond any specific examples, however, what is sought is an attitudinal change so that, on identity issues, the nationalist community can - insofar as is reasonably possible - perceive itself as working with a willing government rather than constantly having to persuade an unwilling one.

"To Protect Human Rights and to Prevent Discrimination"

5. The protection of human rights in a society under threat from terrorism is no easy task. The obligation to protect the most basic human right, the right to life, is obviously paramount. But wherever the case is made that the protection of human life necessitates the erosion of other rights, the arguments in support of that case obviously require the most careful scrutiny. The point is not, of course, merely an academic or philosophical one; the reality is that the conditions of abnormality brought about by the suspension of civil liberties are the very conditions in which terrorism thrives and can make spurious claims to legitimacy. It must therefore be a cause of deepest concern to both governments that there is a growing perception within Northern Ireland that, in the balancing of security requirements and protection of civil liberties, the Government consistently shows itself insufficiently concerned with the protection and development of citizens' rights.

6. In terms of ending economic discrimination, the introduction of new fair employment legislation - which we believe requires strengthening in a number of key areas during its passage through Parliament - is the most significant advance made under Article 5. It is important to remind ourselves however that the introduction or passage of legislation will not, and cannot, of itself reassure nationalists that the pervasive employment discrimination which characterised society in Northern Ireland has come to an end. Their daily experience tells them otherwise. To take the civil service for example: the absence of Catholics in the most senior echelons is constantly pointed out to us by Northern nationalists. We are also repeatedly told that in, for example, the Department of Education, among almost 60 school inspectors and 8 senior inspectors (school inspectors are of course a high visibility profession), there is hardly a handful of Catholics. Arguably, much of this is a legacy of the past and will in time be corrected. But one can hardly wonder at the sense of urgency behind nationalist demands for a fair deal in the workplace, or their insistence on suspending judgement on the new legislation until its results are seen in practice.

Specific Proposals

(i) Human Rights

The question of a Bill of Rights is considered separately below. A number of the problem areas in the human rights/civil rights area also relate to the subject matters of Article 7 and 8 of the Agreement and are most appropriately dealt with under that heading. However we would wish to advance at this stage a proposal for a joint assessment within the Conference of the role and powers of the Standing Advisory Commission on Human Rights (SACHR)

As the primary body dealing with human rights issues in Northern Ireland, SACHR is a repository of very considerable expertise in the human rights area. Established in 1973, its present role is of course merely advisory and not to any degree regulatory. The question arises whether the role of SACHR could usefully be reinforced at this stage. We would envisage the establishment of a working group of the Conference which would meet with representatives of SACHR and discuss with them their experience to date and any recommendations for a change in their role. The object of the exercise would be to draw up a paper for the Conference which would outline ways, if any, in which SACHR might be strengthened and given a more central role in dealing with issues relating to human rights.

(ii) Cultural Heritage

(a) Irish Language

Some limited progress has been made in promoting the Irish language, including the ending of the practice of not accepting correspondence in Irish by government departments, the publication of an Ordnance Survey map in Irish, the establishment of a research unit into Irish placenames at Queen's University and the provision of £25,000 to the Northern Ireland Arts Council for the promotion of Irish cultural activities.

These changes, however, do not amount to adequate recognition of the importance of the Irish language in the cultural heritage of nationalists. In addition to the repeal of that section of the NI Public Health and Local Government (Miscellaneous Provisions Act) 1949 which prevents local councils from erecting street signs in anything other than English, we would propose that

- (i) a special institute be established to promote the use and knowledge of the Irish language and traditions.
- (ii) there be greater provision for scholarships to Gaeltacht areas.

- (iii) additional assistance be given to support schools where instruction is carried out through the medium of Irish.

The failure to promote actively the use and knowledge of Irish as a legitimate and valuable feature of the nationalist identity is illustrated by the secondary role accorded it as a modern language in the education reform proposals. We are concerned that the proposals on the Irish language in the curriculum as currently formulated will not promote the teaching of Irish. Indeed, senior figures in the nationalist community have expressed the fear that the enforced coupling of the Irish language with a second modern European language will adversely affect the study of Irish. In the light of growing dissatisfaction in the nationalist community on the secondary role being accorded Irish, we wish to have the proposals amended to take account of these concerns. We have submitted a paper and await a response.

We note the proposal to include cultural heritage in the cross-curricular themes to be established under the education reforms. We are anxious to ensure that this takes sufficient cognisance of the importance of the nationalist cultural heritage and the Irish language.

(b) Broadcasting

The subject of broadcasting has been discussed over an extended period, including in the A.I.I.C. context, without any progress being achieved. Improved reception of RTE in Northern Ireland would not alone respond to the desire of nationalists to affirm their cultural identity; it would also fulfil an important function in helping to convey mainstream Irish attitudes on political issues arising within Northern Ireland. We accordingly consider that, as a matter of urgency, measures should be undertaken to allow for the improved reception of RTE radio and television in Northern Ireland. We would also wish to discuss

ways in which reception of Radio na Gaeltachta in Northern Ireland could be improved.

(iii) Electoral Arrangements

We would assume that the Elected Authorities (Northern Ireland) Bill enabling I voters to vote in local council elections, will be passed in time for the local elections in May 1989. We have also raised a number of other issues concerning electoral reform which we would wish to see pursued in the Conference.

(iv) Flags and Emblems

The Flags and Emblems (Display) Act (Northern Ireland) 1954, was repealed under section 27 of the Public Order (Northern Ireland) Order 1987. We continue to attach importance to the impartial treatment of flags and emblems which symbolise the nationalist identity.

We reiterate our view that the new legislation on fair employment should contain a strong and specific prohibition on the display of offensive flags and emblems in the workplace. This is an issue which we will pursue in the context of our continuing discussions on fair employment.

(v) Avoidance of Economic and Social Discrimination

Economic and social discrimination is often indirect and unintentional, occurring as a side effect of policy directed primarily at other objectives. For example, a policy directed at a rationalisation of health services in the Belfast area might in practice amount to a cutback in health services as well as employment opportunities in West Belfast - an outcome which would run directly contrary to attempts to strengthen the economic and social fabric of West Belfast.

We have previously indicated our support for the proposal advanced both by SACHR and the FEA that a committee be set up

within the civil service, chaired by a Minister, which would ensure a co-ordinated effort to achieve the Government's equal opportunity objectives. We would now wish to revive and broaden that proposal. We would suggest that such a committee, which would include inter alia IDB and LEDU representatives, would concern itself not just with equal employment opportunities but also with the wider economic and social implications of Government initiatives in various areas.

Consistent with Article 5(c) of the Agreement, we would propose that an Irish Government representative should be a member of this Committee.

West Belfast

West Belfast has suffered most heavily from the twin evils of violence and socio-political alienation. An encouraging start to tackling the problems of the area has been made with the "Making Belfast Work" programme; however a long-term commitment will be required if lasting and comprehensive results are to emerge. We have suggested that, in the course of the Review, a full appraisal should take place of the present operation and future direction of the programme. We have also suggested that the establishment of similar schemes in other disadvantaged areas should receive urgent consideration.

(vi) Bill of Rights

We reiterate our support for the adoption of a Bill of Rights for Northern Ireland. As set out in considerable detail in our submissions of July 1986 and February 1987, we see inherent merits in a Bill of Rights based on the European Convention on Human Rights with whatever additions may be considered necessary and appropriate from other sources.

Apart from the substantive arguments for introduction of a Bill of Rights, it appears to us that, at a time when there is so much emphasis on identifying areas of possible agreement across the political divide in Northern Ireland, it makes little sense to ignore one of the very few areas where there is cross-community agreement.

As we understand it, the main hesitation about movement in this area is that it would be difficult to introduce a Bill of Rights for Northern Ireland alone, as there would inevitably be pressure to formulate a Bill for the whole of the United Kingdom. However, it must be pointed out that the circumstances of Northern Ireland are unique within the U.K. The province has been singled out for distinctive legislative treatment in a number of ways. While there would undoubtedly be some pressure for extension of a Bill of Rights to the U.K. generally (as, for example, there will inevitably be some pressure to extend advances in the fair employment area) it seems difficult to imagine that such pressures would not be containable.

Work within the Conference on the issue of a Bill of Rights has been suspended for some time; the last submission was that of the Irish side in February 1987. We would suggest that consideration of the matter should resume as a matter of urgency, on the basis of the British submission of March 1986 (which we found helpful) and the two subsequent Irish submissions of July 1986 and February 1987.

REVIEW OF 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.

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1. In the last year, matters arising under Article 7 and parts of Article 8 have been discussed under the general heading of "confidence" issues and a steering group of officials has been established to oversee a programme of work. It would be desirable to put this work on a more systematic basis by establishing

- (i) a more regular rhythm of meetings of the steering group - say, one every two months; and
- (ii) as necessary and appropriate, subsidiary ad hoc working groups in the areas of
 - security (including harassment issues, incidents, forthcoming events);
 - legislation;
 - prisons

[the existing Working Group 1 on the administration of justice could, as necessary consider legal issues (including the court system)]

2. It would be helpful also if an understanding could be established that the steering group, or the appropriate sub-group, would be convened to consider major legislative, administrative or operational initiatives.

Security Policy/Relations between the Community and the Security Forces

3. The preamble of the Agreement reaffirms the determination of the two Governments to work together to ensure that those who adopt or support violence or the threat of violence as a means of promoting political objectives do not succeed. Security policy has been a feature of all Conferences both in relation to security cooperation (Article 9) and in relation to security policy within Northern Ireland, although the discussion of specific security measures in Northern Ireland has been restricted or obviated on occasion by lack of prior consultation. There has been some discussion of training, educational and liaison

policies for the security forces, which could be taken further. These policies, together with other aspects of security policy, such as deployment or lack of deployment in particular areas, use of the UDR and operational methods, are intimately linked with the question of relations between the security forces and the community. It would be beneficial to bring discussions on these matters together in a single forum which would have regard both to security requirements and to the need to promote better relations with the community.

4. Article 7 (b) provides that the Conference shall consider the security situation at its regular meetings and thus provides an opportunity to address policy issues, serious incidents and forthcoming events. There has been considerable discussion in the past in relation to incidents and forthcoming events such as policing at funerals and policing of the marching season. Again, it would seem desirable that the proposed security group should consider incidents and forthcoming events at its regular meetings.
5. In the Hillsborough communique, both Governments committed themselves to the principle that the army, including the UDR, should 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 was a police presence in all operations which involve direct contact with the community. Both Governments have repeatedly indicated their continuing commitment to this principle, but the implementation has not lived up to expectations and appears to have regressed since 1986. It should be a priority issue for the security working group to assess how the principles of army support for the civil power and police accompaniment of the army can be better implemented, and to identify areas where practical progress might be made in the near term.

6. We would urge that the army and police be involved directly in the monitoring group now established at Stormont and that it would be desirable to have an Irish member of the Secretariat in the group so that our thinking can be conveyed at first hand and, likewise, the concerns and difficulties of the security forces. It would be desirable that this group should meet, as the present group now appears to do, on a fixed day each month and that prior notice be given on either side of the matters to be discussed.

Legislation

7. The present legislative position is complicated given the existence of two EPA acts, the PTA, the Public Order Order and various other pieces of legislation bearing on security policy. A particular mandate of the working group established under this heading should be the consideration of the new Emergency Provisions Bill which will require to be enacted by 1992, both in regard to its relationship with other security and ordinary criminal legislation, and with the aim of considering such elements of the EPA as may prudently be dispensed with.

Prisons Policy

8. Article 7(d) also provides that the Conference shall consider policy issues relating to prisons and that individual cases may be raised as appropriate so that information or inquiries can be instituted. We have found the arrangements made through the Secretariat and through the provision of meetings involving officials from both sides helpful. They have contributed to better understanding on our side of the problems faced by the prison authorities and, presumably, on the British side to a better understanding of nationalist perceptions. It is now

firmly agreed between the two Governments that prison policy has the potential for a very constructive impact on the nationalist community. There is no doubt that recent policy developments in regard to reviews, improvements in the prison regime and the movement of carefully selected prisoners has had a major effect on paramilitary organisations.

Department of Foreign Affairs

6 March 1989

1. 2 Harmonization of the Criminal Law

While there has been an on-going exchange of information and views, steps have not yet been taken to consider whether there are areas of the criminal law applying in the North and South respectively which might with benefit be harmonised. This matter falls within the remit of Working Group II on criminal law matters. That Working Group has so far given priority, as it was requested to do, to an examination of policy aspects of extradition and extra-territorial jurisdiction. Again, the question of initiating work under this heading should be kept under active review.

1. 3 Extradition and Extra-Territorial Jurisdiction

These matters, extra-territorial jurisdiction more recently, have been dealt with regularly and extensively at meetings of Working Group II, supplemented by meetings of smaller groups of senior officials where considered necessary. No particular change is thought necessary here.

1. 4 Administration of Justice

This working group (Working Group I) has not met recently. It has the remit from the Conference of (i) seeking measures which would give substantial expression to the aims in Article 8 of the Agreement, and in paragraph 7 of the Hillsborough communique, relating to public confidence in the administration of justice, and (ii) to examine, inter alia, the issues that will arise for the Conference in the consideration of the possibility of mixed courts in both jurisdictions for the trial of certain offences.

2. The Irish side remain of the view that three-judge courts would be a very important step forward in gaining public confidence in the administration of justice but note that

the British side are "not presently persuaded" of this measure. The issue should, however, be kept under constant review.

3. In regard to other matters, it would seem desirable to reconvene Working Group I and to consider those aspects of the administration of justice (ie, legal issues including the court system) which have not been addressed by the Steering Group on confidence measures. It could be envisaged that Working Group I would report to the Steering Group in this area.

4. The Irish side have noted a considerable reduction in the period of delay between first remand and trial in the Diplock courts and a reduction also in the appeal process. They consider that decisions, such as that of the Appeal Court on the question of the compellability of police witness in the McKerr inquest, are not only seen as desirable in themselves but have contributed to public confidence in the courts. It is for this reason among others that the Irish side regret the British Government's intention to reverse this decision by means of legislation if necessary.

5. The Irish side note that there has been no "supergrass" case in the recent past and that none appears to be contemplated. The decisions of the courts in particular supergrass cases, and in the matter of inducement to witnesses, have been helpful factors in the area of public confidence.

6. Identity issues raised in a previous Irish paper remain to be considered, notably the question of change to the juror's oath, the question of making optional the oath of allegiance taken by senior counsel and the declaration made on appointment by coroners.

Review under Article 11 of the Anglo-Irish Agreement

Article 10(b)

1. Article 10(b) envisages the Conference as "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 our view, this provision of the Agreement offers enormous potential for development in the period ahead.
2. There are strong, and mutually reinforcing, political and economic arguments for enhancement of cross-border contacts in the areas delineated by Article 10. We would wish to see economic, social and cultural contacts advanced through a pragmatic and non-ideological approach that would attract widespread support North and South. In the medium term, the accumulated experience of such co-operation, and the wider perspective established on North-South relations, can only have a positive effect on the political climate.
3. Apart however from any such general political benefit, there are compelling practical reasons for strengthening cross-border contacts; the creation of an adequate physical infra-structure for the whole island, the sharing of services where this is efficient and cost-effective, the identification of areas where joint action may be mutually beneficial - all are justifiable in their own terms and indeed are essential to optimum economic development in the island as a whole.
4. There has been a wide variety of Ministerial and official level contacts relating to cross-border economic and social co-operation in recent years. (The list produced by the British side in December 1988 illustrates the breadth of existing contacts). It is probably fair to say however that these contacts have tended to develop piecemeal, without a central repository of information as to precise content of the various meetings, and therefore without an-overview being formed as to

how the contacts can best be co-ordinated and channelled to the maximum benefit of both sides.

5. Article 10(b) refers to the Conference as a framework for the promotion of co-operation; we would very much hope to see the Conference developing an active role in this area, as opposed to the more passive approach to date where the Conference has largely confined itself to noting developments rather than initiating and encouraging them. The development of appropriate structures (see paras 9-10 below) will be crucial if the Conference work is to take on this additional dimension to its work.

Indicative List of Areas for Future Co-operation

6. On the Irish side, the potential for cross-border economic co-operation is being exhaustively examined by individual Ministers and we would intend to present more detailed proposals in the near future. However, the following is an illustrative list of areas where there may be scope for further work:

- Tourism

- Developing the potential for joint promotions in foreign markets;
- encouragement of local initiative in developing joint tourism projects (along the lines of the recent North Coast tourism project undertaken by the Inishowen Community Development Group and the Glens of Antrim Community Development Association.);
- investment in amenities in the border areas - ensuring complementarity of facilities on a regional basis on both sides of the border and, where appropriate, developing cross-border amenities (the linking of waterways offers an obvious potential for major development).

Agriculture

- co-operation in research to develop the agriculture and food sector, North and South;
- co-ordination of positions so as to secure, wherever beneficial, E.C. recognition of the similar agricultural situations, North and South (practical examples to date include the all-Ireland application of the E.C. calf premium and suckler cow premium - the value of these two schemes to Northern Ireland in 1987 exceeded £5m.);
- further co-ordination on animal and plant health, including E.C. aspects.

Transport

- medium-term improvement of major roads;
- improvement of secondary roads (and bridges) in border areas;
- road safety;
- motor vehicle administration;
- maintenance and up-grading of cross-border rail links;
- study of ports facilities, North and South, with the aim of developing complementary services and reducing inefficient duplication.

Fisheries

- Development of aquaculture projects in the Foyle, Erne, and Carlingford areas;
- Oceanographic investigation of Irish Sea productivity;
- Acoustic survey of Irish sea herring stock.

- Energy

- Consideration of the restoration of the North-South electricity interconnector;
- the possibility of the transshipment of coal from Moneypoint;
- cooperation between the Geological Survey of Ireland (GSI) and the Geological Survey of Northern Ireland (GSNI) on the joint publication of mineral related maps and data and exchange of information for areas straddling the border;
- technical and administrative cooperation in respect of onshore exploration in the N.W. Carboniferous Basin which encompasses both sides of the border.

- Health

- Further development of the very useful work to date of the joint Department of Health/Northern Ireland DHSS working party (including referrals between the two health services, joint investment in highly specialised machinery and procedures, joint production of public information material).

1992

7. There is an increasing awareness in both parts of the island that 1992 represents both a challenge and an opportunity; there is also a recognition that - in certain sectors at least - these opportunities will be maximised only if the issues are approached on an all-island basis. This general awareness needs to be translated into a detailed and sophisticated analysis of the projected effects of 1992 on the economies both North and South and their interrelationship. Some work has already been jointly done by the NESC and NIEC; consideration should be given to the joint commissioning of further expert studies as well as the pooling of research data already available to both governments. Continuation of the dialogue, begun at Louvain

in December 1988, subject to greater precision and selectivity in subject matter and participation, would be particularly useful.

8. We are of course aware that there will be competitive as well as co-operative aspects involved in gearing the economies, North and South, for 1992. This clearly has to be taken realistically into account in our preparatory work. However, there is a mutual interest in identifying those areas where enhanced co-operation will attract greater benefits for the island as a whole. Even more fundamentally, a joint approach will be required in certain areas to minimise the disadvantages, in economic terms, of our peripheral island status. It is essential that the maximum energy and imagination be brought to bear in our preparations for 1992 so that the potential benefits as well as the potential risks of the single market can be clearly identified and taken into account.

Structures

9. As we are aware, regular and productive North/South ministerial contacts on a range of issues already take place. On the Irish side, we see very great advantage in seeking to structure these contacts within the Conference setting. The co-ordination of such contacts within the Conference would have a dual benefit; it would add stature and significance, as well as bringing continuity to, inter-ministerial contacts; at the same time the work of the Conference would be deepened and diversified by these additional elements.
10. Article 3 of the Agreement provides that "within the framework of the Conference other Irish and British Ministers may hold or attend meetings as appropriate". We would suggest that - and this would also be in line with the general desire of both sides to move towards further advance scheduling of Conference meetings - specialist Ministers be

invited in rotation to attend Conference meeting for a discussion of North/South contacts in their areas of responsibility. Clearly the discussion of economic items would have to be well prepared at official level in advance, so as to ensure a focussed and productive use of Ministerial time. If felt desirable, a working party at official level might be created under article 3 to prepare and follow up on Conference discussions on economic issues.

March 1989

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THE INVOLVEMENT OF LOCAL COUNCILS IN NOMINATIONS TO PUBLIC BODIES

1. In a paper on Article 6 submitted at the end of January it is stated that "the UK side accept that there is a problem about nomination of district councils where it is the practice of many unionist-controlled councils to nominate only unionists." The Irish side welcome and appreciate the openness of this approach. In order to take the matter further, we are now submitting the following paper which seeks to underline the extent of the problem and the urgency of finding a solution.

2. Under the present system, local council nominees are put forward for appointment to public bodies in two ways

- either directly by the Councils, or
- by the Association of Local Authorities of Northern Ireland (ALANI).

The councils normally choose their nominees by vote after local elections, when the new councils are constituted. The nominees forwarded by the councils to ALANI, and subsequently by ALANI to the Northern Ireland authorities, are chosen similarly.

3. In most councils, nationalist representatives put themselves forward for nomination. In the unionist-dominated councils they are almost invariably voted down. Belfast City Council has a practice of never nominating nationalists for any type of public body, however limited its functions. By contrast the practice of nationalist-majority councils (Derry City, Down, Newry and Mourne and Fermanagh) on offering seats to unionists has been much more forthcoming. Derry City Council, for instance, offered seats on the Western Health and Social Services Board and the Western Education and Library Board to unionists until it became clear that unionists intended to boycott the Boards as part of their policy of opposition to the Anglo-Irish

Agreement. These seats were then allocated to the Independent Unionists on the Council.

ALANI

4. ALANI is given rights of nomination to a large number of public bodies (although not to the Education and Library Boards and the Health and Social Services Boards). Since 21 of the 26 local councils are unionist-dominated the membership of ALANI is disproportionately weighted in favour of unionists.
5. ALANI has, for instance rights of nomination of four members to the Fire Authority; Belfast City Council has rights to nominate four more. Thus from the outset there are 8 unionists (44%) on the 18-member Authority. While the Fire Authority might appear at first sight to be a "neutral" type of body, it has been the subject of many complaints of discrimination both as regards recruitment and as regards internal promotion. We understand that it was also involved in protests at the time of signature of the Anglo-Irish Agreement
6. Similarly, in the case of the Ulster Folk and Transport Museum, Belfast City Council nominates 2 members, while ALANI nominates 4 more, thus giving unionists automatically 6 (40%) of the 15 seats on the body. Again, in the case of the Ulster Museum, 6 seats (40%) out of 15 go to unionists, 3 being nominated by Belfast City Council and 3 by ALANI.
7. It is difficult to see how ALANI could at any time have been called representative. That is even more so the case now, when at least 12 local councils (including Belfast City Council and Derry City Council) out of 26 have withdrawn from it. The 12 councils which have withdrawn together represent more than half the population of Northern Ireland. In these circumstances there appears to be an extremely strong case for fundamentally reviewing the composition and indeed the continuation of ALANI in its present form.

EDUCATION AND LIBRARY BOARDS AND HEALTH AND SOCIAL SERVICES BOARDS

8. There are five Education and Library Boards - one for Belfast and four for the remainder of Northern Ireland - charged with the administration of public education and library services in Northern Ireland. There are four Health and Social Services Boards which are given responsibility for personal and public health services and for social security. These Boards are involved in matters of major concern to people in their daily lives; they administer large budgets and their policies and practices have very real local impact.

9. Some 40% of members of the Education and Library Boards and about 30%-35% of members of Health and Social Services Boards are nominated by local councils. The Table at Annex 1 gives a breakdown, into nationalists and unionists, of the nominations by local councils to the Education and Library Boards and the Health and Social Services Boards.

10. These figures show clearly that the nationalist community is seriously under-represented in council nominations to all Boards except the Western Boards. In the case of Belfast - which contains the single biggest concentration of nationalists in Northern Ireland - all 14 nominees by Belfast City Council to the Belfast Education and Library Board are unionists; this is clearly indefensible. Overall the figure of 22% for nationalist nominations to the Education and Library Boards, in a situation where the school-going population is more than 50% nationalist, is totally unjustifiable. The figure of 29% in the case of Health and Social Services Boards is only slightly better.

11. In considering how the situation might be improved, the concept of proportionality will obviously be among the issues requiring serious examination. The Irish side welcome the proposal by the British side to explore the possible use of proportionality; in response to the query as to the practice in

Ireland, we would point out that the Irish Local Government (Reorganisation) Act, 1985, provides for a system of proportionality in local council appointments to public bodies. (A copy of the Act is attached for ease of reference - Section 27 and Schedule 5 are the relevant sections).

PROPOSALS

- ALANI is an unrepresentative organisation and its composition, powers and indeed continuation in its present form, should be urgently examined.
- The possible introduction of a system of proportionality should be explored in relation to nominations by district councils. We would welcome further discussion on this issue in the Conference framework.
- If it does not prove possible to find an acceptable formula on proportionality, consideration should be given to changing the present system so that district councils would have powers of recommendation only; these recommendations should ideally be assessed within the framework of the Conference before being submitted for consideration to the responsible Minister.

ANNEX 1

A. Education and Library Boards

Board	Total Membership	Council Nominees	Unionist	Nationalist
Belfast	35	14	14	0
North Eastern	35	14	12	2
South Eastern	35	12	11 (2 All.)	1
Southern	35	14	11	3
Western	30	13	4	9 (2 SF, 1 Ind)
<u>TOTAL</u>		<u>67</u>	<u>52 (78%)</u>	<u>15 (22%)</u>

B. Health and Social Services Boards

Board	Total Membership	Council Nominees	Unionist	Nationalist
Eastern	34	10	9	1
Northern	29	10	8	2
Southern	24	7	5	2
Western	24	8	3	5 (1 SF, 1 Ind)
<u>TOTAL</u>		<u>35</u>	<u>25 (71%)</u>	<u>10 (29%)</u>

(In some cases Unionist members have either resigned or been disqualified for their policy of non-attendance in protest at the Anglo-Irish Agreement).

(Although included in the broad categories of unionist/nationalist for ease of presentation, the Alliance, Sinn Féin and Independent Councillors are noted separately in brackets).

DRAFT NOTE

Mr. Anderson

PROGRESS ACHIEVED SINCE THE SIGNING OF THE ANGLO-IRISH AGREEMENT
Paper by the British Side

Introduction - The Agreement

1. The British Prime Minister, the Rt Hon. Margaret Thatcher, FRS
and the then Taoiseach, Dr Garret FitzGerald TD, signed a formal
and binding Agreement¹ between their two Governments on 15 November
1985 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 cooperation between the
people of the two countries; and improving cooperation in combatting
terrorism. The Agreement deals in particular with the status of
Northern Ireland, (Article 1), in which both Governments affirm, in
a binding international document, the principle that that status is
to be determined by the wishes of a majority of the people of
Northern Ireland; recognise that the present wish of a majority of
the people of Northern Ireland is for no change in the status of
Northern Ireland; and 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. The Agreement also provides for the establishment of an
Intergovernmental Conference in which the Irish Government puts
forward views and proposals concerning stated aspects of Northern
Ireland affairs; in which the promotion of cross-border cooperation
is discussed; and in which determined efforts are made to resolve
any differences between the two Governments.

1. Agreement between the Government of the United Kingdom of Great
Britain and Northern Ireland and the Government of the ROI
Treaty Series No 62 (1985).

2. Since the signature of the Agreement a number of measures and arrangements have been introduced affecting the lives of both sections of the community in Northern Ireland. Some of these were already in hand before the Agreement was signed. Some owe a lot to the impetus of the Conference and the new and substantive co-operation and dialogue between the British and Irish Governments established under the Agreement. Without the necessity of a lengthy analysis of each issue, it is clear that many of the measures have benefitted greatly from the views and proposals put forward by the Irish Government.

The work of the Intergovernmental Conference and its Secretariat

3. The Intergovernmental Conference was set up, under Article 2 of the Agreement, to deal, on a regular basis with political matters; security and related matters; legal matters (including the administration of justice); and the promotion of cross-border co-operation. Its establishment (and the Secretariat which services it on a continuing basis) has since provided a valuable framework for the conduct of Anglo-Irish relations in so far as matters relating to Northern Ireland are concerned. The Conference has enabled Ministers and senior officials of both sides to maintain close and frequent contact, which has given them a greater awareness of the political and other realities against which the other side has to operate. It has thus reduced the risk of misunderstandings arising over particular incidents and increased the likelihood of problems being resolved in a spirit of cooperation and without acrimony. It has enabled each side to take decisions within its jurisdiction with greater knowledge and awareness of the likely impact and reactions on the other side. It has also been well received internationally, where it has been seen as a major attempt by the two Governments to make progress towards a better relationship between the North and South and a very positive contribution to addressing the fundamental problems of Northern Ireland.

4. The Conference has met frequently since its first meeting on 11 December 1985. In addition there have been a number of other meetings within the framework of the Conference where Ministerial discussions have been held. The Conference business has covered a wide range of subjects, and the Conference has played a demonstrably vital role as a forum for Ministerial contacts between the two Governments when there are important issues to be discussed.

5. Conference meetings provide the opportunity to ensure that progress is made in enhancing and developing, to the benefit of both governments, more effective security co-operation and to discuss political developments in Northern Ireland. Discussions on ways of further enhancing cross-border security cooperation are an important and regular item on the agenda. Although it may not always be possible to publicise in detail the role played by the Conference in any particular matter, these discussions play an valuable part in the development of policy and practice. Thus, for example, the UK Government's proposals leading to the introduction of further Fair Employment legislation in Northern Ireland have been discussed at many Conference meetings. Other subjects which have benefitted from regular discussion include ways of enhancing confidence in the system of justice and improving relations between the community and the security forces. The outcome of many of these discussions is reflected in the more detailed references in the body of this paper. The issues discussed by the Conference are summarised in the Joint Statement published after each Conference meeting.

6. The Secretariat is provided for in Article 3 of the Agreement which states that: "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." It is responsible for making the arrangements for Conference meetings. This includes the holding of preparatory discussions between officials, agreeing the agenda between the two sides, recording the discussions at the Conference itself, and, as appropriate, ensuring that work agreed on at the Conference is taken forward.

C O N F I D E N T I A L

7. The Secretariat was established at Maryfield outside Belfast. It is headed by British and Irish joint secretaries, supported by appropriate senior officials and administrative staff. As agreed by the two Governments at the first meeting of the Conference, the Secretariat has functioned as a continuing channel of communication between the two sides. Its work in this area has for the most part been kept confidential as is customary for exchanges between sovereign states, but the scope of its activities is confined by the Articles of the Agreement.

8. The Secretariat has played an important role, particularly in improving each side's understanding of the other's position. It is a facility for each Government to pass a prompt message either to advise the other of some forthcoming action or to explain the reason for some decision or action which has been taken. The Secretariat has been able, in many cases, to resolve problems amicably without publicity.

9. Though neither a 'complaints bureau' nor a body with operational responsibilities for security matters, the Secretariat has served as a forum for each side to explain aspects of its security policy and to inform the other side of changes in the structure and organisation of its security forces, particularly in relation to border areas, and to convey to the British authorities at high levels the views of the Irish Government in respect of the interests of the nationalist minority. In particular cases the speed and effectiveness of the Secretariat as a channel of communication have been crucial. It also offers a helpful source of prompt information for the British side about developments or events in the Republic such as the outcome of court proceedings or the successes of the security forces.

10. The Secretariat has also provided a forum for the exchange of information on aspects of prisons policy in Northern Ireland. In this important area, the Secretariat has helped to identify and resolve problems that could otherwise have become irritants in Anglo-Irish relations.

C O N F I D E N T I A L

11. Set out below is a summary of the progress made under each main area of activity of the Agreement.

Rights and identities of the two traditions; human rights and the prevention of discrimination.

12. Progress has been achieved in the following areas:

(i) Irish Language

- Ordnance Survey of Northern Ireland (OSNI) has produced and published a dual-language map and gazetteer of Northern Ireland;
- a question on the Irish language will be included in the 1991 Census;
- Irish views on the place in the curriculum of the Irish language and cultural heritage were taken into account in reaching discussions on education reform in Northern Ireland;
- guidance has been issued to Government Departments on the use in official business of Irish personal names and on the handling of correspondence in Irish.

(ii) Legislation has been introduced in the 1988/89 Parliamentary session to end the anomaly whereby 'I' voters have been unable to vote in District Council elections. (The Elected Authorities (NI) Bill)

(iii) The Flags and Emblems Act (NI) 1954 has been repealed.

(iv) The Fair Employment (NI) Bill which has been introduced in the current Parliamentary session provides for further

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measures to prevent discrimination and reduce inequality in employment, including:

- a) compulsory monitoring of religious composition of workforce;
- b) making failure to do so a criminal offence;
- c) establishing a new, and strengthened Fair Employment Commission (and a new Fair Employment Tribunal with exceptional powers);
- d) economic sanctions - withholding tenders/grants from those not practicing employment equality;
- e) a new Code of Practice to be drawn up by the new Commission;
- f) the inclusion of affirmative action measures in the Code which will be legally enforceable when included in Directions of the New Commission.

(v) The Police have been given greater powers to control parades and marches which are likely to give rise to provocation. (Public Order Order, 1987);

(vii) The law on prevention of incitement to hatred has been strengthened. (Public Order Order, 1987).

Role and composition of Public Bodies

13. The UK side has provided the Irish side with briefing on the arrangements for public appointments in Northern Ireland and provides information about forthcoming vacancies. The Irish have

suggested the names of a number of people who might be considered for public appointments.

Security Policy, Relations between the Security Forces and the Community, and Prisons Policy.

14. The British side recognises that creating wider and stronger public support for the police and the armed forces in Northern Ireland is as essential in bringing peace, stability and reconciliation as progress in political, security and economic policies. The Conference has thus devoted considerable attention to ways of improving relations between the security forces and the community. The Irish side have put forward a number of proposals in this area. Measures taken include:

- explicit confirmation of the policy pursued since 1984 that, wherever possible, patrols by the Army (including the UDR) that are likely to come into contact with the public should be accompanied by a member of the RUC;
- improvements in the procedure for handling complaints against the police, including the establishment of an Independent Commission for Police Complaints (Police Order 1987);
- the RUC has made considerable efforts to increase the level of recruitment from the minority community;
- The RUC Chief Constable has introduced a new Code of Conduct for all RUC officers (Placed in House of Commons Library on 15 March 1988);
- The Police Authority for Northern Ireland and the Chief Constable of the RUC have jointly written to District Councils proposing a widely representative scheme of police/community liaison committees based on police sub-divisions;

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The forthcoming Police and Criminal Evidence (NI) Order will introduce a statutory requirement for the police to liaise with the local community;

The Army has introduced new procedures to ensure that, wherever possible, allegations of misbehaviour against members of the armed forces will be resolved with a response to the complainant within 3 weeks;

An NIO and Security Forces group has been established to monitor and assess trends and patterns of allegations about misbehaviour of members of the security forces and the speed and effectiveness with which they are resolved, and to feed conclusions back to RUC and Army operational command structures for action.

15. In June 1988 the Secretary of State announced a special review of all the remaining special category life sentence prisoners, and shortly afterwards a special review of the remaining Secretary of State's pleasure prisoners who had served more than 8 years. Details of the results of the first stage of the SOSR review were made public shortly before Christmas, and the results of the special category review should be available fairly early this year.

Legal matters, including the Administration of Justice

16. A number of improvements have been made in the system of justice in Northern Ireland. These are intended to be of benefit to all in the community, and are also fully consistent with the objective of improving the confidence of the minority community in that system. These include:

- making all arrest powers exercisable only on the basis of reasonable suspicion Emergency Provisions Act (EPA) 1987

- reducing the maximum period that a suspect can be held without further Ministerial authority from 72 to 48 hours (EPA 1987)
- establishing statutory right of access to a solicitor within 48 hours of arrest (EPA 1987)
- providing that suspects are entitled to inform a friend or relative of their arrest and whereabouts (EPA 1987)
- instituting annual independent reviews of the Emergency Provisions Act, and establishing a fixed term of 5 years on that Act. (EPA 1987)
- statutory changes to the admissibility of confession evidence, to make clear that confessions obtained by the use or threat of violence are not admissible and that confessions can be excluded in the interests of justice (EPA 1987)
- new powers for scheduled offences to be heard outside Belfast.
- regular publication of statistics on the operation of the EPA.
- a number of measures have been taken in recent years to reduce the delay between first remand and trial, which for most cases has been cut since 1985 by nearly half.
- Under the EPA Amendment Order 1986, a number of offences were added to those which the Attorney General is capable of certifying out of the scheduled mode of trial.

And in the near future

- the Police and Criminal Evidence (NI) Order will provide the same safeguards for persons detained for police questioning under the ordinary criminal law as are provided in England and Wales in the Police and Criminal Evidence Act 1984.
- a non-statutory Guide to the Exercise of Emergency Powers will be published and made widely available.

17. There has been continuous and constructive discussion of extradition and related matters, within the framework of the Conference in the light of the shared concern of the two governments to ensure that fugitive offenders are brought to justice. A significant development has been the narrowing down by the Irish Government of the political offence exception by means of legislation to enable them to ratify the European Convention on the Suppression of Terrorism.

Cross Border Security Co-operation

18. Although the Conference has no operational responsibilities, it has provided the framework through which cross-border security co-operation has been developed and extended. Many of the details must remain confidential but progress has been made in each of the areas identified in the Agreement including joint threat assessments, the exchange of information, liaison structures, technical co-operation, training and operational planning. As well as the provision for regular Ministerial discussion of security matters at the Conference, there is now a series of regular meetings between the two police forces at headquarters and operational levels under the direction of the Chief Constable of the RUC and the Commissioner of the Garda Siochana. These meetings are concerned with a wide range of operational, technical and communications matters and are designed to improve the day to day co-operation

between the two forces. Among the procedures agreed by the two police officers is one for close co-operation in dealing with suspect terrorist devices located near the border. This procedure has been used on a number of occasions and has proved of great benefit to the bomb disposal experts on both sides. It is the firm intention of both police forces to achieve further improvements in co-operation using the new structures which have been established under the auspices of the Conference.

Cross Border Co-operation on Economic, Social and Cultural Matters

19. The most significant achievement in the field of economic and social co-operation under Article 10 has been the establishment of the International Fund for Ireland². This has already received contributions of more than \$120 million from the United States, Canada and New Zealand. The Fund is also due to receive contributions of 15 million ECU a year (about £10 million) from the European Community starting in 1989. The Fund has made a good start, with a carefully structured approach to the allocation of the money entrusted to it. By 30 September 1988 the Fund had approved assistance in excess of UK£26,500,000 to over 850 projects, which holds out the prospect of some 4,500 new permanent jobs, the preservation of 1,500 more and provide 4,000 temporary jobs in construction. The work of the Fund has involved close, practical cross border co-operation at many levels. As it moves into the second phase of its existence, the Fund is devoting a greater proportion of its resources to the areas of greatest need, both in Northern Ireland (which receives 75% of the resources disbursed by the Fund), and in the six border counties of the Republic. The Fund has also established two investment corporations in Northern Ireland and the Republic respectively.

2. "Agreement between the Government of the Republic of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the International Fund for Ireland."

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21. There has also been discussion, under the auspices of the
Agreement, of further cross-border cooperation on tourism, roads,
transport, water quality, and health, as well as consideration of
social and economic problems in the North-West.

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ARTICLE 2:

Article 2(a) establishes the parameters of the Intergovernmental Conference. Article 2(b) goes on to clarify the role of the two Governments in relation to:

"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 the interest of promoting peace and stability, determined efforts will be made through the Conference to resolve any differences. The Conference will be mainly concerned with Northern Ireland.....There is no derogation from the sovereignty of with.....Government, and each retains responsibility for the decisions and administration of government within its own jurisdiction".

2. The British Government, as it made clear on many occasions, greatly values the forum of the Conference, and the furtherance of the relationship between the two administrations which has been developed by the creation and working of the institution and its associated groups. Moreover it has been demonstrably valuable for both sides that the Irish Government has regularly - under Article 2(b) - put forward views and proposals on matters relating to Northern Ireland. The British side remains determined to seek to resolve differences as envisaged in the Article.

3. Although the Article makes no specific reference to the point, the British side does and will, where general issues of policy are involved - such as fair employment - do what it can to discuss issues fully in advance. The value and importance of prior notification and - where practicable - discussion on possible developments within Northern Ireland are recognised, especially where this facilitates the role of the Irish side in putting forward views and proposals. It should be noted however that by their very nature, problems which arise on sensitive issues for example in the security field requiring rapid attention, are often those on which earlier discussion or the provision of information is most

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side - in relation to issues where Parliamentary privilege or security requirements are relevant.

4. It is also noted that where they are concerned over an issue within the ambit of the Conference, it is always open to the Irish side to express their views in advance of discussion with the British side.

5. Article 2 provides that both Governments retain responsibility for decisions within their jurisdictions. At the end of the day, in Northern Ireland, it is for the British Government to take the decisions. It need hardly be added that under the Agreement the views and proposals are to be put forward on Northern Ireland matters within the field of activity of the Conference - it does not provide for Irish initiatives in matters outside the Conference's ambit, eg events in Britain without implications for Northern Ireland, or aspects of broadcasting.

6. The Article also provides that some of the matters under consideration will involve action in both parts of the island of Ireland. In keeping with their approach, the British side looks to the Irish side for a similar concern to inform and enter into discussion providing an opportunity to put forward views, and if appropriate proposals, on matters within the Irish jurisdiction bearing on Northern Ireland.

7. In the context of this Article, (though the point also occurs under Article 7 and 8), the British side note that statements by the Irish Government have an impact themselves not only on the perceptions of the community in Northern Ireland, but also more generally on the promotion of peace and stability there.

7. Article 2 prescribes the role of the Conference in general terms, though it does specify that each Government retains responsibility for the decisions and administration of government within its own jurisdiction. Against that background, the British Government believes that at a time of great sensitivity and threatened disorder in Northern Ireland it would have been counter-productive not only in Northern Ireland but also to the

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Anglo-Irish relationship, to have over emphasised the role of the Conference. It remains important to put the role of the Conference in an accurate light, and not to overstate it. But the British Government recognises also the danger of understating its role, and believes it important that people in Northern Ireland and beyond should be made fully aware of the contribution which the work of the Conference is making.

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ARTICLE 3

1. We reviewed the operation of the Conference and the Secretariat, guided by the following objectives:

- to develop the common identity of purpose of the two Governments;

- to arrange Conference meetings as effectively as possible;

- to use the Secretariat to best value within the terms of reference in the Agreement.

1. We have examined the frequency and structure of Conference meetings . The Conference met twice in December 1985, nine times in 1986, four times in 1987 and ten times in 1988. The structure of recent meetings has been: long Ministerial tete-a-tete; Restricted Security Meeting; plenary; (usually) informal discussion continued over lunch. Draft Joint Statements have usually been exchanged, starting on the eve of the Conference; negotiation on the text has usually continued throughout the Conference. We recommend that:

- both Governments should as a general guide aim to hold nine or more Conferences per year to allow for due deliberation of important subjects; to facilitate planning we recommend as a working rule that at each Conference the Secretariat should agree a date five weeks ahead for the next meeting;

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at each Conference the Joint Chairmen should review forthcoming events, such as Parliamentary business;

more detailed agenda should be prepared and the Joint Chairmen should aim to give adequate time to each item and section of the Conference;

members of the Secretariat should normally be present to take a note of all discussions, except any that are considered exceptionally sensitive. If points of agreement or requiring action are reached in private discussion, Ministers should briefly report to the Joint Secretaries;

a timetable for the Conference should be agreed in advance through the Secretariat, so that those not involved in the tete-a-tete or Restricted Security meetings will know when their presence is required;

on the assumption that Ministers consider that a Joint Statement will be needed for Press and Parliamentary reasons, discussion of the communique at the Conference should, so far as possible, be prepared by consideration of draft paragraphs in advance. We recommend that after discussion of each item on the Agenda, Ministers should consider how it should be treated in the Joint Statement; and that time should be allowed at the end of the plenary (possibly over lunch) for the Secretariat to agree a final text clearing with Ministers as necessary.

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3. We have examined the role and structure of the Secretariat and note that security considerations have imposed inevitable constraints on the freedom of movement of Secretariat staff and on public knowledge of its work. We hope that in the long term this situation will ease.

4. We have noted that formal and less formal working groups of the Conference have been established. We recommend a flexible approach, and should be ready to establish new groups, more temporary or more permanent as required [in line for example with paragraphs [] below].

ARTICLE 4: NOTE BY THE BRITISH SIDE

1. Article 4 defines (at sub-paragraph a) the role of the Conference as 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 the island of Ireland". With that statement of the Conference's role is linked (at sub-paragraph b) the policy of the United Kingdom Government to devolve responsibility for certain powers "on a basis which would secure widespread acceptance throughout the community"; and the Irish Government's support for that policy. It is stated (at sub-paragraph c) that "both Governments recognise that devolution can be achieved only with the cooperation 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."

2. Article 4 thus includes a specific commitment by both Governments to a policy of devolution within Northern Ireland. It is linked to the commitment reflected in the Agreement as a whole to a permanent reconciliation between the two communities. Article 1 enshrines the acceptance by both Governments of the principle, which is so vitally important to Unionists, that there will be no change in the constitutional status of Northern Ireland without majority consent. Other Articles provide an assurance to both traditions, but particularly the minority, that their rights and identities will be respected and accommodated in the arrangements for governing Northern Ireland.

3. The British side believes that the assurances which the Agreement offers to both communities on the constitutional status of

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Northern Ireland and on the rights of the two communities remain essential to the achievement of political progress within Northern Ireland.

4. It is therefore important that particular care should be taken in public statements not to appear to dilute these assurances, especially in ways which might hinder rather than foster the process of dialogue. The "cooperation of constitutional representatives within Northern Ireland of both traditions there" which is necessary to achieve devolution may be conditioned by the perceptions of both unionists and nationalists of the attitudes of the Governments towards the Agreement and individual Articles. Both sides in the Conference have recognised the need for "dialogue at all levels as an essential element in achieving political progress and an end to violence" (Joint Statement on 13 September 1988). The British Government is currently making further efforts to bring about political dialogue within Northern Ireland and hopes that it will have the understanding and support of the Irish side for its efforts and for any progress that may now be possible.

5. Both the British and Irish sides have stressed the fact that talks between Northern Ireland's political parties need not take place 'within the framework of the Agreement', but could be held 'in parallel' with the operation of the Agreement. Both Governments also remain committed, however, as the Preamble to the Agreement states, to the objective of a society in Northern Ireland "with the opportunity for both communities to participate fully in the structures and processes of government". The British side believes that commitment needs also to be reflected appropriately in any public statements about political progress in Northern Ireland, along with the assurances that the Agreement offers on the constitutional position and the need to accommodate both traditions within Northern Ireland.

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ARTICLE 11 REVIEW: BRITISH PAPER ON ARTICLE 5

1. Under the heading of 'Political Matters', Article 5 provides for the Conference to concern itself with the vital issues of the recognition and accommodation of both traditions in Northern Ireland, and with important facets of the relationship with Government for the minority community in particular. Continuing progress is essential to the further development of peace, reconciliation and stability.

2. A good deal of progress has been and is being achieved in the following areas:

- (i) the development of new measures to improve community relations, including increasing respect for the different cultural traditions in Northern Ireland,
- (ii) additional measures designed to respond, where possible and sensible, to requests to use the Irish language and to remove unnecessary barriers to its use without moving towards a bilingual society (including the publication of an Irish language map and gazetteer of place-names; the commissioning of research into Irish place-names; advice to Departments on handling correspondence in Irish; additional funding for the Arts Council's activities which are relevant to the Irish language; the decision to include a question on the Irish language in the 1991 Census; and defining the special place of the Irish language in the new school curriculum),
- (iii) the introduction of legislation to widen the local government and Northern Ireland Assembly franchises to include "I" voters,
- (iv) the repeal of the Flags and Emblems Act (NI) 1954,
- (v) the introduction of fair employment legislation, providing further measures to prevent discrimination and reduce inequality in employment,

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determined initiatives to promote the development of disadvantaged areas of Belfast (on which there have been many exchanges between the two sides)

3. Moreover, under Article 5(c), the Irish side has been consulted on the development of new policy in important areas such as education reforms and tackling areas of urban disadvantage.

4. The British side fully agree on the importance of continuing to discuss with the Irish side major social and economic developments, which significantly or especially affect the minority community, while noting that there may be limits on the extent to which they can be involved in the decision-making process. The British side would welcome further discussion about the additional measures which might be taken to develop greater tolerance and mutual understanding and respect between the different parts of the Northern Ireland community and to encourage greater cross-community contact and co-operation. They note that the objective of peace and stability is likely to require acknowledgment of Unionist concerns and values as well as those of Nationalists. This applies not just in Northern Ireland, but in the island of Ireland as a whole. They note too that the Article provides for discussion about the application by the Irish Government of some of the measures already taken in or proposed for Northern Ireland under this Article. Both sides see advantage in continuing discussion on the place of the Irish language in Northern Ireland within the context of how best to respect and accommodate different cultural traditions.

5. The British side are determined to continue to provide proper protection for human rights, and to strengthen existing safeguards wherever necessary. The British side continue to see significant difficulties about the introduction of a Bill of Rights, especially for Northern Ireland alone.

6. Further in depth discussions on the various issues can be co-ordinated through the Secretariat.

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1. ET PASSAGE FOR REVIEW DOCUMENT: ARTICLE 6

1. We have reviewed the operation of this Article. There has been close consultation between the two sides over the constitution of the successor bodies to the Fair Employment Agency and the Police Complaints Board in particular.
2. There have however been important differences of approach by the two sides in relation to the composition of public bodies.
3. The UK side fully accepts the need to ensure that public bodies in Northern Ireland can command the respect of the whole community. In making public appointments, Ministers are concerned to appoint people who are able to contribute to the work of a particular body and about the need for its members to have the range of experience and skills necessary to carry out that body's functions effectively. Ministers seek also to secure a fair and equitable balance as regards sex, age, geography and the two sides of the community. The UK side believes that, broadly speaking, this is being achieved. It believes also that proper weight has been given to the suggestions for public appointments made by the Irish side - 21 of the 48 people suggested now hold a total of 33 appointments on 27 public bodies. The UK side believes that it would be much better

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if, in putting forward names, the Irish side sought to increase the pool of people from the minority community available for public appointments - indicating their main areas of interest - and only to target individuals for a specific vacancy in a few exceptional cases agreed in advance with the UK side. It rejects the suggestion that individuals should be selected (or rejected) for public appointments because of their political views.

4. The Irish side expressed disappointment about action under Article 6. They believe that nationalists continue to be seriously under-represented on major public bodies and in the chairmanship of these bodies. They feel that too many of the members of the minority serving on public bodies are "safe" Catholics who do not command the respect of the nationalists. Nominations by district councils and professional and institutional bodies are felt to favour unionists. The Irish side believe that the UK side has failed to give sufficient weight to Irish suggestions for major public appointments and that some of the reasons given by the UK side for rejecting Irish suggestions - such as lack of adequate experience or too high a political profile - are unreasonable, inconsistent with some other appointments, and against the spirit of Article 6.

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5. It is agreed that there should be further discussion through the Secretariat and the Conference in order to achieve a clearer, common understanding about the objectives underlying Article 6. This discussion should focus on:-

1. the importance of public bodies in Northern Ireland being able to command respect from both sides of the community;
2. increasing the number of members of the minority available for public appointments; and
3. exploring the practicality of introducing arrangements whereby appointments to public bodies by district councils are shared more equitably amongst representatives of the constitutional political parties.

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Paper by the British Side

1. Parts of Articles 7 and 8 provide for the Conference's interest in the range of issues which has - since January 1988 - come to be known by the generic title of "confidence issues". In essence, these parts of the Agreement recognise the importance both governments attach to promoting and sustaining the confidence of all sections of the civilian community in Northern Ireland in the whole system of justice in all its forms - policing by the RUC and the armed forces, arrests, prosecutions, the courts, penalties and prisons. Special mention is made in Article 7 (c) of the need to improve relations between the security forces and the nationalist community.

2. The British side is strongly committed to making effective progress on these confidence issues in recognition of the undeniable fact that creating wider and stronger public support in Northern Ireland for the police, the armed forces and the whole system of justice is as essential as progress in political, security and economic policies in bringing peace, stability and reconciliation.

3. In the immediate aftermath of the signing of the Agreement the issues in Article 7 were dealt with separately from the issues in Article 8 which were remitted to two official working groups: Working Group I which reviewed the administration of justice in Northern Ireland, and Working Group II which reviewed the ways in which fugitive offenders in both jurisdictions could more effectively be brought to justice. The latter work which arises from the last sentence of Article 8 is the subject of a separate review paper and is not dealt with further in this one.

4. Relations between the security forces and the community were not initially dealt with by any special machinery through the Secretariat but by means of bilateral meetings in the Secretariat between the Irish side and the relevant British officials

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operationally responsible for the particular subject at issue. This did not appear to the British side to be wholly satisfactory and in late 1987 a senior British official was tasked to carry out a research project to identify those aspects of the whole system of justice in Northern Ireland that caused most concern within the community in general and within the nationalist community in particular.

5. The results of this research indicated that policing (ie day to day relations between the RUC, the armed forces and the community) was the matter of greatest concern to most people in Northern Ireland particularly (but not exclusively) in nationalist working class areas. The research also indicated that, by the end of 1987, the courts in Northern Ireland were not a matter of great concern to the majority of the nationalist community there. This was a reflection of the change in circumstances since 1985 whereby most of the verdicts of the courts of first instance in the series of trials in 1984 and 1985 based on the uncorroborated evidence of former terrorist accomplices were overturned on appeal in 1986. While the position in law remains that a court may convict on the uncorroborated evidence of an accomplice, there has not in fact been such a case since 1985.

6. On the courts, the position of the two Governments has not changed. Notwithstanding the reduction in nationalist sensitivities over the issue, the Irish Government still holds the view that there would be more confidence in the soundness of verdicts in non-jury terrorist trials if the court were to consist of three judges. The British Government is not presently persuaded that the merits of the three-judge courts outweigh the advantages of the present Diplock system. Nor is it aware of a single criticism during the period of the operation of the Agreement that the Diplock system has produced a miscarriage of justice.

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7. The broad detail of the British side's analysis and conclusions to the nature of the problem of confidence across the whole system of justice - as defined in paragraph 1 above - was conveyed to the Irish side and there was a substantial degree of agreement between the two sides on the nature and scale of the problem.

8. As a result both sides agreed in early 1988 that the discussions on the British report provided the opportunity to establish a more systematic approach to addressing the issue of confidence in the system of justice. It was agreed that a group of senior officials would meet regularly to review the progress that was being made by the British side in formulating and implementing measures designed to promote the confidence of the community in general but of the nationalist community in particular in the whole system of justice in Northern Ireland.

9. This new impetus to work on confidence issues was endorsed by Ministers at a meeting of the Conference in March 1988 and since then Ministerial discussion of confidence issues has taken place at a number of Conference meetings.

The Present and the Future

10. Bearing in mind the lesson that the relative importance of individual issues of concern to the community affecting confidence in the system of justice can change over time, the British side recognises the need to continue to keep under regular review those confidence issues set out in Article 7 (a) (ii), 7 (c) and Article 8. Other issues not set out there may also arise from time to time.

11. However, the British side have put in hand machinery and a programme of work on measures to address as a high priority those subjects of greatest current concern to the community and which have persisted over a considerable period of time. These are a number of

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aspects of relations between the security forces and the community including: close monitoring of the nature, extent and handling of complaints by the public about improper but non-criminal behaviour of members of the security forces; increased use of the Civilian Representative Organisation to help resolve sensitive situations between the public and the security forces; further effective development of the policy of RUC accompaniment of Army patrols; promotion of closer formal and informal liaison between local communities and the police at local level; further briefing of Army units on the local community in Northern Ireland and on the crucial importance of the establishment and maintenance of good relations; the public issue of a non-statutory guide to practice for the security forces applying the terrorism provisions; and additional safeguards for members of the public being questioned by the police for non-terrorist offences. The British side looks forward to early significant progress in these areas.

12. With the aim of maintaining the momentum in the developing programme of work the steering group of senior officials from both sides will continue to meet regularly to review progress in enhancing the confidence of the community (and in particular the nationalist side of the community) in the system of justice, and will report regularly to the Conference.

NORTHERN IRELAND OFFICE
FEBRUARY 1989

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SCOPE FOR HARMONISATION OF THE LAW APPLYING IN THE NORTH AND SOUTH

Paper by the British Side

Article 8 provides that the Conference shall, in particular, consider whether there are areas of the criminal law applying in the two jurisdictions in the island of Ireland which might with benefit be harmonised. The same role features in the terms of reference agreed in 1986 for Working Group II. Study of the scope for harmonisation in that context has been limited, although both sides agreed as a start to identify areas in which harmonisation would be useful. The Article 11 Review provides an opportunity to try to identify subjects where further work might bear fruit.

2. Experience of proceeding against fugitive offenders has pointed to a number of areas in the criminal law of the two jurisdictions where discrepancies which have arisen over the years cause real difficulties. Examples are offences against the person and theft.

3. Other areas for potential study include action against terrorist finance, where the Irish have legislation and which we have now covered in the PTA 1988, and the development of Mutual Legal Assistance Arrangements, for example in dealing with drug trafficking and fraud. And, more generally, in these areas there may be scope for harmonisation of the underlying legislation.

4. In the context of court proceedings, increased provision is being made in the United Kingdom for the giving of evidence by live closed circuit television. Its use in the international context so far as the two jurisdictions in the island of Ireland are concerned could be considered further.

5. It is for consideration whether the existing Working Group II or whether a committee differently constituted would best take this work forward.

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ARTICLE 11 REVIEW: ARTICLE 8 - EXTRADITION AND EXTRATERRITORIALITY

Note by the British Side

1. Article 8 recognises the importance for both Governments of ensuring that effective arrangements are in place for dealing with fugitive offenders, in providing that the Conference shall also be concerned with policy aspects of extradition and extraterritorial jurisdiction as between North and South. This need can only be met by effective extradition arrangements between the two jurisdictions, supplemented as appropriate by use of extraterritorial legislation. It is noted that policy aspects of extradition have been discussed at over half of all Intergovernment Conference meetings.
2. Since 1985, the Irish Government has, after amending the basic legislation, ratified the European Convention on the Suppression of Terrorism. Close working contact between the two Governments has been established over a wide range of issues affecting the bringing to justice of fugitive offenders. Each side understands the issues which are raised for the other by this subject to a greater degree than previously.
3. Nonetheless, as it has made clear on a number of occasions, the British side is of the view that the present position is not satisfactory. The British side believes that mutual trust between the two Governments, and between our people, is crucially dependent on a perception that arrangements for dealing with fugitive offenders, over a period and over a run of cases, work satisfactorily in practice. Accordingly, we attach the utmost importance to establishing and maintaining effective arrangements between our jurisdictions to ensure that suspected offenders can be brought before the courts. At present, in the view of the British side, in terrorist cases the arrangements fail that test.
4. Moreover, both sides recognise that the failure to ensure the smooth and just treatment of fugitives accused of terrorist crime is a major irritant in our relations and hands easy victories to the forces of violence.

5. The current Irish review of the operation of the arrangements will be important, and the British side is grateful for the assurances that the views it has offered will be taken into account in that review. In the spirit of the Agreement, the British side looks forward to further consultations as the review proceeds.

6. Accordingly, for the future, the British side looks towards:

- improvements in the effectiveness of the extradition arrangements, stemming from the current review in order to remove any unnecessary impediments to their smooth working in the interest of justice;

- the restoration of faith in the extradition arrangements between the two jurisdictions by evidence that the system works in practice in terrorist and non-terrorist cases;

- further discussion between the two sides as and when needed to identify solutions to any problems in the arrangements which emerge in practice, in furtherance of the Governments' shared commitment to effective means of dealing with fugitive offenders;

- a consequent reduction in the high publicity profile which this subject has acquired;

- use of the Criminal Law (Jurisdiction) Act 1976 and the Criminal Jurisdiction Act 1975 in appropriate cases as they arise. A programme of work is being undertaken to ensure that the possibility of extraterritorial prosecution as an alternative to extradition in appropriate cases is maintained and enhanced.

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ARTICLE 9: SECURITY CO-OPERATION

Paper by the British Side

Introduction

1. In the Preamble to the Agreement, both Governments reaffirmed 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. Accordingly, and with a view specifically to enhancing cross-border co-operation against the common enemy of terrorism, the Intergovernmental Conference was required, under Article 9, to set in hand a programme of work to be undertaken by the Chief Constable of the RUC and the Commissioner of the Garda Siochana. In the face of a continuing and serious terrorist threat, it remains a vital task of the Conference to ensure that security cooperation is effective. This paper, has two purposes: to review the progress made in the light of the commitments which each side entered into under Article 9; and, more important, to suggest areas in which, in the light of advances already made, both sides should be committed to making further progress.

Progress made under Article 9

2. Article 9 of the Agreement suggested areas which might be included in a joint programme of work to enhance co-operation. They

were: threat assessment, exchange of information, liaison structure, technical co-operation, training of personnel and operational resources. Agreement on the basic elements of a programme of work was reached in February 1986 at the first Quadripartite Meeting; set up by the Conference to monitor and take forward work under Article 9. A joint Threat Assessment was submitted to the Conference by the two police chiefs in May 1986: it has recently been revised and updated - again as a joint exercise. Other elements were remitted to joint RUC and Garda working groups which prepared four joint reports recommending future action. These reports (on Intelligence, Operations, Legislative Procedures and Related Matters, and Computerisation in both Forces) provided the framework for closer co-operation between the two forces. Moreover, the process of preparing them was itself valuable in contributing to the development of closer working relationships between the RUC and Garda at all levels.

3. Implementation of these reports was not, however, in the view of the British side, either as rapid or effective as the gravity of the security situation required. By the middle of 1987 it appeared to the British side that little real progress was being made towards the achievement of the objectives of the agreed joint work programmes. In particular, there was little evidence that the crucial significance of high quality intelligence, and the need to acquire and share it speedily and systematically if terrorist attacks were to be preempted, was either fully understood or being acted upon by the Irish side.

4. It is evident that this situation has now changed and the British side hopes that this difficult period can now be regarded as

past history. The British side has noted and warmly welcomes indications that, under the leadership of both the immediate past and the current Garda Commissioner, significant improvements have been made to the operational capacity of the Garda notably the introduction of several measures intended to enhance the Garda's capabilities in the area of intelligence. A more positive approach to cooperation generally, and cooperation on intelligence matters in particular, is already evident in contacts between the two Forces at all levels.

The Current Position

5. It can therefore now be confidently said that substantial progress in security cooperation is being made. Good intelligence is contributing to significant finds of material made by both the RUC and the Garda. There is a shared appreciation of the value of preemptive intelligence and both sides are committed to obtaining more of this and to sharing it, as appropriate with the other. A stable structure now exists for regular contacts between the Chief Constable and the Garda Commissioner, as well as between senior HQ staff of both forces. The installation of secure communications between the RUC and the Garda is proceeding satisfactorily. As a practical example of effective security cooperation, the agreed procedure for clearing explosive devices found on or near the border has worked well, although it would now benefit from some minor modifications.

6. The security forces of both countries will need to retain flexibility in identifying and responding to a changing terrorist threat, and to develop together new and effective operational

approaches. There remains scope for substantial further improvements in a number of areas; and the effectiveness of those new measures and improvements that have already been implemented must be judged by practical results.

The Future

7. Both the British and Irish sides have made clear their commitment to combatting terrorism and are determined to work together to ensure that terrorism will not succeed in any part of the island of Ireland. A vital part of achieving this is close and developing co-operation in cross-border security. It is on this basis that the British side accordingly invites the Irish to agree that the following propositions should be regarded as the basis for security cooperation over the next 2 - 3 years.

- (a) Security co-operation should continue to be a high priority issue for the Conference; the Quadripartite Group should meet regularly and assist in preparing for the Conference meetings; there should continue to be regular contact between the Chief Constable of the RUC and the Garda Commissioner and between their respective forces; and both Standing Joint Group Meetings should continue;
- (b) The two police forces should ensure that the arrangements for co-operation in the obtaining, exchange and exploitation of information are working effectively, with particular emphasis on good pre-emptive intelligence;

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- (c) The Joint Threat Assessment should be regularly up-dated;
- (d) There should continue to be emphasis on the training of officers in specialist skills, including those required for the acquisition of effective intelligence;
- (e) Both sides should reaffirm the importance which they attach to effective policing of the border, including physical security measures; there should be periodic reviews of the two sides' joint efforts in this area;
- (f) In the light of the common understanding of the scale of the threat, intensive searching for terrorist arms and material should continue on both sides of the border;
- (g) There should be a continuing recognition of the importance of secure communications and their installation;
- (h) There should be further progress in technical co-operation;
- (i) There should be a further pooling of knowledge and ideas to prevent any further Eksund-type consignments of weapons from reaching terrorist groups in both parts of the island of Ireland;
- (j) The two sides should continue to work together on the monitoring and control of terrorist funding.

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ARTICLE 10

1. The British side believes that cross-border economic and social co-operation benefits all sections of the Northern Ireland population. Common membership of the European Community and the logic of geography point to the continued development of these contacts. The British side also encourages fully the constructive channelling of international interest in Northern Ireland towards the economic and social development of disadvantaged areas including the border regions.

2. Prior to the Agreement, considerable cross-border co-operation on economic and social issues of mutual interest, such as transport, tourism, drainage and fisheries, had existed. Where these links between Departments and public bodies were operating successfully, direct involvement by the Conference and Secretariat has been limited. The Conference discussed cross-border economic and social co-operation at its meetings on 11 March 1986, 9 May 1986 (with special attention to tourism), 17 June 1986 (the Belfast-Dublin Road), 6 October 1986, 17 July 1987, 21 October 1987, 17 June 1988, 27 July 1988 and 13 September 1988.

3. The Conference has sought to identify areas where, because of changing circumstances or a reassessment of strategy, there is scope for new or extended cross-border co-operation. A joint study has been commissioned with support from the EC to assess the social and economic problems of the North-West, focusing on the possibilities of closer co-operation by the relevant authorities on both sides of the Border. In recent months the Secretariat has begun to consider the impact on both parts of the island of the radical changes in European Community trading practices planned for 1992. A seminar on this subject for businessmen from both sides of the border was organised jointly by the Department of Economic Development (NI) and the Department of Trade and Industry (ROI) in Louvain, Belgium, in December 1988. Consideration is currently being given to the need for a follow-up seminar which would focus more sharply on the possible implications of the Single European Market for both regions.

4. Under the auspices of the Conference a number of bilateral Ministerial meetings has been held on specific topics of cross-border co-operation ranging from health provision to fisheries. The Secretariat is involved in arranging these meetings.

5. Article 10(a) of the Agreement urged the Governments to consider the possibility of securing international support for the promotion of economic and social developments in areas on both sides of the border which have suffered from the consequences of instability. In September 1986 the two Governments entered into an Agreement whereby an International Fund for Ireland was established with the objective being 'to promote economic and social advance and to encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland'. These objectives were to be pursued through stimulating private investment and enterprise, supplementing public programmes, and supporting voluntary effort, including self-help schemes.

6. The Fund has attracted financial support from the Governments of the United States, Canada and New Zealand, and from the European Community. Resources are spent primarily in projects in Northern Ireland and the border counties of the Republic of Ireland. The Fund is controlled by a Board which is independent of Government. In the Chairman's report for 1987/88 it was estimated that the Fund's activities would create around 4,500 new permanent or part-time jobs, 4,000 temporary construction jobs and would retain in work at least 1,500 people in rural areas. However, the Fund's activities have been criticised by some commentators on the grounds that support is not being targetted towards the most needy sectors.

7. In September 1988 the Board of the Fund carried out a Review of its policies and decided to make a more focused contribution to the economic and social representation of the most disadvantaged areas. This decision was welcomed by British and Irish Ministers at the Conference on 13 September 1988.

8. The International Fund for Ireland is independent of both Governments, but the British side hopes that the Conference will continue to support its work, particularly in regenerating the most disadvantaged areas.

9. The British side is fully aware of the importance of the ongoing pattern of cross-border economic and social co-operation between the two Governments, the benefits of which are self-evident. By its very scale, such day to day co-operation is not an appropriate area for direct intervention by the Conference and the Secretariat. However they have an important role in maintaining a strategic overview of co-operation and in suggesting to those directly concerned possible areas for expansion. This work is ongoing and should be continued. In particular, it will be necessary to keep under careful review the implications of the Single European Market for both parts of Ireland.

END of file