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NOS



HOUSE OF COMMONS
LONDON SW1A 0AA

*Dr. Haughey,
Downpatrick,
For your
attention &
preparation of
draft reply.*
12/2
1990

14A Scotch Street
DOWNPATRICK
Co Down

Downpatrick 612882

Ref: LG/DDC/C/B/90

7 February 1990

Mr Charles Haughey TD
An Taoiseach
Government Buildings
Merrion Square
DUBLIN 2

*Mr. Haughey
12/2
In looking
at the matter
Mr. Haughey told me
that the matter is
dead and that we
need take no action
13/2*

Dear Charles

re: East Border Region Study

I refer to the above-named matter and am writing to advise that I have been contacted by the East Border Region Committee which consists of the County Councils of Louth and Monaghan and the District Councils of Newry and Mourne and Down. This committee suggested the creation of a customs-free zone along the South Armagh/Louth Border, the development concentrating initially on industrial development and tourism.

The Committee has also advised that the zone apart from providing factories would house the administrative headquarters of a new organisation, as well as providing manufacturing, marketing, training and information back-up and expertise to serve the immediate hinterland.

I would like to lend my support to this study. It is an attempt to inject much needed capital into the East Border Region which is generally a disadvantaged peripheral area of Ireland. The proposed study should identify existing problems and defects, be capable of solving these problems and tackling any inadequacies or opportunities.

The terms of reference of this study include the following
"To examine industry, commerce, tourism, infrastructure and
marketing, social fabric, energy link and energy sharing,
training and communications, including transportation (eg
roads, railways, ports, airports, waterways,
telecommunications) in the East Border Region area in the light
of existing projects and plans in order to determine their
adequacy and to make recommendations for their long term
development, having regard to financial constraints".

Perhaps you could advise on this matter and indicate if this
East Border Region Study will be discussed at the next meeting
of the Anglo-Irish Conference and if the Irish Government would
be prepared to favourably consider such a project for financial
assistance?

I await a reply in due course.

Yours sincerely



~~EDDIE MCGRADY MP~~



No 5

AN ROINN GNÓTHAÍ EACHTRACHA
DEPARTMENT OF FOREIGN AFFAIRS

BAILE ÁTHA CLIATH 2
DUBLIN 2

M. Ky...
23-2-90
23/2

23 February, 1990.

Mr. Dermot Nally,
Secretary to the Government,
Government Buildings,
Merrion Street,
Dublin 2.

Dear Dermot,

You will by now have received a copy of the reports of Wednesday's meeting in London.

During the meeting, Ministers spoke about the value of having a (joint) paper which would help clarify the options which might be open to the Governments, and the structures which might be set up to facilitate any negotiations. We suggested - partially in order to flush them out - that the British prepare the first draft of such a paper; we could then consider the matter further.

We would envisage having the British draft on Monday but would, of course, not consider responding until the Taoiseach had a full opportunity to review the situation.

In the meantime, with a Conference on the 2nd March (in London), the Minister feels it would be valuable and helpful for him to have a meeting - ideally on Wednesday - with the SDLP. I would be grateful if we could have a word about this on the phone.

Yours sincerely,

Dermot Gallagher

Dermot Gallagher,
Assistant Secretary.

Spal
23/2

*by the Irish Embassy
M. J. ... 6/3/90
613
To PARL
Body*

*cc PS at
de Maths ; PSE
de Mathews ; de ...
C... R1*

BRITISH-IRISH INTER-PARLIAMENTARY BODY

*In ...
for A-G-A ...
...
...*

INTERVENTION BY DR. GARRET FITZGERALD T.D.

27 FEBRUARY 1990

I am speaking on the basis of the assurance of confidentiality that I was given earlier.

I should like to address myself to one specific matter connected with security which arises from the Anglo-Irish Agreement of 1985 and I want to suggest that this and possibly other similar aspects of security might usefully be pursued in a confidential and constructive manner by a Committee of this Body, with a view to furthering the objectives of ending terrorism and restoring peace and stability in Northern Ireland.

At a meeting in the margin of the Milan European Council on 29 June 1985 the early implementation of a number of measures under the Anglo-Irish Agreement with a view to increasing confidence in the security forces in Northern Ireland was one of a number of matters agreed in principle between the Prime Minister and myself. The matters that we proposed for early implementation were later set out in the Communique accompanying the Agreement.

-2-

One of these issues related to the importance of the role of the RUC in policing. It was recognised that the carrying out of the policing function faced particular difficulties in Northern Ireland because of the IRA's campaign against the RUC and other security forces. This required that the RUC be accompanied in many instances by the Army including the UDR. Nevertheless, the primacy of the police function is a vital principal in both our states and the full application of that principal within necessary security constraints was one of the matters that the Prime Minister and myself agreed would be a matter for immediate implementation.

In an early discussion between representatives of the two Governments on this issue, shortly after the Milan meeting between the Prime Minister and myself, an Irish proposal to have at least one RUC person with each UDR patrol was greeted on the British side as "a helpful suggestion".

A subsequent more considered British reaction, following specific Irish probing of the scale of any possible RUC manpower problem, was that there was "scope for greater action to ensure the accompaniment of almost all, if not all patrols".

-3-

The substantive British response at a later stage involved specific proposals for an increased RUC presence in patrols and at check-points in the weeks then immediately ahead. It was stressed on the British side that this was going to be progressive and would be a rolling process, and that the British Government proposed that it apply not merely to the UDR but to the Army including the UDR.

In the concluding discussion between representatives of the two Governments on this issue a reference by the British side to the efforts being made to ensure that the UDR were accompanied by an RUC presence was qualified only to the extent that "it was not going to be the case that there would never be a patrol without an RUC presence" and that "if public order became a problem, the RUC could be committed elsewhere".

Although in the same discussion reference was made to constraints on the capacity of the British Army to replace in whole or in part the UDR, at no point in the four discussions of this issue was any reference made to major RUC manpower constraints affecting the carrying through of this commitment, even though the possibility of some constraint of this kind arising was tentatively raised on the Irish side on several occasions.

-4-

Finally, at the drafting stage an early British suggestion for wording in the Communique to the effect that RUC accompaniment would "be further implemented progressively and as rapidly as possible" was altered to provide that this accompaniment would be "with the particular objective of achieving as rapidly as circumstances permit the full implementation of this principle".

Nothing in the four discussions that took place on this issue could have led anyone to believe that there would be a delay of years in achieving the full implementation of the commitment to accompaniment of patrols by the Army, including the UDR, by the RUC which I understand after four years is still very far from having being achieved.

The recent statement by the former RUC Chief Constable, Sir John Hermon, to the effect that this objective could not have been achieved in a then foreseeable future of the availability of resources within the RUC has given fresh relevance to this issue. I am not in a position to comment on the validity of this statement. I feel however that given the importance which both Governments attach to the effective policing by the RUC and given the crucial significance of the primacy of the police in democratic societies we have a duty to enquire in an appropriate and discreet way into the reasons for the failure to achieve the policing objective of the two Governments.

-5-

I suggest that this might best be done by establishing a Committee of this Body which, acting without publicity and on a confidential basis, could pursue in a constructive manner delicate but vitally important issues relating to certain aspects of security. I trust that time would be provided before the end of this private session to decide whether this or other possible Committees should be established under Rule 29 which provides for six such Committees and Rule 31 which provides that the meetings of such Committees should be held in private.

*in by [unclear]
[unclear]
6-396
6/3*

AO5

OVERVIEW NOTE

Possibility of Political Progress

Objective

1. The British objective will be to try and secure our agreement to the terms of the three papers handed over at the meeting of officials in Dublin on Tuesday. They would then convey to the Unionists (and the SDLP) at envisaged meetings in mid-March that both Governments were agreed on (a) the objectives of talks, (b) on how Unionist pre-conditions might be met and (c) on the format (or negotiating structures) for such talks.
2. We have signalled that, in view of the Minister's Presidency schedule in recent weeks, we would see the Minister's stance at the meeting as largely being to question and tease out the British presentation, to put down firm markers on the limits of our flexibility, and to secure a clear picture of the British position for further consideration with colleagues.

The Three British Papers

3. The papers deal, respectively, with Objectives in Bringing about Talks, Unionist Pre-conditions, and the Format for talks. The latter two papers raise significantly more difficult and sensitive issues for us than the Objectives text.

Paper I - Objectives in Bringing about Talks

4. We would see no great objection to the thrust of this paper; however, it is couched in very general terms and does little

or nothing to clarify the likely direction or detailed objective of talks. In this regard, it seems quite unreasonable that, in the course of four detailed meetings, the British have continually refused to offer us other than the vaguest assessment of current Unionist thinking. (The draft speaking note covers this and other weaknesses in the paper; however, as indicated, the crucial papers for us are those on pre-conditions and format).

Paper II - Unionist Pre-conditions

5. The first Unionist pre-condition (acceptability of an alternative Agreement) has, as the paper points out, been met already.

6. As regards responding to the second Unionist pre-condition - non-operation of the Conference for a period - we would see no great difficulty in principle with the British proposal that this pre-condition should be met by a natural gap between two Conference meetings. We would need to insist, however, on formally noting in the Conference record that both Chairmen were agreed that the Conference to be scheduled for the end of the gap would take place on a fixed and immutable date.

7. The timing and duration of any gap between Conferences are, of course, also crucial. The British are thinking of a gap beginning shortly after Easter; however, it is very doubtful in our view if the ground work would be sufficiently advanced to hold out any hope of successful talks at such an early date. On duration, we would need to be conscious that, if a gap is to be presented as natural, its length must be such as to not stretch credibility too far. In this regard, the British seem to be thinking in terms of up to three months; we might suggest (if only for negotiating purposes) that announcing a Conference date for

anything over two months ahead would almost certainly be construed as an unnatural and not a natural gap.

8. The proposal on the third pre-condition - the Secretariat - is of even more importance and sensitivity for us. While the British proposal (in large part to allow the Unionists to advance the argument that "the Secretariat would not be serving as a Secretariat to the Conference during a period when there were no Conference meetings") is arguably minimal and cosmetic, we see potential problems in a situation where the Unionists (and particularly Paisley) were allowed triumphantly to proclaim that the Secretariat was non-operational. In such circumstances - and while the SDLP could be expected to state that the Secretariat was continuing to be operated actively and fully - we would be faced with a most difficult political decision of whether we should, by publicly rebutting the Unionist position, risk placing the emerging dialogue in jeopardy. It is essential from the beginning, therefore, that the British privately leave the Unionist leadership in no doubt about the commitment of both Governments to the Secretariat and their unwillingness to stand by and see it (and with it the Agreement) being undermined by false Unionist claims about it having been suspended or rendered non-operational.

9. Finally it is vital, if we are to go down this road with the British, that we both agree in advance that our response on Unionist pre-conditions is a joint one and represents - as Ian Burns said on Friday - the outer limit of what is on offer. We would have a real concern that the British might convey to Unionists that any (restricted) response to their pre-conditions had come from and was being insisted on by us, rather than representing the formally agreed position of both Governments; such an approach could obviously lead to our being blamed publicly for blocking any prospect of progress. Our second concern is that, if the Unionists turn

down the offer on pre-conditions, the British might be tempted into a bargaining process; we would see this as highly damaging and divisive and would want a cast-iron commitment from the Secretary of State that it will not happen.

Paper III - Format

10. As regards the format for talks, the major point for us is how the Dublin role is to be provided for. Our argument from the outset has been that the timing and structure of talks must reflect the interdependence of the three sets of relationships (within Northern Ireland, North/South and East/West). The British paper yesterday - even in its somewhat improved revised version - was vague and ambiguous in this regard and did not meet our criterion. It suggested, for instance, that North-South talks "would probably not start until initial progress had been made" on the internal talks. It was equally vague on how the Government's input into the internal talks would be made; and it completely failed to address the concept of a Steering Committee to oversee and pull together the three separate sets of talks.

11. However, towards the end of the meeting, and after lengthy discussion, the British (Burns) seemed to move towards (a) a willingness to consider the establishment of some kind of overall liaison group or inter-relationship group - involving the two Governments and the three political parties - at or near the outset of the negotiations, and (b) an acceptance that consideration of the North/South relationship would begin no later than a week after internal Northern Ireland talks had opened. It would, in my view, be essential to have this position formalised (in writing) if serious consideration is to be given to the proposals being presented to us by the British.

Conclusion

12. Essentially, our options over the next couple of weeks are (a) to go along with the British approach subject to the conditions - particularly on format - set out above, or (b) to indicate that there are too many unanswered questions, and we see too many potential problems, to justify going down that path. Neither option is risk-free; the first could be seen at the extreme as gambling with the Agreement for uncertain gain; the second, on the other hand, could leave us open to charges of obstructing political progress.

13. In all the circumstances, the first option is perhaps more defensible, in particular given the slight possibility that progress might be achieved, and it would probably also be better understood by public opinion. If it is decided to go down this road, our priority must be to limit the risk as far as possible, particularly by building in understandings on pre-conditions and format which leave no room for ambiguity or slippage. It would be particularly important also in my view, before committing ourselves to such a position, that the issues involved be fully discussed at political level with the SDLP.

Other Issues - Cross-border Submission to EC

14. The fact that both Governments have made an initial joint submission to Brussels on cross-border cooperation might be noted in the Communique. This issue cannot be taken further until we have some clearer idea of the thinking of the Commission. (For a number of reasons, we should not move with undue haste on this dossier).

Involvement of Economic Ministers

15. Given that the next Conference (19th April) could be very sensitive politically, we would suggest that the planned invitation to Specialist Ministers to join their Ministerial colleagues at Conference lunches be put back to the following meeting.

North-West Study

16. There may be criticism from the Northern side about the delays in completing this. The Minister could make the point that it would have been completely counter-productive (and politically naive) to allow a study to be published which was in danger of being boycotted by one side (Donegal). The Consultants have now received a further submission from Donegal interests and expect to be in a position to finalise the study shortly; we hope that this final draft will be broadly acceptable to all sides.

- Sully*
17. If, as is likely, the Secretary of State raises the question of Letterkenny Airport, the Minister might say that he has noted his views and will convey them to relevant colleagues.

McGimpsey Judgement

18. Reserved judgement was delivered by the Supreme Court today. All five judges were agreed that the Appeal failed on all grounds. The judgement concluded with a phrase along the following lines: ... there is a high degree of improbability that an attempt to resolve the Northern Ireland issue by peaceful means would ever be inconsistent with the ideals of peace enshrined in the Constitution.

U. D. R.

19. We would like to raise three issues related to the UDR:
- (a) the new material which emerged in the recent Panorama programme and which showed (i) that the UDR were only briefed on "Republican terrorists", and (ii) that Jack Herman and the RUC seem not to have been placed under any kind of serious pressure to give effect to the Hillsborough commitment on accompaniment;
 - (b) the recent issuing of plastic bullets to the UDR in the (overwhelmingly nationalist) town of Coalisland;
 - (c) our unhappiness that, in a recent case where serious doubts were raised about the suitability of two UDR men by a Dail deputy (Austin Currie), the British refused to refer these cases to the new UDR screening unit which was announced after the October Conference.

Stevens Enquiry/Recent shootings by Security Forces

20. We might ask about the likely timetable for the publication of the Stevens Report (end March ?) and how the British intend to handle its publication. Likewise, we might enquire when the investigations into recent shootings by the security forces (including the shooting dead of three men at the Whiterock Road) are expected to be concluded.

Petrol Smuggling

21. Following on a suggestion by the previous Secretary of State that action against subversive groups should include the elimination of smuggling activities, we proposed in April 1989 that joint action should be taken to combat petrol

smuggling. The method we proposed was that a dye or marker be added to all petrol sold in Northern Ireland, with the cost being met by us (it is not intended, however, that any such system would be used against the petrol in private motorists' tanks which has been bought in the North).

22. Discussions between officials on both sides, which initially went quite well, have recently made little progress because of substantially different estimates of the scale of the problem; on the basis of intelligence and surveillance by the Revenue Commissioners, we estimate that the volume of petrol smuggled is between 16 and 26 million litres; the British figure, which is derived from industry sources, is 2 million litres. We clearly need to reach agreement on at least the range of the problem before further progress can be made. A further meeting of officials is planned for the 16th March and both sides at the Conference should give them a political push to sort out the problem.

Cross-border Roads

23. This may come up at the restricted rather than the plenary session. According to a recent report from the guards, there are four roads which could be opened immediately without any detrimental impact on security. For our proposes, it would be helpful if even one or two roads could be re-opened in the new future. This would, for instance, give substance to our public position that the road closure issue was under continuing review by both Governments.
24. In the circumstances, perhaps Ministers might wish to suggest that each side ask their security services to let them have a list of say three roads which might be most suitable for early consideration for re-opening; these could then be examined in detail by the appropriate group.

Mr. D. Mally

W. H. O'Connell

Mr. W. O'Connell

5/3/90

SECRET

MEETING OF THE ANGLO-IRISH
INTERGOVERNMENTAL CONFERENCE
LONDON, 2 MARCH 1990



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 - Unionist Preconditions
 - Format
7. Possibility of Political Progress
 - Speaking Points
8. Joint Submission for E. C. Structural Funds
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9. Involvement of Economic Ministers in Conference
 - Speaking Points
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 - Progress Report by Secretariat
10. North-West Study
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 - Background Note
11. McGimpsey Judgement
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12. U. D. R.
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14. Shootings by Security Forces
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 - Background Note
15. Petrol Smuggling
 - Speaking Points
 - Background Note
16. Cross-border Roads (Probably for Restricted Session)
 - Speaking Points
 - Background Note

MEETING OF ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE,
LONDON, 2nd. MARCH 1990

OUTLINE OF ARRANGEMENTS

Thursday 1st. Mar. 1990

06. 55h Minister for Foreign Affairs and party arrive in London.
The Minister is brought to the Ambassador's residence and Mr. O'Brien goes to the Chelsea Hotel. The remainder of the party returns to Dublin.
08. 30h Mr. N. Dorr arrives in London from US. He is met at the airport and brought to the Chelsea Hotel.
15. 00H Depart Iveagh House
16. 00h Minister for Justice and party depart on Government jet. Party will consist of: -
Minister for Justice
Garda Commissioner
Mr. D. Matthews
Mr. J. Brosnan
A/Sec D. Gallagher
Joint Secretary
Ms. Anderson
Mr. Collins
Ms. Whelan
17. 00h Minister for Justice and party arrive at London Heathrow. Met
(approx) at airport and brought to Tara and Chelsea Hotels. Cars will be available to bring members of party to the Embassy for dinner.

Travelling separately to London on Thursday: -

Mr. P. Collins

Mr. S. Hughes

18.15h Arrive London Heathrow. [To be confirmed]

Party is brought to Chelsea Hotel. Car will wait to bring members of party to Embassy.

19.30 Working Dinner at Embassy.

(Approx.)

ACCOMMODATION

Minister for Foreign Affairs will stay at Embassy residence (Tel. 031-2358931).

Minister for Justice and party will stay at,

London Tara Hotel,

Scarsdale Place,

Kensington,

London W8.

Tel. 031-9377211, Telex 918834, Fax. 031-9377100

Remainder of delegation will stay at,

Chelsea Hotel,

17 Sloane Street,

London SW1.

Tel. 031 2354377, Telex 919111, Fax. 031-2353705.

Friday 2nd. Mar. 1990

09.00h Parties collected from hotels

0915h Meeting at Embassy.

09.45h Depart for N. I. O.

10.00h Tete-a-tete between Ministers.

11.00h Restricted Session

12.00h Plenary Session

13.00h Lunch

14.00h Resume plenary, as necessary

14.30h Irish depart

14.35h Secretary of state's Press Conference

Details of departure times and passenger lists to be decided.

London 2nd Mar. 1990
IRISH DELEGATION

1. The Minister for Foreign Affairs
2. The Minister for Justice
3. Mr. N. Dorr
4. Ambassador O' Rourke
5. Mr. D. Matthews
6. Mr. D. Gallagher
7. Mr. J. Brosnan
8. Garda Commissioner
9. Mr. D. O' Donovan
10. Mr. P. Collins
11. Mr. R. O' Brien
12. Ms. A. Anderson
13. Mr. M. Collins
14. Mr. S. Hughes
15. Ms. K. Whelan

London 2nd Mar. 1990
BRITISH DELEGATION

1. Secretary of State Brooke
2. Minister of State Cope
3. Sir K. Bloomfield
4. Sir J. Blelloch
5. Mr. I. Burns
6. Ambassador Fenn
7. Chief Constable Annesley
8. Mr. O. Miles
9. Mr. J. Ledlie
10. Mr. M. Dodds
11. Mr. B. Blackwell
12. Mr. Tony Canavan

AGENDA

Tête-a-tête

Possibility of Political Progress

Restricted Security
Session

Issues raised at meeting in Dublin
between Ministers Burke and Cope.

Plenary

(1) Economic Matters:

- (i) Joint Submission for a cross-border programme under the E. C. Structural Funds.
- (ii) Involvement of Economic Minister.
- (iii) North West Study.

(2) McGimpsey Judgement

(3) UDR

- Panorama Programme
- Accompaniment
- Plastic Bullets
- Screening Unit

(A progress report has been prepared by the Secretariat)

(4) Progress of Stevens Enquiry

(5) Progress of Investigation into Shootings by Security Forces.

(6) Petrol Smuggling

(7) Cross-Border Roads
(Possibly at restricted session)

(8) Any Other Business

OVERVIEW NOTE

Possibility of Political Progress

Objective

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15. Given that the next Conference (19th April) could be very sensitive politically, we would suggest that the planned invitation to Specialist Ministers to join their Ministerial colleagues at Conference lunches be put back to the following meeting.

North-West Study

16. There may be criticism from the Northern side about the delays in completing this. The Minister could make the point that it would have been completely counter-productive (and politically naive) to allow a study to be published which was in danger of being boycotted by one side (Donegal). The Consultants have now received a further submission from Donegal interests and expect to be in a position to finalise the study shortly; we hope that this final draft will be broadly acceptable to all sides.
17. If, as is likely, the Secretary of State raises the question of Letterkenny Airport, the Minister might say that he has noted his views and will convey them to relevant colleagues.

McGimpsey Judgement

18. Reserved judgement was delivered by the Supreme Court today. All five judges were agreed that the Appeal failed on all grounds. The judgement concluded with a phrase along the following lines: ... there is a high degree of improbability that an attempt to resolve the Northern Ireland issue by peaceful means would ever be inconsistent with the ideals of peace enshrined in the Constitution.

U. D. R.

19. We would like to raise three issues related to the UDR:
- (a) the new material which emerged in the recent Panorama programme and which showed (i) that the UDR were only briefed on "Republican terrorists", and (ii) that Jack Herman and the RUC seem not to have been placed under any kind of serious pressure to give effect to the Hillsborough commitment on accompaniment;
 - (b) the recent issuing of plastic bullets to the UDR in the (overwhelmingly nationalist) town of Coalisland;
 - (c) our unhappiness that, in a recent case where serious doubts were raised about the suitability of two UDR men by a Dail deputy (Austin Currie), the British refused to refer these cases to the new UDR screening unit which was announced after the October Conference.

Stevens Enquiry/Recent shootings by Security Forces

20. We might ask about the likely timetable for the publication of the Stevens Report (end March ?) and how the British intend to handle its publication. Likewise, we might enquire when the investigations into recent shootings by the security forces (including the shooting dead of three men at the Whiterock Road) are expected to be concluded.

Petrol Smuggling

21. Following on a suggestion by the previous Secretary of State that action against subversive groups should include the elimination of smuggling activities, we proposed in April 1989 that joint action should be taken to combat petrol

smuggling. The method we proposed was that a dye or marker be added to all petrol sold in Northern Ireland, with the cost being met by us (it is not intended, however, that any such system would be used against the petrol in private motorists' tanks which has been bought in the North).

22. Discussions between officials on both sides, which initially went quite well, have recently made little progress because of substantially different estimates of the scale of the problem; on the basis of intelligence and surveillance by the Revenue Commissioners, we estimate that the volume of petrol smuggled is between 16 and 26 million litres; the British figure, which is derived from industry sources, is 2 million litres. We clearly need to reach agreement on at least the range of the problem before further progress can be made. A further meeting of officials is planned for the 16th March and both sides at the Conference should give them a political push to sort out the problem.

Cross-border Roads

23. This may come up at the restricted rather than the plenary session. According to a recent report from the guards, there are four roads which could be opened immediately without any detrimental impact on security. For our proposes, it would be helpful if even one or two roads could be re-opened in the new future. This would, for instance, give substance to our public position that the road closure issue was under continuing review by both Governments.
24. In the circumstances, perhaps Ministers might wish to suggest that each side ask their security services to let them have a list of say three roads which might be most suitable for early consideration for re-opening; these could then be examined in detail by the appropriate group.

Meeting on Possibilities for Political Progress

Dublin, 27 February 1990

1. Following last week's informal meeting in London between Secretary of State Brooke and Minister Collins, the British side drafted three short papers setting out how they saw the objectives and format for talks and how they envisaged the Unionist "preconditions" being met. At the British request, a meeting was held in Iveagh House on 27 February at which the papers were handed over and responses were provided to our preliminary questions and comments. The meeting took place over lunch; present on the British side were Ian Burns, Quentin Thomas (NIO), Ambassador Fenn and Oliver Miles; on the Irish side Dermot Gallagher, Declan O' Donovan and Anne Anderson.

Status of the Papers

2. The texts, which included a Speaking Note as well as the three substantive papers, are attached. It was emphasised by us at the outset that these papers would have to remain statements of the British viewpoint; therefore, while some minor drafting changes were made in response to points made on the Irish side, there was no attempt to come up with jointly agreed texts in advance of Friday's Conference. The Irish side indicated that at the Conference or subsequently, Minister Collins may wish to submit written comments or annotated questions.

British Speaking Note

3. In handing over the Speaking Note, the British identified the crucial sentence as the last one: "It appears to the British government that progress may now be possible, and that this process should be supported". The Irish side said that our presentation of the issues would differ in a number of respects from the British; however, it was agreed that the Steering Note should receive only a cursory discussion

since the crucial papers were the following three.

PAPER I

Objectives in Bringing about Talks

4. The Irish side made a number of drafting points on this paper, including in particular on the final paragraph (which in its original form implied that an attempt might be made to implement a partial result of the negotiations, even in the absence of a fully agreed package). The attached text incorporates some minor revisions made by the British following the meeting.
5. The Irish side also argued at some length that the paper did little or nothing to clarify the likely direction and possible outcome of talks - there were a whole series of issues which the paper did not even attempt to address. (We instanced questions such as how the British assessed current Unionist thinking, whether Unionist and SDLP demands were likely to prove reconcilable, what powers the British envisaged being transferred to a devolved government, whether and how they saw power-sharing being implemented in practice, what they saw as the likely structures for the North/South and East/West relationship?) Mr. Gallagher emphasised that part of our current task is to "calculate the risks" in going down the path being proposed by the British - to do this, we needed some sense of what they saw as lying at the end of the path.
6. The British refused to be drawn on most of the above points, arguing that neither the Unionists nor the SDLP were willing to show their negotiating hands in advance and therefore it was impossible to predict the outcome of talks. (In response to some remarks which were particularly dismissive of the SDLP, Mr. Gallagher expressed serious concern at what

was perceived as a developing antagonism towards the SDLP on the part of some British officials. Mr. Burns said that there was great respect for the personal integrity and sense of responsibility of SDLP members; however, there was also a degree of frustration - the party "talks bigger than it performs").

7. Under further questioning, Burns would only say that (a) in terms of what Unionists might offer, he saw them as going beyond the three page document - published in the Irish Times that day - which they had submitted to Tom King in January 1988 and (b) any transferred powers would probably be much on the 1973 lines with two exceptions: a devolved government would have to have "some involvement" in security, and European Community issues would have to be treated differently than in 1973.

PAPER II

Unionist "Preconditions"

8. Discussion centred on the second and third pre-conditions ("non-operation" of the Conference and Secretariat respectively). The Irish side pointed to a number of inconsistencies and potential difficulties in the British treatment of both these issues - in particular the problem of having Unionists suggest that the Secretariat was non-operational with the Governments failing to rebut this (or the British government staying silent while the Irish government denied it).
9. On the question of the length of the "gap", Burns implied that the British are thinking in terms of two to three months. He said that "anything that is longer than any previous gap in Conference meetings is unnatural"; he also argued that "what is natural during the Presidency might be

unnatural at other times". The British repeatedly emphasised their absolute commitment to adhering to the date of the Conference meeting that would have been fixed in advance for the end of the gap. Burns said they would not countenance any request from Unionists to postpone this Conference meeting - to do so would be "a recipe for disaster"; the only request they might entertain would be one from John Hume.

10. On the Secretariat, the British side repeatedly said that absolutely no change in the substance of the Secretariat's work was contemplated. They had told Unionists frankly that they were "crying for the moon" in looking for concessions in relation to the Secretariat; all that was being offered was an opportunity for the Unionists to put the best face on the situation. However, the British regard it as crucial that the Irish Government would not make any comment on Unionist claims that the Secretariat would not be functioning normally during the gap period - a rebuttal from Dublin would, Fenn said, "shop the arrangement". What the SDLP said was a different matter and the British saw no difficulty with a public contradiction by the SDLP of any Unionist claims.
11. As to whether their suggestion in relation to the Secretariat was likely, if advanced, to prove an adequate fig-leaf for Unionist leaders, Burns said that their best judgement was that it would prove acceptable as part of a package (i. e. with the positions as outlined on the first and second pre-conditions). He emphasised that there would be absolutely no bargaining about pre-conditions - what the British had set out in their paper was the outer limit of what they were prepared to offer.

PAPER III

Format

12. The Irish side at the outset made clear that the role envisaged for the Irish Government in the British paper was entirely inadequate; the negotiating structures and the timing of the various sets of talks must reflect the interdependency of the three relationships (within Northern Ireland, North/South and East/West).

13. The British were adamant that they could not accept the concept of a "Steering Committee" or a Plenary Committee to which sub-committees would report; they saw the three sets of negotiations being dealt with in separate committees although with an understanding that there was a "contingent" relationship between the results achieved in each area and the possibility of what the British called a "Sunningdale-type" meeting at the conclusion. Burns said that an insistence by the Irish side on establishing a Steering Committee at the outset would be to "sabotage" the discussions.

14. After further lengthy discussion, the British appeared to move towards (a) a willingness to consider the establishment of some kind of "liaison group" or "inter-relationship group" - involving the two governments and the three political parties - at or near the outset of the negotiations and (b) an acceptance that consideration of the North/South relationship would begin no later than a week after inter-party talks had opened on devolved structures.

Timing

15. Burns emphasised that the Secretary of State feels that discussions have now reached the "put up or shut up" stage

with the political parties: when he meets the Unionists in mid-March, and the SDLP shortly afterwards, he wants to be able to indicate how he sees progress being made and "to talk with knowledge" of the Irish Government position. (It was clear from Burns' presentation on this point that the British are still thinking in terms of the "natural gap" beginning following the Conference scheduled for 19 April).

16. Given this sense of "proper immediacy", as Burns put it, the Secretary of State is most anxious to have a full discussion of the issues with Minister Collins - if this for any reason did not prove possible at Friday's Conference, the Secretary of State would be very anxious to schedule an informal meeting with the Minister in the week or two following. Mr. Gallagher said this would have to be considered in the light of events - our Minister fully shared the desire to make genuine political progress but it was in the interests of both governments that undue haste - in which the risks were inadequately weighed - be avoided.



Anne Anderson,

28 February, 1990.

cc: PSM; Mr. Nally; PSS; Mr. Gallagher; Mr. Mathews;
Mr. Brosnan; Joint Secretary; Ambassador London;
Counsellors A-I

Speaking Note.The Need for Political Development

1. The Agreement commits both Governments to working for the objectives of peace, reconciliation and stability in Northern Ireland. For some time both Governments have been stressing the importance of political dialogue at all levels in the pursuit of those objectives. In the absence of such dialogue, it is not possible to make progress with the policy of devolution of powers by the British Government, on a widely acceptable basis, which the Irish Government supports.

2. Without progress towards devolution elected representatives in Northern Ireland are left with little opportunity to influence the decisions of Government or to exercise powers which are available to politicians elsewhere in the United Kingdom or in the Republic of Ireland. This lack of involvement is widely and increasingly resented on both sides of the community; it discourages capable people from seeking political office; and it causes a local power vacuum which terrorists and their supporters can exploit to their advantage.

3. New political structures which command widespread support, and to which powers could be devolved, would enable politicians from both traditions to demonstrate their ability to work together, to the discomfiture of those who support political violence on both sides. Such devolved institutions would allow a wide range of decisions to be taken by community representatives rather than by remote (and, as many perceive it, "colonial") control from Westminster. Devolution could thus, as the Agreement envisages, contribute powerfully to the achievement of peace, reconciliation and stability. While any major political change carries risks, the risks of continuing failure to involve local politicians in the arrangements for governing Northern Ireland are likely to be greater: increasing

resentment against both sovereign Governments, increasing pressure for closer integration with Great Britain, and a prolongation of the instability which results from communal division under a system of "temporary" direct rule.

The Prospects for Political Progress

4. There can be no certainty that efforts by either Government to promote political development in Northern Ireland will lead quickly to major progress. The key factor is the will of local politicians to talk constructively together, to negotiate and to seek agreement between themselves on new structures which could secure widespread acceptance.

5. There is growing evidence such a willingness, and for support for this. Unionist politicians ended their boycott of Westminster in 1987 and Mr Molyneaux and Dr Paisley entered into a process of "talks about talks" which continued until May 1988 when they concluded that the discussions then taking place between the SDLP and Sinn Fein were an obstacle to dialogue with constitutional nationalists. Subsequent developments suggested that there was significant interest in all the main parties in finding a means of talking together, and this has been confirmed in the exploratory discussions which British Ministers and officials have had with senior politicians and community leaders over the past year.

6. In January 1988 the two main leaders presented to Mr King an "outline proposal" for an alternative British/Irish Agreement. While they have not formally published this document, they have made clear in public statements that they look towards a devolved form of government, with a guaranteed role for representatives of the minority community and an Irish dimension. They have stressed that their ideas were presented in outline only and represented a starting-point for negotiations, in which they would be flexible. Like the SDLP,

the Unionists are unwilling to disclose much of their negotiating position in advance of talks starting. However, to the British Government, this has appeared a constructive and encouraging starting-point for inter-party talks, and further talks with both parties have shown that each has the same view of the agenda for talks.

7. As the Unionist position has developed, Mr Hume has continued to stress the SDLP's own willingness for talks with Unionists about the future government of Northern Ireland. He has on many occasions referred to the desirability of a new and better agreement "transcending" the current Agreement, which could only be achieved by all the parties talking together. SDLP politicians have also spoken about the need for devolution and the benefits it could bring the whole community in Northern Ireland. At the same time, they have defended the Agreement staunchly and made clear their opposition to its suspension.

8. Other political parties, notably the Alliance Party and Workers Party, have regularly stressed their commitment to devolution on a widely agreed basis, and the need for inter-party talks.

9. We do not over-rate the prospects of full agreement being reached in talks: the scale of progress that can be made will become clearer only as the process gets under way. But Mr Brooke believes that there is sufficient common ground for an agreed agenda. As Mr Brooke put it in his Bangor speech:

"There need to be devised workable and acceptable arrangements for the exercise of devolved powers over a range of matters. There needs to be agreement on democratic institutions which would give appropriate weight to majority and minority aspirations and views. There is the question which is addressed by the Anglo-Irish Agreement: how the legitimate interests of the Irish

Government in matters within Northern Ireland, particularly as regards the minority community, are to be acknowledged, without dilution of UK sovereignty or the status of Northern Ireland as part of the United Kingdom. And there is the question of a local political contribution to security matters."

10. And the Taoiseach has stated that his Government "share the sense of urgency, indeed impatience, that exists on all sides for political progress in relation to Northern Ireland."

Means of Bringing About Talks

11. The British Government has consistently made clear its willingness to facilitate talks between the political parties, without preconditions as to the agenda or format of those talks. The SDLP has indicated its willingness to enter into talks without preconditions. Since the Agreement was signed, the main Unionist parties have, however, set "preconditions" for entering into talks. In the judgement of the British Government, the so-called Unionist preconditions, as currently presented, need not be an insurmountable obstacle to talks, provided that it is clear that the Unionist parties are committed to achieving a worthwhile outcome to those talks (in accordance with the objectives just discussed). The Unionist preconditions have been debated at length in public and with Ministers over a period now of almost three years. Public statements by Unionists have suggested a growing willingness to be flexible about the interpretation of the preconditions. But it is clear that the Unionist leadership will not be able to enter into talks, given the commitments which they have made to their electorate, unless they are able to claim that they are doing so on an honourable basis, which does not humiliate them or any other parties to the talks. Such talks will not of course be possible unless the parties have agreed in advance on

a basis for talking together. It may now be possible to establish such a basis.

Conclusion

12. There can be no talks between the political parties in Northern Ireland unless there is a basis which can be agreed between them for talks. Their ability to agree on that is likely to be commensurate with their interest in negotiating an agreed political settlement for Northern Ireland. It appears to the British Government that progress may now be possible, and that this process should be supported.

Objectives in Bringing About Talks

1. The policy objective of devolving powers on a basis that would secure widespread acceptance throughout the community in Northern Ireland is a long standing objective of the United Kingdom Government, endorsed by the Irish Government.

2. The principal objective in seeking to bring about talks between the political parties in Northern Ireland would be to develop the current signs of increased flexibility and willingness to talk into substantive agreement on ways of devolving powers to local elected representatives on a widely acceptable basis.

3. It is clear, however, from the positions adopted by all the Northern Ireland parties, that negotiations about the internal arrangements for the government of Northern Ireland could not be completed unless agreement is also reached on the "external" implications, including the relationships between Belfast and Dublin, and Dublin and London. This is the stated position of the SDLP; and of the two Unionist parties. It seems clear therefore that for each of the main Northern Ireland parties a "political settlement" in order to be acceptable to all of them, would need to encompass:
 - (a) internal arrangements for the government of Northern Ireland;

 - (b) the relationship between any new devolved Northern Ireland administration and the Irish Government;

 - (c) the implications for the relationship between the British and Irish Governments.

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4. It is not the objective of either Government to seek changes to the Agreement, but both Governments have indicated willingness to consider the implications for the Agreement.

5. If talks cannot be taken to the point where full agreement is reached, they would conclude on the basis of whatever lesser progress had been agreed by the parties to be satisfactory to them.

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UNIONIST "PRECONDITIONS"

1. The first Unionist "pre-condition" is that both Governments should declare their willingness to consider an alternative to the present Agreement. Both governments have already made their position clear:

"In practice, any agreement between the constitutional political parties on new arrangements for exercising political power in Northern Ireland would have substantial implications for the Anglo-Irish Agreement, and both Governments would, I believe, be bound to consider those implications seriously and sympathetically." (Mr Brooke, Bangor, 9 January 1990).

"If ... a new and more broadly-based agreement can be reached by direct discussions and negotiations between all the parties involved, the Irish Government would be prepared to contemplate, in agreement with the British Government, a new and better structure, agreement or arrangement, to transcend the existing one." (Mr Haughey, statement, 22 January 1990).

It seems unnecessary to say anything more.

2. The second "pre-condition" is that the Conference should be "non operative" for a period. Both Governments have already indicated their willingness to see a natural gap between Conference meetings (as has occurred in the past, and could occur in the future) to be used for political talks. On this basis, it would be possible for the two Governments to agree the dates of a sequence of Conference meetings to announce those dates (including, crucially, the date of the meeting at the end of the gap). To indicate the Governments' expectation that the

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Northern Ireland parties should make use of the gap, it could be explained that the dates had been arranged to assist the orderly planning and conduct of Conference business and that the two Governments have also had in mind the opportunity that the interval before the [second] meeting may provide for political progress within Northern Ireland.

3. The third "pre-condition" is the "non-operation" of the Secretariat. There is no question of any significant change in the Secretariat or its operation. But the Unionists would probably take comfort in the argument that the Secretariat would not be serving as a secretariat to the Conference during a period when there were no Conference meetings (although in practice its work would need to continue as normal). It might also be helpful for the British Government to make clear its expectation that the head of the British side of the Secretariat, who is also responsible for the Political Affairs Division in Belfast, would be actively engaged in any political talks which might take place.

4. In adopting such an approach to the Unionist "pre-conditions", the two Governments would be signalling their concern to promote political dialogue in Northern Ireland, without suggesting any weakening of their position on the Agreement.

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FORMAT

1. The main Northern Ireland parties (SDLP and Unionist) expect that any overall settlement would need to have regard to the internal arrangements for the government of Northern Ireland; the relationship between any new devolved Northern Ireland administration and the Irish Government; and the implications of them for the relationship between the British and Irish Governments.
2. There could similarly be three major strands in any talks (perhaps even three sets of talks eventually). Both Governments would clearly have a major role, but the starting-point for establishing any talks is clearly the political parties themselves. Agreement would be needed at the outset that each of the three strands must be addressed.
3. The first strand (internal arrangements) would be a matter for the parties themselves with probably the Chairmanship of the Secretary of State for Northern Ireland. In addition, a mechanism would be needed to ensure that due weight was given to any views and proposals put forward by the Irish Government on the modalities of bringing about devolution in Northern Ireland, insofar as they relate to the interests of the minority community.
4. The second strand in talks - that is to say the question of the relationship between any new Northern Ireland administration and the Irish Government - would probably not start until initial progress^{had been made} on the first strand: it would involve the Irish Government in direct discussion with the Northern Ireland parties and the British Government.
The two governments would keep in close touch throughout the process.
5. / The third element in talks - the implications of the first two strands for the Anglo-Irish relationship - would involve matters for decision by the two sovereign governments acting

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and would therefore most probably be addressed directly between the two Governments, although they would wish to give due weight to any views put forward by the Northern Ireland parties, and perhaps to involve them at a suitable stage.

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Possibility of Political Progress

SPEAKING POINTS

General

I am glad that our officials were able to have a meeting on Tuesday. I believe this helped to clarify matters. As you know, I have a difficulty in that because of the meeting with the front-line Presidents and Mandela in Zambia, I have not had an opportunity to consider the issues as fully as I would have wished for today's meeting. I am not in a position therefore to let you have any kind of considered response to your proposals today; the issue in any event is far too serious for any hasty or premature consideration; I would hope, however, to be able to leave the meeting with a clear picture of your position, which I could then discuss with colleagues.

Substance of talks

I am all for political progress and I would very much like to see talks get underway. However, I am worried - and I have mentioned this to you before - that we may be taking a leap in the dark and, in the process, may be in danger of weakening or undermining what we have painstakingly built up together over these past four or five years. That is why I have said from the beginning - and we can have a further word on this when we come to Paper I - that in my view there is a serious risk element in entering into talks without having a relatively clear notion about where we wish to go. If I am to calculate the risk, I need to have some sense of what you see as lying at the other end of the path.

Unionist Position

We have now had four detailed meetings; at these meetings, we have given our assessment of the positions of Molyneaux and Paisley, and have emphasised that, in our view, it is only they who can deliver the Unionist position. I am surprised that we

have had nothing from your side but the vaguest assessment of current Unionist thinking. It would be very helpful to us to have from you at this stage a much more detailed presentation as to how you see Unionist positions.

Paper I - Objectives in Bringing About Talks

I have no great objection to the thrust of this paper; however, it does little or nothing to clarify the likely direction or detailed objective of talks. There are in fact a whole series of issues which the paper does not even attempt to address. These include an assessment of current Unionist thinking; whether you thought Unionist and SDLP demands were likely to prove reconcilable; what powers you saw being given to a future devolved Government; whether and how you saw power-sharing being implemented in practice; and what you saw as the likely structures for the North/South and East/West relationship. I can understand, of course, that you are unable to answer these questions with absolute precision - but surely you must at least have given some thought to the likely answers.

Paper II - Unionist Pre-Conditions

I agree with you that the first Unionist pre-condition (willingness to consider an alternative to the Agreement) had been effectively met.

Gap

We see no great difficulty with the use of a natural gap to help facilitate talks. However, its timing and duration are crucial. Your officials gave the impression in Dublin on Tuesday that they were thinking in terms of two to three months as the length of the envisaged gap. I myself feel that any gap that was longer than two months would be stretching credibility too far. I know we have had longer gaps in the past but they were not planned in

advance and arose, for example, because of either the Tanaiste's illness or pairing difficulties in the Dáil. I believe therefore that announcing a Conference date for anything over two months ahead would almost certainly be construed as an unnatural and not a natural gap. As regards the timing of a possible gap, I know you are thinking of one beginning shortly after Easter. However, it is very doubtful in our view if the ground work could be sufficiently advanced to hold out any hope of successful talks at such an early date.

I am very assured by your repeated emphasis on your absolute commitment to adhering to the date of the Conference meeting fixed for the end of the gap. Your officials have said that, to countenance any request from Unionists to postpone this Conference meeting, would be "a recipe for disaster". I fully agree with this. Without prejudice to whatever response we may ultimately give you, I would like it formally recorded that both of us were agreed that the Conference to be scheduled for the end of the gap would take place on a fixed and immutable date.

Secretariat

Your proposal on the Secretariat presents very considerable difficulty for us. We see serious potential problems in a situation where the Unionists (and particularly Paisley) were allowed to proclaim triumphantly throughout Northern Ireland that the Secretariat was non-operational. This would present us with a most difficult political decision, and it would be hard to see how we could afford not to rebut such a public Unionist approach. It would be essential therefore, if we were to go down this road, that you would leave the Unionist leadership in no doubt about the commitment of both Governments to the Secretariat and their unwillingness to stand by and see it (and with it in our view the Agreement) being undermined by false Unionist claims about it having been suspended or rendered non-operational.

Joint Response to Unionist Pre-conditions

It is also vital, if we are to give serious consideration to going down this road with you, that we would both agree in advance that our response to Unionist pre-conditions was a joint one and represented - as your officials said on Tuesday - the outer limit of what is on offer. It would be completely unacceptable if the Unionists had the impression that there was any difference between us on matters of this kind. And there can be absolutely no question of this being turned into a bargaining process; this would be highly damaging and divisive; we would need a cast iron commitment from you that there is absolutely no question of this happening.

Paper III - Format

The role envisaged for my Government in your paper is entirely inadequate; I have consistently emphasised here that the negotiating structures and the timing of the various sets of talks must reflect the interdependency of the three relationships. Your paper is extremely vague on the starting time for North/South talks, and it is equally vague on how our input into internal talks will be made. And it completely fails to address the concept of a Steering Committee to take an overview of and pull together the three separate sets of talks.

I notice, towards the end of the meeting in Dublin, that your officials seemed to accept the need for (i) the establishment of some kind of overall liaison group or inter-relationship group, involving the two Governments and the three political parties, at or near the outset of the negotiations; and (ii) that consideration of the N/S relationship would begin no later than a week after internal Northern Ireland talks had opened. I would very much like to see your thinking here elaborated in writing to enable us to give further consideration to your proposals.

Joint Submission for a Cross-Border Programme
under EC Structural Funds

Speaking Points

- Now that we have handed over our preliminary submission, the ball is in the Commission's court. No doubt they will be in touch shortly with a suggestion for a joint meeting to take matters further. Our officials will obviously need to co-ordinate positions carefully in advance of that meeting.

- It would appear that the Commission has not yet firmed up its thinking on the precise content of the cross-border initiative. I gather that a draft document setting out current Commission ideas has just been circulated informally to member States. A formal notice - inviting member states to submit their "bids" under the programme - is likely to issue in a couple of months; we will then have about six months to draw up our detailed proposals.

- We are conscious that a good deal of further work will be required to put flesh on the bones of our preliminary submission. As you know, there is a lot of interest in the matter - you will have seen the SDLP proposals and we have received a number of approaches from other quarters as well. Indeed one of the problems, as we mentioned before, will be to ensure that expectations are kept at realistic levels.

- [If the Secretary of State raises the issue of a price tag to be attached to the submission]; Of course we will have to do our figures on this some time soon. At this stage, however, in advance of any discussions with the Commission, I think that any attempt to come up with a realistic estimate would be premature. Once we have an idea of the ball-park within which we are operating, it will be easier to try to put a figure on the submission.

Background Note

1. This will presumably be a 'take note' item since - with the preliminary joint submission already conveyed to the Commission - there is nothing of substance for immediate decision. Almost inevitably there will be problems down the road as we and the Northern side try to reconcile our differing priorities and come up with a mutually acceptable set of proposals for Commission approval. However, since the deadline for submission of final proposals to Brussels is likely to be mid-or late Autumn, there is some time in hand for the further drafting exercise that will be required.

2. Our national priorities for the residual Commission margin of the Structural Funds remain the gas interconnector and the air and sea shuttle. Earlier indications from the Commission were that both of these projects would have to be accommodated under the cross-border initiative; Commissioner Millan has recently suggested however that he is considering a separate Energy Networks Initiative under which the interconnector project might be submitted. Since there is still so much vagueness in Commission thinking, we have no particular interest at present in seeking to accelerate work with the Northern side on the cross-border programme. We would have a definite reticence about discussing a price-tag for the programme until the position in relation to the inter-connector and the shuttle has clarified further.

3. The SDLP has produced a series of proposals for cross border projects and submitted them to us and (we assume) the Northern side. We will want to assure the SDLP that their proposals were noted by the Co-Chairmen and will be taken into account as work progresses.

9

Involvement of Economic Ministers in the
Work of the Conference

Speaking Points

- I agree it is time that we made a serious attempt to give substance to the commitment in the Review Document to expand our work in the economic and social area. The short document that our officials have prepared is useful, and I have no problem in going along with it.

- We will obviously want to ensure that any involvement of other Ministers in the work of the Conference is productive - a good use of their time as well as ours. It makes sense therefore to choose sectors where there is a mutual interest in expanding co-operation; I would see merit in starting with sectors where there is already a good deal of co-operation - Tourism, for example, or Agriculture.

- I would propose that we begin the participation of other Ministers at the Conference following the next one. (i. e. the one after the April meeting). Indeed in our communique on 19 April we might mention the invitation to the Ministers for Tourism or Agriculture (or whoever we agree on) to join us at the following meeting. It would be helpful also at the April Conference to have before us suggestions from the Secretariat as to a rota of Economic Ministers who might be present at Conferences later in the year.

- We will obviously need to carefully structure the arrangements for attendance of other Ministers at the Conference. I understand the idea has been floated of having them join us for lunch - I would be open to this or indeed to any other arrangement which provided a natural point of entry and departure from Conference meetings.

- I agree that in some sectors further detailed work needs to be done before the issues are ripe for discussion at the Conference; we should get work underway in these sectors as soon as possible - the small steering group envisaged in the paper should ensure that the work is properly organised and the momentum maintained.

Involvement of Economic Ministers in the
Work of the Conference

Briefing Note

1. The Review Document gave considerable emphasis to the enhancement of co-operation in the economic and social sectors; the question of how best to follow up on this Review commitment has been under discussion for some time. The Northern side has tended to want to keep economic issues at arm's length from the Conference (through having meetings of the relevant Departmental officials and Ministers outside the Conference with subsequent - possible - attendance by Ministers at the Conference), whereas we have thought in terms of early attendance by specialist Ministers at the Conference. The short document before this week's Conference, which essentially envisages a two-track approach, is a compromise between the two positions.

2. We see presentational as well as substantive benefits in the attendance of specialist Ministers at future Conference meetings; it conveys a useful signal about the vitality of the Conference - that it is covering new ground and becoming fully comprehensive in its approach. While much of the substantive work between specialist Departments could probably be done equally well outside the Conference, the public impact is considerably increased if the relevant Ministers are actually present at the Conference. (There is also of course the reverse side of this coin - the Northern side in particular is nervous that ongoing low key co-operation may suddenly become controversial if it is associated with the Conference. If Mr. Brooke mentions this concern, the Minister might indicate understanding and say that of course we should be sensitive to this; however we also have to bear in mind that the Conference can give a new and worthwhile impetus to existing co-operation).

3. There may be particular advantage in scheduling the first presence of specialist Ministers for the Conference after the 19 April and flagging it in advance in the Communique on 19 April. (If the British hopes succeed and the "natural gap" begins on 19 April, then it will be imperative to get the message across publicly that both Governments are fully committed to holding the next Conference on the appointed date - the suggestion that an agenda is already established will help ensure credibility).

4. If there is any discussion of the composition of the Steering Group which is to be established, the Minister might suggest a small core group involving the Secretariat and officials from the Department of Foreign Affairs (presumably the NIO/Central Secretariat on the Northern side,) as well as possibly some representative from the Department of Finance, augmented as required by officials from other Departments.

| March, 1990.

ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE

Social and Economic Co-operation - Programme of Future Work

Progress Report by Secretariat

In the Review of the Working of the Intergovernmental Conference, the two Governments affirmed their conviction that cross-border economic and social co-operation is of obvious benefit to all.

It was agreed that future Conference meetings would include a systematic programme of assessment of all the main sectors to determine where the process of co-operation can most fruitfully be expanded. It was also agreed that, where appropriate, the responsible Ministers North and South would participate in the work of the Conference.

Preliminary work carried out by officials during and since the Review has suggested that the areas which may offer most scope for further co-operation include:

- agriculture
- energy
- environmental issues
- fisheries
- health
- human resource development
- tourism
- transport

It is, therefore, proposed to concentrate initially on those areas and to identify in each area the opportunities to expand co-operation on a mutually beneficial basis.

In a number of areas, a considerable degree of co-operation already exists and there are ongoing contacts at official and Ministerial level. In such areas, it may be desirable to invite the appropriate Ministers to report progress at an early meeting of the Conference.

March. The Irish side wishes to introduce legislation in the spring to validate the presence of a marker as evidence of illegal importation and is anxious for an early resolution of the problem.

Ministers are invited to take note of the work currently being undertaken by officials. It is proposed to submit the matter for substantative discussion by Minsiters to the next meeting of the Conference.

SECRETARIAT
February 1990

North-West Study

Speaking Points

[Mr. Brooke is likely to express some concern that the Study has now gone over-time and over-budget; he may also hint at some criticism that we are doing too much to facilitate the Donegal side].

- We are equally concerned about the delay in finalising and publishing the Study and we share your anxiety about bringing the matter to a speedy and satisfactory conclusion.
- The problem we faced last December was that a number of bodies in Donegal were extremely critical of the consultants (partly on the grounds of inadequate consultation) and were determined to boycott the launching of the Study. It was simply not feasible - and would not have been desirable from either government's viewpoint - for us to launch the Study in that atmosphere.
- Our only realistic option was to extend the deadline so as to allow a further submission from the Donegal side; that material has now been received and is with the consultants. I understand that Coopers and Lybrand envisage that the final report will be ready in about two or three weeks time. Our officials can stay in touch about the timing and logistics for launching.

Letterkenny Airport

- The matter has not yet been discussed by the Cabinet. I have taken very careful note of the points you have made and will ensure that they are fully taken into account.

North-West Study

Background Note

1. The North-West Study (which covers the Donegal/Derry/Strabane area) was jointly commissioned by the two Governments from Coopers and Lybrand in February 1989 at a cost of £100,000 (70% funding from the EC Commission); it was anticipated that the Study would be ready for launching around January of this year.
2. Last December, however, we became aware of serious dissatisfaction in the Donegal area about the Study - there were criticisms of inadequate consultation by Coopers and Lybrand and an imbalance in the Study in favour of Derry. Following a meeting with Senator Paddy McGowan and others, we extended the deadline for the submission of comments so as to provide an opportunity for a further input from the Donegal area.
3. The Donegal material was finally received earlier this week and forwarded to the consultants. Coopers and Lybrand have told us that they will be able to take some of the suggestions on board in a further re-write of the Study within the next couple of weeks. They are adamant however that they will do no further re-writes (they are critical of Senator McGowan and his colleagues for having failed to submit views last summer when invited to do so) and that, as far as they are concerned, the Study will be complete at that stage.

Letterkenny Airport

Mr. Brooke has already expressed his concerns in last weeks informal meeting in London. The British worry is of course about the impact of a new airport in Letterkenny on the viability of Eglinton Airport in Derry. (The Minister has already raised this issue in his comments on the draft Memorandum for the Government). The Minister might simply take note of Mr. Brooke's concerns and undertake to convey them.

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McGIMPSEY CASE

SPEAKING NOTE

You will, I am sure, be aware that the Supreme Court dismissed the appeal of the McGimpsey brothers against the decision of the High Court which found the Anglo-Irish Agreement to be constitutional. While this judgment comes as no surprise to us, the fact that all five judges agreed that all the grounds of appeal should be dismissed is particularly helpful.

McGIMPSEY CASE

Judgment of the Supreme Court

In a reserved judgment delivered today [1 March] the Supreme Court dismissed the appeal of the McGimpsey brothers against the decision of the High Court which found the Anglo-Irish Agreement constitutional.

The judgment dealt first with the issue of "locus standi" [ie whether the plaintiffs had an interest which needed to be vindicated.] All five concurred that it was doubtful whether this was the case but agreed to entertain the appeal. [There will be two judgments on this point.]

The grounds for the appeal were identified as;

[a] - that the Agreement violated Articles 2 and 3 of the Constitution

[b] - that Agreement, in creating the Intergovernmental Conference and the Secretariat, placed fetters in a manner not authorised by the Constitution on the power of the Government to conduct policy in the external relations field, and

[c] - that the Government was not entitled under the Constitution to enter into an international agreement in disregard of the interests of one section of the community on the island of Ireland.

All five judges dismissed these grounds of appeal. The terms of the judgment, which will have to be examined carefully when it becomes available, did not on hearing give rise to any concern as to the standing of the Agreement. The judgment concluded with the following phrase: there is a high degree of improbability that an attempt to resolve the Northern Ireland issue by peaceful means and through constructive dialogue would ever be inconsistent with the ideals of peace enshrined in the Constitution.

Costs were awarded to the State.

The UDR
Speaking Note

1. I think that you will understand if we go over some of the ground again on the UDR. This is important because of some of the revelations in the recent Panorama programme and also in the light of information which your own officials have given to us about the deployment of the UDR on a particular occasion around Christmas at Coalisland.

The Panorama Programme

2. Several important issues were raised by the Panorama programme. And I have to be frank, people generally saw the programme as a serious indictment of the UDR. I would find it hard to disagree with this. I must also say that, even if I was not surprised, I was deeply disturbed by Brigadier Ritchie's comments that members of the UDR are not briefed 'as a matter of course' on loyalist paramilitary suspects. The programme in short strengthened the belief of many that the UDR will always be part of the problem and never part of the solution. I think that it is significant that Lord Hunt has come to the same conclusion.

Accompaniment

3. You will I am sure understand why I felt compelled on the Panorama programme to say that the failure to deliver on the commitment on accompaniment which was in the Hillsborough Communique was a most serious and regrettable matter. You will recall the very deep strength of our concerns on this issue at our meetings last year. It is naturally distressing to hear the former Chief Constable state on the programme that there were no financial resources provided to give effect to this commitment. This is very damaging.

4. In the light of all this it is perhaps timely that our officials have made some progress in the accompaniment area and

that with effect from 1 January, the RUC has instituted a comprehensive system for monitoring levels of accompaniment; this should enable progress to be assessed on a continuing basis and conclusions drawn about levels and trends. I welcome this development. I understand that our officials will meet again in the near future to agree on a number of points still outstanding, including a list of sensitive areas.

5. It is important that we should be able to look at the new monitoring figures on a regular basis. We must of course also remain clear-sighted about the objective of this whole exercise which is to achieve progress towards the goal of full implementation of the principle in the Hillsborough Communique. In the light of all that I have said I need hardly repeat that this is an issue of central importance for us.

Coalisland

6. Could I now turn to the issue of Baton Round Guns to the UDR which we also addressed in some detail last year?. You know our view which is that we remain firmly opposed to the issue of Baton Round Guns to the UDR in any circumstances. We regret very much that a decision to do so was taken some time ago but we came away from the Conference Meeting of the 18 October somewhat reassured that in the light of the number and level of additional safeguards that were built into the issue of Baton Round Guns to the UDR, in practice these weapons would issue to the Regiment only rarely, if ever.

7. In the light of the information which your officials have given us about the issue of three Baton Round Guns to the UDR at Coalisland at Christmas, I have to say that the reassurance that we took away from the October Meeting does not now appear so well grounded. I can only say that I am astonished that Baton Round Guns could have been issued to the UDR in the circumstances which you described to us. Apart from the fact that we do not

believe that the UDR should have been deployed in an area like Coalisland which is almost 100% nationalist, it seems that they came with Baton Round Guns fully prepared to use them if necessary against (nationalist) 'revellers' on the night. This would have been a very serious development. It is in total contradiction of the statement in the Communique of 18 October that 'there is no intention to deploy the UDR on riot or crowd control duties'. It deeply undermines the understanding that we thought that we had achieved that the issue of these weapons would only arise rarely, if ever. We are dismayed that the possession of these weapons was not confined to the RUC who were present at the scene.

8. Can I ask you, simply, whether Coalisland can be regarded as an exception, for whatever reason, and that we are unlikely to see a repeat of this type of case in the future?. Can we continue to work for the future on the understanding that in effect Baton Round Guns will rarely, if ever, be issued to the UDR and then only under the strict safeguards which you have outlined to us previously?

UDR Screening Unit

9. Finally, I would welcome any information that you can give us on the way in which the new screening unit for the UDR has been functioning. As you know, Austin Currie has continued to raise the case of Hicks brothers and I told him recently in a reply that the issue was one that could usefully be referred to the new screening unit for the UDR. For some reason there seems to be a reluctance on your side to do so which we cannot understand. The individuals involved seem to be obvious candidates for vetting and we believe that the genuine concerns of someone like Austin Currie should be sufficient to trigger action by the unit.

UDR - Recent Developments

Panorama Programme:

The BBC Panorama programme on 19 February brought into sharp focus some of the elements which have for a long time fueled Nationalist anxieties -viz-

1. The overwhelmingly Loyalist nature of the force, as witnessed by interviews on screen
 - with a former member of the UDR and UVF who, in a telling phrase, described the UDR and the UVF as "two sides of the same coin"; and who admitted that he routinely passed intelligence to the UVF, "as a matter of principle".
 - with the Commander of the Regiment (Brigadier Ritchie) who admitted that UDR activity is focussed almost exclusively on terrorism from one side of the Community and that as a matter of course UDR patrols are not briefed on Loyalist terrorists.

2. The record of criminality of members of the UDR was outlined in the programme. [197 members have been convicted for terrorist, sectarian and other offences, including 17 members convicted for murder] and this contrasted with an apparently casual attitude to incidents of wrong-doing by members of the force -viz-
 - Soldier A, convicted of assaulting a Catholic in 1987, with Court statements showing that he admitted to two similar assaults on previous occasions. The Ministry of Defence paid £1,300 in compensation. The matter was not entered on Soldier A's service record and he is still in the regiment. Brigadier Ritchie's explanation was that "we do not have a regiment representative sitting in every Court in the land when it sits. So unless somebody formally notifies the Regiment of it we would not know".
 - Soldier B, convicted of assault at a checkpoint and dismissed from the Regiment. His colleagues on the patrol (a Lance Corporal and two Privates) gave sworn testimony that the patrol had not been at the location alleged by the Prosecution. The Judge did not believe them and described the evidence as a sort of conspiracy. These three soldiers are still in the regiment and Brigadier Ritchie in the programme stated "I do not see why we should start any major inquiry into what did or did not happen in the Court".

Related to these cases, the programme made a number of critical points regarding the vetting procedures of the UDR.

Jack Hermon, in his interview appeared to sympathise with this criticism and felt that vetting should be carried out by the RUC "who are better qualified to do in depth assessments" - a proposal firmly rejected by the Secretary of State later in the programme.

3. On accompaniment, the programme contained a surprisingly frank admission by Sir Jack Hermon on the commitment in the Hillsborough Communique to accompaniment -viz-

"To the extent that that promise was given we could never have fulfilled it nor did we attempt to do it."

To a further question as to where did he think the British Government expected him to find the extra resources required

"I am not sure where they expected them to be found, but it was made abundantly clear that they could not be found in the resources which we have."

Lord Hunt:

In a letter to the London Independent some days later, Lord Hunt (chairman of the committee which, in 1969, had recommended the establishment of the UDR) said that:

- He was still convinced that it had been right to create the UDR 20 years ago in order to place the responsibility for policy and operations in the hands of the Westminster Government, rather than (as was the case with the B-Specials) in the hands of the provincial government at Stormont;
- In 1985, as a member of a commission of the Liberal and Social Democratic Parties, he had reluctantly agreed with his colleagues that the UDR should be phased out. This was because his hopes of the proportion of Catholic recruitment had not been realised, coupled with the record of criminality on the part of members of the Regiment. "The distrust of the minority population in the B-Specials had been inherited by its successor.....it was arguable that, in this respect, the position had reverted to that which obtained in 1969"
- In the changed constitutional position of the 1980's, he felt that "the duties of the UDR should be taken over by the RUC, appropriately strengthened with full-time personnel; given that the RUC is under direct rule, accountable to the British government."
- He concluded that after watching Panorama, he accepted the conclusion of the 1985 Commission as remaining valid today - viz- "the UDR should be phased out".

UDR Reforms:

At the Conference of 18 October 1989, on the basis of their "a few rotten apples" analysis, the British side outlined a number of reforms including inter alia, very strict controls over the issue of plastic baton rounds to the UDR; and improved screening and vetting. Subsequent events have not provided reassurance about either reform -viz-

Plastic Bullets:

On 8 February we were informed by the British side through the secretariat that there had been one instance of the issue of Baton Round Guns (BRGs) to the UDR, which occurred in Coalisland on 31 December when the UDR were deployed around a find of weapons in the area. In subsequent exchanges regarding the incident it emerged that the BRGs had been issued with the authority of the Battalion Commander and with the agreement of the RUC; that three BRGs had been issued to three separate units of between 6 and 12 men; and that the reason for the issue of the guns was that "it was anticipated that the soldiers might be attacked by revellers". In addition, in response to our question as to why the BRGs had not been confined to the RUC who were present during the incident, we were told that "BRGs would not necessarily be restricted to the RUC in the case of an accompanied patrol....and that it could happen that an accompanied UDR patrol would have a BRG assigned to one of its members rather than to the police accompaniment".

In the course of these exchanges, it has been made clear that the understanding which we took away from the conference of 18 October was that, in light of the number and level of additional safeguards built into the issue of BRGs to the UDR, that in practice, BRGs would issue to the UDR, rarely, if ever. Concern was conveyed on a number of points including, Inter alia

- that the UDR should not be deployed in an area like Coalisland, which is practically 100% nationalist.
- that to issue BRGs because "it was anticipated that the soldiers might be attacked by revellers", was in breach of the understanding clearly stated in the agreed joint record of the 18 October Conference that "there is no intention to deploy the UDR on riot or crowd control duties".
- that with the additional safeguards on the firing of the weapon centred on the patrol commander, with units as small as 6 men, the patrol commander could well be of the rank of Lance Corporal - something which few nationalists would find reassuring, particularly in the case of the UDR.

Comment:

We had assumed that the original decision to issue BRGs to the UDR had been taken by the military with little or no political

input and that the type of controls outlined at the Conference of 18 October represented a redressing of the balance. The net effect of these controls would be to reverse the earlier decision without any loss of face. However, the Coalisland incident suggests that the British Army are unwilling to be dissuaded from their earlier decision, and it may be the case that the NIO are now "testing the water" with this Coalisland incident.

Screening and Vetting:

The new screening unit for the UDR has been established though the scope/nature of the unit's operations are unclear. This has been highlighted by the case of two brothers (Andrew and Richard Hicks). Deputy Austin Currie raised this case in writing last August, and by way of a written PQ earlier this month. He alleges that the two brothers were seen in the Lisbellaw area putting up posters in support of Ulster Resistance and the Paris Three. When questioned by their commanding officer, the brothers denied the allegation and the British have so far proved reluctant to refer the case to the new screening/vetting unit. In his reply to the PQ on 8 February, the Minister stated his belief that "the issue is one which could usefully be referred to the new screening unit for the UDR".

B. Mc Mulon

Anglo/Irish Division
27 February 1990

CONFIDENTIAL

Information Note - Working Group on Accompaniment

Attached are two documents which represent the first progress report of the joint working group of officials mandated by the Conference Meeting of 18 October to make early recommendations on the further effective development of the policy of accompaniment.

The documents consist of

- a paper dated 24 January, which was prepared by the British side as a result of the meeting of the joint working group on 17 January;
- a progress report by the Working Group to this meeting of the Intergovernmental Conference.

These documents reflect agreement by the British side to put in place, as and from 1 January, a comprehensive system for monitoring levels of accompaniment at RUC Sub-Divisional level on a monthly basis (note: there are 39 RUC sub-divisions in Northern Ireland). A further meeting of the Working Group is scheduled for next week and the documents note the further work required on two further elements -viz-

The definition of sensitive areas: While there is broad agreement on the definition of what constitutes a sensitive nationalist area, we have yet to see the areas defined as sensitive in each sub-division.

How best to make available to the Conference the results of the monitoring exercise: The British side are concerned at the presentational aspects of the exercise and are particularly anxious that a monthly score-sheet should not become a regular occasion for public controversy.

Comment: Heretofore, the British have consistently refused to provide statistics on accompaniment on an on-going basis. Since the signing of the Agreement, we have only managed (often after some considerable effort) to extract three statistical snapshot pictures of the rate of accompaniment for short periods of time, and these were broken down as between three broad geographical areas of Northern Ireland.

The agreement to establish an on-going comprehensive monitoring exercise based on 39 separate areas of Northern Ireland marks a significant breakthrough on this issue. This will allow for a coherent on-going analysis of progress on the implementation of the policy, while the existence of this system will oblige RUC sub-divisional Commanders to pay increased and continuing attention to the factor of accompaniment in the tasking of security force patrols in their district.

Further work remains to be done on the important question as to how the results of this exercise are to be handled - particularly in terms of public presentation. On this issue, while we will certainly require on-going briefing on the results of the monitoring exercise, we can be sensitive to British concerns as to the public presentation of the matter as it is probably in neither side's interests that the exercise develop into some kind of monthly score card in the media - an eventuality which could have negative repercussions in terms of British willingness to continue to implement the monitoring system.

Overall, the Minister may wish to welcome the progress report of the joint working group as representing progress on this very important issue, while looking forward to a further report to the next Conference, noting that further work is required on the implementation of the undertaking given by the Secretary of State at the Conference Meeting of 18 October (reflected in the joint record of that meeting) "to share with the Irish side the results of the monitoring of accompaniment in areas to be agreed between the two sides".

B. J. Talon

Anglo/Irish Division
Department of Foreign Affairs
27 February 1990

1. At the meeting of the Joint Working Group on 17 January, the British side undertook to provide a further note about the arrangements which both sides agreed should be introduced in order that there should be effective monitoring of the level of accompaniment of military patrols by RUC officers. The British side indicated that it would be necessary for there to be further discussion with the RUC before that paper could be prepared. They undertook to reflect in that discussion the concern expressed by the Irish side that any new monitoring arrangements should be such as to allow conclusions to be drawn about levels and trends of accompaniment in those areas of NI which, for reasons which were mutually undertaken, could be considered as sensitive.
2. There has been further discussion with the RUC. The British side can now report that, for its own management purposes, and with effect from 1 January 1990, the RUC has instituted a comprehensive system for monitoring levels of accompaniment at sub-divisional level. The information is being provided by way of returns which, over time, will allow conclusions to be drawn about levels and trends in accompaniment of both UDR and army patrols separately or together across a wide range of variable factors. These will include, for example, nature of area and patrol type (i. e. its purpose - searching, guarding property, manning a PVCP etc.).
3. The British side stands ready to discuss at a further meeting of the Joint Working Group a procedure under which the product of this RUC monitoring of levels of accompaniment can best be used within the Inter Governmental Conference in order to give effect to the undertaking given by the Secretary of State for Northern Ireland at the meeting of the Conference on 18 October 1989 "to share with the Irish side the results of the monitoring of accompaniment in areas to be agreed between the two sides".

ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE

Joint Working Group on Accompaniment

Progress Report by Secretariat

1. At its meeting in Belfast on 18 October 1989, the Intergovernmental Conference agreed that a Joint Working Group of officials would

make early recommendations on further effective development of the policy of ensuring as rapidly as possible that, save in the most exceptional circumstances, there should be a police presence in all operations which involve direct contact between the Armed Forces and the community (Joint Statement).

2. Following preliminary discussion in the Secretariat, the British side presented the Irish side with a paper on the subject on 12 January 1990. This paper indicated that, although there were major logistical, operational and resource difficulties in the way of bringing about substantial change in levels of accompaniment quickly, the British side were determined to make progress and had begun to examine ways of increasing current levels of accompaniment. They wished to explore further with the Irish side how best this could be carried forward.

3. Following consideration of the issue by the working group on 17 January, the British side discussed the matter again with the RUC. Following that discussion, the British side presented the Irish side with a second brief paper - copy attached. This indicates that, with effect from 1 January 1990, the RUC has instituted a comprehensive system for monitoring levels of accompaniment at sub-divisional level. Information will be provided on a monthly basis which will enable progress to be assessed and conclusions drawn about levels and trends in accompaniment.

4. The Irish side welcomes this initiative by the British side which it believes will be helpful in giving effect to the implementation of a policy to which it attaches high priority. It is ready to engage in further discussion with the British side about which geographical areas (having regard to the 'sensitivity' of the area concerned) should be the subject of further joint study in the light of the results of the monitoring exercise and also how best the results of that work can be made available to Ministers in the Intergovernmental Conference. The Irish side have requested an early meeting of the Joint Working Group.

5. The Conference is invited to take note of progress to-date on this issue.

Secretariat
February 1990

Stevens Inquiry
Speaking Note

1. You have told us that you expected the Stevens Inquiry to report in mid-March which is of course now only two weeks away. Can you confirm that the Inquiry is still working to this time-frame?. Is there anything that you would wish to tell us at this stage about the type of conclusions that Mr Stevens has reached or is likely to reach?

2. You have said previously that you will be making a full public statement on the matter after Mr Stevens has reported. In view of the sensitivities and concerns that surround the whole subject matter of the Inquiry, I would welcome any indications that you can give us about how you see the matter being handled in terms of timing and public presentation.

CONFIDENTIAL

Information Note: Stevens Inquiry

In the aftermath of the leaks controversy which followed the murder of Loughlin Maginn on 25 August, the Stevens Inquiry was set up on 14 September 1989, to investigate the disappearance of security documents from Dunmurray RUC station.

Scope of the Inquiry

The flood of leaks resulted in the scope of the Inquiry being widened and, at the Conference meeting of 5 October, the Chief Constable indicated that the Inquiry will, following consultation with the Chief Constable, embrace any associated matter referred to it and that Stevens will make recommendations about the handling of security material both inside and outside the RUC.

Progress of the Inquiry

So far, approximately 40 people have been arrested and charged, apparently as a result of the Stevens investigation - perhaps the most dramatic occurrence being the arrest of 28 members of the UDR in the early hours of 8 October. (Four of these were subsequently charged.)

However, there was considerable controversy surrounding a further dramatic swoop on Loyalists by the Stevens Team on Monday 8 January when David McKittrick of the London Independent reported that information on the raid had been leaked to loyalist paramilitaries and that many of those targeted by the Stevens Inquiry had received advance warning and had gone to ground. The RUC subsequently attacked McKittrick's report as "totally inaccurate and potentially damaging".

Late in the night of 10 January, a fire broke out and destroyed the offices being used by the Stevens Inquiry. While no definitive cause appears to have been established for the fire, the British view is that the fire was caused accidentally. We were told that the fire would not affect the records of the inquiry, in that copies of all material are replicated and stored in two other locations as a matter of course.

The Minister's comments in the Dail on 7 February that the cause of the fire may have been malicious, caused a flurry of activity with separate, and somewhat contradictory statements from the RUC ("we can now confirm that the fire was accidentally caused") and Stevens ("no direct evidence to substantiate that the fire was caused maliciously at this stage"). At the same time there were reports of bad blood between the Stevens team and the RUC. In

order to handle this growing problem, a further statement was issued by Stevens that "there was no evidence to suggest the cause of the blaze was anything other than accidental". Subsequently, yet another statement was issued jointly by the Chief Constable and Stevens, scotching rumours of a rift between the two "let us state categorically there are no divisions".

There is an emerging controversy surrounding the arrest of Brian Nelson, a former British soldier, and apparently a senior and key UDA intelligence officer, who has been charged with possession of information likely to be of use to terrorists. There are reliable reports that Nelson had in fact been working for the security forces (Military Intelligence) for the past number of years. He is reported to be co-operating fully with the Stevens team, something which has caused panic within UDA circles and explains their recent hair-brained publicity stunts aimed at the Stevens Inquiry. [If the reports circulating in Belfast about Nelson are true, this will be a particularly delicate case for Stevens in that Nelson (and by extension Military Intelligence) may well have had full knowledge for the past number of years about a range of leaks from the security forces and the source of those leaks.]

The overall focus of the Inquiry is centred on the UDR and there are reports of very deep resentment among serving members of the both the UDR and the British Army, with allegations that the RUC is avoiding any responsibility in the matter of collusion by using the Stevens Inquiry to point the finger exclusively at the UDR.

Timing:

While we had been given to understand that the Inquiry would be completed in mid February, the fire has apparently delayed matters and the Inquiry is not now expected to be complete until sometime around mid March.

B. Mc Mahon.

Anglo/Irish Division
Department of Foreign Affairs
27 February 1990

Security Force Shootings

Speaking Note

1. The recent shooting and wounding of the joy-rider (Sean Kierney) in Lenadoon and the killing in January of the three men on the Whiterock Road by the security forces raise obvious concerns. It is incidents of this nature that can significantly set back efforts to improve confidence in the security forces. Bishop Daly's remarks to this effect following the Whiterock Road killings struck a chord with many people. I might also say that these incidents reinforce the view which we have consistently taken here of the crucial importance of the primacy of the police.

2. I know you accept that the investigations into both of these incidents should be thorough and transparent. It would be helpful if you could say at this stage what progress has been made, particularly in the Whiterock Road case where the investigation has been underway now for some six weeks or so?

3. The Whiterock killings have, of course, added to the interest in the outcome of the Mc Kerr case in the House of Lords. We know you intend, if you lose the appeal, to amend your legislation to ensure that members of the security forces should remain non-compellable to give evidence at Inquests. If you do this, you will understand that we will probably have to say something publicly. Our legislation, as you probably know, does not exempt anyone from being summoned as a witness.

CONFIDENTIAL

Background Note: Security Force Shootings

Lenadoon:

At 5.30 p.m. on 26 february, a "Joy-Rider" (Sean Kierney, aged 23) was shot and seriously wounded by an army patrol on Lenadoon Avenue, West Belfast. He was running away from the vehicle when he was shot. This most recent incident has again raised concerns regarding the apparent ease with which the security forces resort to the use of firearms and has led to calls by Dr Joe Hendron (SDLP) for an Inquiry into the incident.

While this incident raises obvious concerns, it also once again brings to the fore more serious incidents involving the security forces in recent times - most notably the Whiterock Road killings.

Whiterock:

On Saturday 13 January, at 11.00am, three men (Peter Thompson, Eddie Hale, and John McNeill) were shot dead by two plainclothes members of the British Army while they were apparently attempting to rob a bookies shop.

Subsequent eye-witness accounts in the media have alleged that no warning appears to have been given and no attempt made to apprehend the three, and that

- McNeill (the driver of the getaway car) was unmasked and unarmed and sitting in the car when he was shot at close range;
- Thompson and Hale, who were armed with imitation weapons, ran out of the bookies into a hail of automatic gunfire, and were subsequently finished off in the manner of a coup de grace while they lay on the pavement.

All three men had police records as petty criminals (hoods), though no record of paramilitary involvement.

There was strong reaction to the killings, notably from Bishop Cahal Daly who, referring also to the apparently similar circumstances which surrounded the shooting of UVF man Brian Robinson in North Belfast last September, spoke out strongly about the blurring of the distinction between the methods employed by the security forces and those employed by the paramilitaries, and spoke of the incident as a cruel setback to efforts to build public confidence in the security forces. He called for an independent public inquiry into the circumstances of the shooting and the policy decisions which lay behind it. Such an Inquiry would, he felt, be in the interests of the community and in the true interests of the security forces

themselves. NIO Minister Cope has said that no such Inquiry will be held and that the investigation will be handled by the police. The DPP will decide on the question of any criminal prosecutions.

The Taoiseach in a radio interview on 15 January described the shooting as a matter which had caused very serious disquiet and misgivings which we would wish to have thoroughly and fully investigated and that the circumstances are such that they require very specific clarification and very clear explanations as to what exactly happened, why it happened, and how it came to happen.

The British subsequently responded to a series of questions relating to the incident which were addressed to them through the Secretariat. They were unable to respond to the majority of questions, the answers to which would depend on the outcome of the police investigation. However, they were able to confirm that two soldiers were involved in the incident; that no members of the RUC were involved; that the soldiers came upon the incident by chance; and that there was a period of about 10 minutes immediately after the shooting and before the arrival of the RUC when there was no security force presence at the scene of the shooting.

The Whiterock killings have again raised the issue of a shoot to kill policy on the part of the security forces and revived memories of both the Gibraltar killings and the allegations of shoot to kill which surrounded the killing of 6 people in Armagh in 1982 (the Stalker/Sampson investigation).

McKerr, Burns & Toman:

Coincidentally, shortly after the Whiterock incident, on 15 January, the House of Lords heard the appeal by the British Government against the decision of the Belfast High Court that members of the security forces could be compelled to give evidence at Inquest hearings in Northern Ireland. This case arose from the Inquest on McKerr, Burns and Toman, three of the victims of the 1982 incidents.

While the Judgement of the House of Lords is awaited in this case, we have been told that if it goes against them, the British Government plan to amend the primary legislation. In other words, one way or the other, the British Government have no intention of allowing members of the security forces to be cross examined at such Inquest hearings. (Note: In this jurisdiction, members of the security forces can be compelled to give evidence at Inquests.)

B. McMahon

Anglo/Irish Division
Department of Foreign Affairs
27 February 1990

Use of lethal force

These shootings again raise the issue of the use of lethal force by the security forces. Section 3 of the Criminal Law Act (Northern Ireland) 1967 provides that "a person may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large". The House of Lords in the McElhone case provided a very liberal interpretation of the reasonable use of force by the security forces in Northern Ireland.

McElhone, who was clearly unarmed, was shot in the back by a soldier while running away. In their judgement, the House of Lords found that in the circumstances the soldier had reasonable grounds for fearing imminent danger to himself or to other members of the patrol if the suspect were allowed to escape. The danger was imminent in so far as "if he got away, he was likely sooner or later to participate in acts of violence".

The combined effect of section 3 of the Criminal Law Act and the McElhone judgement is that it is practically impossible to secure convictions on the charge of murder against members of the security forces in the Courts in Northern Ireland. The most notable exception was Private Thain who was convicted of murder but who, in any event, was released after 2 years, thereby in effect serving a sentence more appropriate to a manslaughter charge.

Lord Colville in his 1988 report on the working of the Emergency Provisions Act raised the question of the introduction of an alternative charge of manslaughter where excessive force was used by a member of the security forces. The Secretary of State in the House of Commons on 8 March 1989 indicated that he "entirely understood why Lord Colville raised the issue" but that as the matter was then being considered by the Windlesham Committee on Murder and Life Imprisonment, he would await the outcome of their consideration of the matter.

The Windlesham Report, which was issued in July 1989, recommended that "a qualified defence, reducing murder to manslaughter, of using excessive force in self-defence should be provided in England and Wales. This would bring the law in England and Wales into line with the law in Scotland".

Comment: It would be useful to know whether it is envisaged that the law in Northern Ireland be similarly changed and, if so, when such changes are likely to be introduced.

R. Mc Mahon

Anglo/Irish Division
Department of Foreign Affairs
29 January 1990

PETROL SMUGGLING
SPEAKING POINTS

1. As you know our officials have been working on the proposal made by Tom King to examine how to counter petrol smuggling, an activity from which paramilitary organisations profit.

2. They have now met on two occasions and I see that a joint paper has been submitted to us on progress made. I am concerned, however, that there is every danger of getting bogged down on agreeing an estimate of the volume of petrol smuggled. I think that we need to give the matter a political push to ensure that we arrive at a satisfactory conclusion.

3. The basic problem seems to be our differing estimates of the scale of the problem. Our estimate, which is based on intelligence and surveillance by the Revenue Commissioners, is 16 million to 26 million litres. Your estimate, which is an industry figure, is 2 million litres. I appreciate the necessity for your side to have an agreed figure; we have now supplied your officials with a paper setting out how our Revenue Commissioners arrive at their estimate, and we have also received a paper from you which we will examine carefully. It is essential that we be able to break the logjam at the next meeting of officials on the 16th of March and at least reach agreement on the scale of the problem if, as would be understandable, we can't pin it down to one precise figure.

4. The matter is urgent. The reason for the urgency is that our Finance Bill will be introduced in the Dail towards the end of March or early April. We do not want to miss this opportunity. We would wish the Bill to contain the necessary provision empowering the Minister to make regulations to deal with this problem.

5. You will no doubt be aware that we have given an undertaking at official level, which we are prepared to repeat publicly at Government level- and indeed to write into the legislation - that the 48 hour rule will not be used to prevent the import of petrol in private motorist's tanks.

PETROL SMUGGLING

Following on a suggestion by the previous Secretary of State that action against subversive groups should include the elimination of smuggling activities [from which these groups derive financial benefit], we proposed in April 1989 that consideration should be given to joint action to combat petrol smuggling.

A joint paper reporting on progress to date at official level will be submitted to Ministers.

The method we proposed was that a dye or marker could be added to all petrol sold in Northern Ireland [save for any petrol sold legitimately for cross-border trade]. Acting on information from the oil companies, we suggested that some 105 million litres (23 million gallons) were being illegally imported.

The initial British response was:

[1] to query this amount [they calculated an annual illegal traffic of 2 million litres (440,000 gallons)],

[2] to request that the Irish Government publicly state that the 48 hour rule will not be enforced against private motorists,

[3] to seek further discussion on whether a dye or marker should be used, and

[4] that the Irish Government will bear the cost of adding the tracer [which they estimate at £470,000 in the first year and £220,000 thereafter] to the petrol and indemnify any damage which may result.

At a meeting of officials on 28 November, the Irish side gave a revised estimate of illegal imports. The Revenue Commissioners' estimate, based on intelligence sources and observation, is that at least 16 million litres (3 million gallons) are involved and an upper estimate would be 26 million litres (5.8 million

gallons). The yield to the smugglers is between £2.2 and £4.5 million of which a substantial proportion is diverted to subversive organisations.

As regards a public statement that the 48 hour rule will not be enforced against private motorists, the Irish side said that there would be no difficulty in such a statement and that the legislation necessary prohibit the import of petrol from Northern Ireland will apply only the import of petrol in commercial quantities. [Note: the Revenue Commissioners estimated 2 years ago that the loss to the Exchequer due to inhabitants of the border counties using Northern petrol stations was £40 million.]

With regard to the type of dye or tracer, the cost and an indemnity, the Irish side said that the cost would be met in full by them. Even if the Northern Ireland figure of 2 million litres is used the marking of petrol will be cost effective. With regard to an giving an indemnity against any damage which might result, the Irish side felt that this question as well as that of the type of marker was a matter for later consideration. [Note: any marker will have to be extensively tested against damage and the manufacturer of the marker eventually chosen may counter indemnify the State. The Revenue Commisioners have received a proposal from an Irish company to supply a dye and a marker which has been forwarded to the British side for their consideration.]

There was a further meeting of officials in the Secretariat on 23 February 1989. The Irish side reiterated its position with regard to the non-implementation of the 48 hour rule against petrol in private motorists' tanks. The discussion focussed essentially on the estimate of the volume of smuggled petrol. The British side reiterated their commitment to the exercise but said that in order to be able to bring along other Government Departments who would have to become involved at the implementation stage [eg the Treasury and Customs and Excise] they would need an agreed estimate. It was clear that the British side are holding to their industry's estimate. The Irish side exhorted them to move away from this figure [as the Irish side had themselves done with regard to their own industry's figure] and demonstrated how

the NI industry figure could not be accurate. The conclusion of this meeting was that the Irish side would provide a paper setting out the background to the basis of their estimate. [This paper has been delivered to the other side. It is attached to the brief. The British side have also sent us a paper on their estimate.] If necessary, the two Customs and Excises could meet to discuss the papers. There will be a further meeting of officials [current proposal is for a meeting on 16 March] in an attempt to sort out this matter before the Finance Bill is introduced in the Dail.

The Minister for Finance is anxious that the Finance Bill contain a provision empowering him to make regulations to curb illegal imports. While it would be preferable that such a provision figure in the Bill, it could be added at a later stage by amendment during the Committee stage.

Anglo-Irish Section

February 1990

Petrol Smuggling

Scale of problem

While it is impossible to reliably state the level of smuggling activity and estimates of such activity can never be^e fully substantiated, information from intelligence sources and surveillance operations suggests that petrol smuggling is currently of the order of some 16 million litres in annual terms.

Another source used to base an estimate of the scale of the problem was the road tanker capacity of known smugglers. It is known that the main smugglers control between them some 37 road tankers with a capacity of around $\frac{1}{2}$ million litres. On the assumption that each tanker imports only one consignment of 13500 litres (i.e. a small tanker) per week, illegal imports of petrol would amount to some 26 million litres per annum.

Even assuming that N.I. purchases are made at duty and tax-paid retail prices, extra profits of £2.2m per annum would accrue to illegal operators on the basis of 16 million litres of smuggled product and £3.6m per annum on the basis of 26 million litres of smuggling activity. However, if it is assumed that supplies can be obtained in N.I. at close to wholesale prices (which is more likely for regular bulk purchases), the extra profits accruing would be closer to £3 million and £4.5 million per annum respectively. These figures take no account of additional benefits arising from opportunities for non-disclosure for direct taxation purposes.

Incentive

At the moment the retail price of petrol is 80 pence per gallon (17.5p/litre) more in the State than in N.I. This compares with a difference of 57 pence per gallon for auto-diesel and 36 pence per gallon for marked gas oil. Petrol is clearly therefore the most profitable product of all the hydrocarbon oils from a smuggling point of view.

Other factors

The recent introduction of a new marker for marked gas oil has been successful in curbing marked gas oil smuggling. Also trade sources indicate that smuggling of auto-diesel is not a problem because of a reluctance on the part of retailers to accept product from suspect sources because of the risk of being supplied with "laundered" marked gas oil which can damage vehicle engines. The introduction of new regulations controlling the storage and transportation of heavy oils (oils other than petrol) together with increased Customs attention to kerosene smuggling (made possible because of the presence of a marker in kerosene in the UK) has made illegal activity in these products less attractive. These factors are increasingly forcing smugglers to switch to petrol.

Finally Customs are aware that petrol outlets have been purchased by known smugglers pointing to an intention to consolidate and expand activity while offering the possibility of a completely integrated operation. This expansion and investment testifies to the lucrative nature of the petrol smuggling business.

Modus operandi

The premises of all of the known smugglers are situated in remote areas close to the Land Frontier (in three cases the installations are located next to or within twenty yards of the frontier). According to local and specialist Customs teams it is extremely difficult if not impossible to prevent smuggling in these circumstances. They have encountered blocked roads on many occasions (blocked with large trucks or JCB on the pretext of being broken down) when on route to check these premises. Customs have witnessed the use of up to six vehicles and twenty personnel on such operations. During these blockades product is imported and off-loaded to storage tanks and the conveying tanker returns safely to N.I. before traffic is allowed resume. Alternatively if "cover" is available off-loading is dispensed with. The operations are organised so that a number of smugglers will use the protection of the blockade once in place. A sophisticated cartel system of "paper cover" then operates among the main operators to protect the product from official detection.

Indications also are that smuggling is taking place in vehicles other than road tankers. These include purpose-built "gravel" trucks and "grain" trucks which have been fitted with concealed bulk storage tanks which can then travel under the guise of a consignment of grain or gravel or other free bulk goods. One such vehicle was seized recently (a grain truck). It had 7000 litres of petrol concealed in a specially fitted tank. Adaptation of vehicles in this fashion is further proof of the profitable and regular nature of petrol smuggling.

N.I. estimate

The N.I. authorities have estimated, based on trade sources, that petrol smuggling from North to South is only of the order of 2 million litres. However, this estimate is based on estimated diversion from the "commercial sector" only or less than 10% of the N.I. petrol market and takes no account of petrol being uplifted from retail outlets in N.I. and smuggled South. The Northern authorities maintain that obtaining supplies from retail outlets would represent a sophisticated operation and involve considerable logistical problems. However, technical advice available to us clearly states that the degree of sophistication is limited to a suction pump incorporating a spark-proof motor. Many of the tankers inspected by Customs staff have such pumps fitted to them. As to logistics it has been agreed that annual smuggling of 16 million litres, for instance, would involve only one crossing of the Land Frontier by one small and one large tanker per day. Such a level of activity would hardly be surprising given the length of the Land Frontier and would present no difficulties of a logistical nature to the smugglers in question. The N.I. estimate is therefore likely to have missed the main source of the problem. It is also understood that ^{i.e. N.I. authorities} they may not be in a position in any event to estimate activity since N.I. Customs do not have a presence on the Louth/Armagh Border, the main area of this activity.

scope of measure requested

The proposal to mark petrol in N.I. is designed to defeat commercial smuggling and deprive illegal operators of a lucrative source of funds. It is not intended to affect private motorists in any way and has nothing to do with our 48-hour rule Regulations. It is envisaged that private motorists would continue to purchase petrol in N.I. for as long as they wished. Indeed such a safeguard to the private motorist could be built into the law which would be necessary to prohibit commercial importations. Imports in the fuel tanks of vehicles could be specifically exempted.

Cost of marking

It is proposed that the Irish Government would pay for the cost of marking and any related expense. This in itself testifies to the serious nature of the problem we face. Even at the N.I. estimate of petrol smuggling, the proposal would still be cost-effective. Covering the cost of marking should of course also serve to remove N.I. trade objections to the proposal.

ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE

Petrol Smuggling from Northern Ireland

Progress Report by Secretariat

Cross border smuggling is an issue which has engaged the attention of the Intergovernmental Conference on several occasions and there is a long tradition of mutual assistance and cooperation in countering the problem.

In April, 1989 the Irish Government raised the specific issue of the smuggling of petrol from Northern Ireland and asked the British Government to consider introducing in petrol sold in Northern Ireland a unique chemical marker in order to prevent the illegal importation of petrol into the South. This followed estimates from the Irish oil industry that the bulk smuggling of petrol represented an estimated loss of revenue to the Irish Government of IR£45m per year.

Against that background, the British Government responded in May, 1989, to the Irish Government that, in principle, it was keen to assist provided that the result would in no way be seen as helping the Irish Government reinforce the 48 hour rule. The Irish Government has since given an undertaking that they will state publicly - if the proposal is accepted - that there will be no checking by the Irish authorities of private motorists' petrol tanks. The Irish Government has also accepted that it will meet the cost of putting a marker in petrol.

The Irish Government revised the oil industry's estimate of the extent of petrol smuggling in November 1989. At that time the Irish Government submitted figures which put the lowest estimate for petrol smuggling at 3 million gallons per annum,

representing a loss of IR£6m to the Irish Exchequer and a highest estimate of 5.8 million gallons representing a loss of IR£11.5m. That remains the Irish Government's position.

Following the exchange in May, 1989, British officials have been exploring with the Northern Ireland oil companies and HM Customs & Excise the extent of the problem. The Northern Ireland oil industry's estimate differs significantly from that of the Irish Government. The Northern Ireland industry is confident that their procedures are sufficiently stringent to account for almost all petrol put into the distribution chain in Northern Ireland. HM Customs & Excise also believe that petrol smuggling is on a small scale compared with gas oil/diesel. Irish officials, on the other hand, point to considerable circumstantial evidence on the Southern side of the border to indicate that there is significant petrol smuggling.

Given the UK revenue and industrial implications which go beyond his responsibilities, the Secretary of State for Northern Ireland cannot unilaterally agree to the Irish proposal before consulting his Cabinet colleagues. To enable him to approach his Cabinet colleagues the Secretary of State needs to have the best agreed estimate and relevant supporting evidence of the extent of petrol smuggling. This will also be needed to obtain the voluntary cooperation of the Northern Ireland oil industry in a marking scheme.

A number of meetings has been held between officials to reconcile the differing estimates of the scale of the problem, most recently on 23 February. Papers setting out each sides appreciation of the issues were subsequently exchanged and discussions are continuing between British and Irish customs experts. The next meeting of officials is scheduled for 16

March. The Irish side wishes to introduce legislation in the spring to validate the presence of a marker as evidence of illegal importation and is anxious for an early resolution of the problem.

Ministers are invited to take note of the work currently being undertaken by officials. It is proposed to submit the matter for substantative discussion by Minsiters to the next meeting of the Conference.

SECRETARIAT

February 1990

Closed Border Crossings
Speaking Points

(This issue may also arise at the Restricted Security Session)

1. As you know we agreed at the last Conference meeting that we would look at the question of reopening cross border roads in the context of a meeting of the wider Quadripartite Group. I know that it did not in the meantime prove possible to hold such a meeting but I now think that we should ask our officials to arrange for such a meeting as soon as possible.

2. I think in the short term the work of the Group could concentrate on a few roads where reopenings may be possible. I think that it would be helpful if each of us were to ask our security services to let us have a list of say three roads which might be suitable for early consideration for re-opening. These could then be examined in detail by the Group. Certainly I would like to have a report on progress for our next meeting of the Conference.

3. You know our concerns about the severe economic and social difficulties that road closures have caused to communities on both sides of the border. It is most important to be able to demonstrate that this is an issue which we are keeping under review and that we are sensitive to the growing frustration in certain border communities about the apparent permanence of these closures. As you know Sinn Fein and the Provos have been quick to exploit this frustration. If there are some cases that we can agree on, however few they may be, then I think that this can only do good in the border areas and help also to disarm some of the local agitation which is Provo inspired.

CROSS BORDER ROADS
BACKGROUND NOTE

General

There are 291 recognised border crossing points, including all major and minor public roads, private roads and some tracks across the border not capable of being used by vehicles.

101 crossing points have been officially closed off by the Northern Ireland security forces. In many instances closed crossings are negotiable on foot or by farm machinery or have been reopened unofficially by local people. The latter are subsequently reclosed by the security forces but there have been no new closures in recent years.

Details on a County basis are as follows:

County	Total No. of Crossings	No of Blocked Crossings
Donegal	93	44
Leitrim	10	10
Cavan	21	9
Monaghan	134	41
Louth	33	1

Level of representations on a county basis:

Donegal: Many of the closed crossings are in remote mountain areas and there has been relatively little pressure from public representatives in Co Donegal to have roads reopened apart from some minor roads which have inconvenienced local farmers rather than the population at large.

(Strabane District Council recently passed a resolution calling

for more road closures on the Donegal/Tyrone border in the wake of recent IRA bomb attacks on Strabane and Sion Mills and the murder of Olven Kilpatrick in Castlederg. The Chairman of Strabane District Council, Mr. Edward Turner (OUP), called to the Department on 26 January, 1990, to discuss the security situation on the Donegal/Tyrone border and in particular Castlederg where there have been 20 murders since 1969.)

Leitrim: The six passable crossings in Co Leitrim are all closed with the result that people wishing to travel to the North from Leitrim must travel through either Blacklion in Co Cavan or via Co. Donegal. This can involve a 26 mile detour to a destination only one mile away. The Tanaiste received a deputation from Leitrim Co Council in 1988 which pressed very strongly for the reopening of at least one road - Cashel Bridge near Kiltyclogher. The Gardai have indicated that they there are at present no crossings open between Leitrim and Fermanagh and there are constant representations and PQs from public representatives. Cashel Bridge was the subject of a specific approach in December, 1985 during which it became clear that the Gardai opposed its reopening as much as the British. Dooard or County Bridge on the road between Rosinver and Garrison is also raised as a candidate for reopening but the Gardai share the British reluctance to reopen it. Tourism interests in Fermanagh and Leitrim have pressed strongly for the reopening of the Dooard crossing, because it affords the easiest access to the Fermanagh/Leitrim lake district from the south west.

The other four crossings are not negotiable by vehicle in any event.

Cavan: Aghalane bridge on the National Primary Route N3 between Belturbet and Enniskillen has generated more representations in favour of reopening than any other closed crossing. The pressure to reopen this road continues to grow now that there is the prospect of reopening the Ballinamore/ Ballyconnell canal. The Gardai are opposed on the grounds that it would facilitate Republican attacks in the North and Loyalist attacks in the

South. (The bridge was blown up by terrorists in 1972 and Loyalists were responsible for an explosion in Belturbet in 1973).

Monaghan: There has been a lot of pressure to reopen Lacky Bridge near Clones and recent attempts by the local community to reopen the bridge led to three arrests. It was closed in June 1980 and is now open to pedestrian traffic only. The British Army removed a permanent checkpoint from the other side of the bridge in July, 1989. The British have cited security grounds in their refusal to reopen and have made it clear that they will not reconsider this decision in the absence of a Garda/Army checkpoint on our side. Both the Gardai and the Army are opposed in principle to static checkpoints which they consider to be a wasteful use of resources.

In recent months the "North Monaghan South Tyrone Community Association" has reopened a number of minor roads between Emyvale and Clogher, Co. Tyrone. The British have indicated that they do not, at the moment, plan to reclose one of these crossings which is located at Drumfurrer (BCP 108). There are two other reopened crossings in that area Greagh (BCP 106) and McMeel's which are still open, and which according to Fr. Dawson the PP of Clogher, Co. Tyrone, are extremely popular with the local community who have had to endure twenty years of major inconvenience as a result of the closures. The reopened roads are very popular with the local community and they are hoping that they will be left open. As a result of our raising the problems faced by this particular area in the Secretariat, the British Army civilian representative has met with Fr. Dawson to discuss the situation. Fr. Dawson was pleased with the meeting and very appreciative of our part in bringing it about.

An attempt to reopen Ballagh Bridge (BCP 98) on 13 January, 1990, led to an incident involving the RUC and some elements of the crowd and allegations that a plastic bullet fired by the RUC injured a youth (Kevin Connolly) from Augher, Co. Tyrone who was on the southern side of the bridge at the time. We have raised

the incident in the Secretariat. The Gardai's reports have not turned up conclusive evidence that Connolly's injuries were caused by a plastic bullet.

Some sources have suggested that the RUC have no guidelines on how to deal with unofficial attempts to reopen border crossings and hence the different approaches from area to area. The matter may also be complicated by the fact that the Emergency Provisions Act does not make it an offence for people to build roads around closed crossings, whereas it is an offence to interfere with or try to remove obstacles placed on a roadway by the security forces. The Secretary of State has indicated that this issue is being examined with a view to introducing an amendment to the EPA.

Repairs are almost complete on Moy Bridge, on the main Dublin-Derry road, which was damaged by an IRA bomb in July 1989, and was the subject of a further bomb attack (defused) in September 1989.

Louth: Co. Louth has been least affected by road closures. Despite the attempted reopening of a minor road near Kilnasaggart on 19 November which led to the arrests of eight people there has been very little agitation to have this road reopened.

Department's Policy

The Department generally favours the reopening of cross border roads (security considerations permitting) because of the hardship and inconvenience caused to communities on both sides of the border and the cross-border economic and social activity which has been choked off because of the closures.

Cases Deserving of Special Pleading

The roads which have been the subject of the heaviest lobbying to the Minister and the Department and which have been raised

most frequently through the Secretariat are as follows:

1. Aghalane Bridge on National Primary Route N3 between Belturbet and Enniskillen;
2. Cashel Bridge, near Kiltyclogher, Co Leitrim;
3. Dooard or County Bridge between Rosinver in Co Leitrim and Garrison, Co Fermanagh;
4. Lucky Bridge, near Clones, Co Monaghan.

Economic and Social Considerations

Aghalane Bridge merits priority treatment given that its closure obstructs a National Primary route (which would probably take over 700 cars a day according to the Gardai) and cuts the town of Belturbet off from its natural hinterland in Co. Fermanagh. The reopening of the Ballinamore/Ballyconnell canal would fail to realise its maximum potential if this road were to remain closed.

County Leitrim must also be regarded as a priority given that there is no crossing open in the entire county and the undoubtedly negative effects which the closed border has had on the local economy. As mentioned, a detour of up to 26 miles can be necessary to travel between two places a mile apart.

The town of Clones which is almost completely encircled by the border has suffered serious economic disruption and any measure which would help to alleviate those problems, such as the reopening of Lucky Bridge, deserve sympathetic consideration.

Security Considerations

The Garda view has been against reopening of the closed roads. However, they have recently indicated that they would not see any major security problem if the following four crossings were reopened [though in one case this would be conditional on increased manpower]: No 191 at Kiltyclogher which would provide a crossing from Co Leitrim into Co Fermanagh; No 235 at Meenagolan which would provide a crossing from Co Donegal into Co Tyrone; No 238

at Carnhill which would provide a crossing from Co Donegal to Co Tyrone; and No 312 at Mullagood which would provide a crossing from Co Donegal to Co Fermanagh.

While this is but a small proportion of the total and does not suggest reopenings in places such as Lackey Bridge and Aghalane Bridge which have attracted the heaviest representations, it does nonetheless represent a potential starting point and a firm basis on which to pursue the matter further with the British side.

Minister Cope has recently visited the Fermanagh border and has received representations from Ken Maginnis about the local reopening of roads and the threat which he claims this represents to Unionists in Fermanagh. It may be noted that, apart from the Derryard attack which resulted in the deaths of two British soldiers, there have been no fatalities in the Fermanagh border area (within 10 miles of the border) this year.

J Farrell
Anglo-Irish Section

February 1990.

BÉAL FEIRSTE

BELFAST

NOS

*W. B. by [Signature]
12.3.90*

SECRET

3 March 1990

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*cc PSM
Mr. Wallis; P.S.S.
Mr. McArthur; Mr. Ryan
Councillor A1
J.R.*

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

Dear Assistant Secretary

I enclose a draft note on the meeting of the Anglo-Irish Intergovernmental Conference held in London on 2 March 1990.

Yours sincerely

Padraic Collins

Padraic Collins

MEETING OF THE ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE,
OLD ADMIRALTY BUILDING, LONDON, 2 MARCH 1990

Report of Discussion at Plenary Session

Introduction

The Anglo-Irish Intergovernmental Conference met at the Northern Ireland Office (Old Admiralty Building), London, on 2 March 1990. The Irish side was represented by the Joint Chairman, Mr. Gerard Collins T.D. (Minister for Foreign Affairs), Mr. Raphael Burke T.D. (Minister for Justice and for Communications), Mr. Noel Dorr, Ambassador O'Rourke, Mr. Des Mathews, Mr. Dermot Gallagher, Mr. Joe Brosnan, Ms. Anne Anderson, Mr. Michael Collins, and, from the Secretariat, Mr. Declan O'Donovan, Mr. Sean Hughes and Mr. Padraic Collins. The British side was represented by the Joint Chairman, Mr. Peter Brooke M.P. (Secretary of State for Northern Ireland), Mr. John Cope M.P. (Minister of State at the Northern Ireland Office), Sir John Blesloch, Sir Kenneth Bloomfield, Mr. Ian Burns, Mr. John Ledlie, Mr. Quentin Thomas, Ambassador Fenn, Mr. Brian Blackwell, Mr. Timothy George, and, from the Secretariat, Mr. Oliver Miles, Mr. Marcus Dodds and Mr. Tony Canavan. Also present were Mr. Eugene Crowley, Commissioner, Garda Siochana, and Mr. Hugh Annesley, Chief Constable of the RUC.

The meeting began with a tete-a-tete between Ministers at about 10.10 a.m. This was followed by a restricted security session confined to Ministers and selected officials. The latter meeting, which began at 11.20 a.m. and ended at 12.25 p.m., is the subject of a separate report. The plenary session began at 12.50 p.m. and adjourned for lunch at 1.35 p.m. Ministers continued discussion over lunch with the Joint Secretaries present. The plenary session resumed at 2.30 p.m. and ended at 3.15 p.m. approximately. A Joint Statement (copy attached) was agreed at the end of the meeting. The following account of the proceedings of the meeting is in the form of direct speech and is

based on detailed notes taken during the meeting. It does not, however, purport to be a verbatim record nor is it necessarily exhaustive of all the exchanges at the meeting.

Private Session between Ministers

The Ministers briefed the Joint Secretaries on the discussion at the tete-a-tete. The note of the Ministerial briefing is as follows:

"Mr. Brooke said that there had been a long discussion of the general situation and of political development. He had explained why the British side saw the possibility of moving forward, and Mr. Collins had indicated the Irish side's misgivings. Mr. Collins indicated he would prefer not to use the word misgivings. The Irish side supported dialogue and discussion between all parties. We had to be assured of the serious interest and commitment of all. We had to be clear where we wish to go and how we hope to get there. We were very conscious of the need not to damage the Agreement. There should be no gain or benefit for the paramilitaries, IRA or loyalist. The Irish side recognised that the documents handed over this week went some part of the way to clarify a number of areas. There were still areas to be clarified and this could be taken further in discussion at the meeting.

Mr. Brooke added the point that the paramilitaries might also stand to gain from inaction. There were hazards in doing nothing.

Mr. Brooke said there had been a brief resume of one security issue. Mr. Collins said there had also been a brief discussion of the need for officials to move forward quickly on the issue of petrol smuggling, bearing in mind that the Irish Minister for Finance wished to introduce a measure on this question in the forthcoming Finance Bill.

Mr. Brooke said that the procedure of calling in the Joint Secretaries in this way was a useful one. Mr. Collins agreed."

PLENARY SESSION

Political Developments (General)

Mr. Brooke: Welcome. I am operating on the basis that there is no need for the Chief Constable at this part of the plenary session. I don't want to be responsible, however, for his leaving without your agreement. I mean that the Garda Commissioner has left with him...

Mr. Collins: I am glad he is accompanied. They can have a nice lunch...

Mr. Brooke: I am sorry that we are running slightly behind our original timetable but I think that the time we have spent up to this moment in private session has been very well spent...

Mr. Collins: No doubt the time we will spend from here on will also be well spent...

Mr. Brooke: On the first item - political developments - we have had a considerable discussion in the tete-a-tete. We have presented four documents to you and officials have done an amount of work already. I don't propose to go through the documents word for word. We have been over the general ground. We are aware of the issues on both sides. Are you minded to go through the documents page by page?

Mr. Collins: No. What I would like to do is to make some general comments and state the Irish position...

Mr. Brooke: I will be happy to make an introductory statement but perhaps it is unnecessary...

Irish Statement on Political Developments - General Points

Mr. Collins: The documents are there and our officials were able to have a meeting on Tuesday in an effort to clarify matters. That was helpful. I am not in a position to give you a considered response to your proposals today. You understand the reason for that. In any event, the issue is far too serious for any hasty or premature consideration. Basically, what I would hope to do today is to be able to leave the meeting with a clear view of your position which I can discuss with my colleagues in Government. That is very important.

I would like to stress that I am all for political progress. However, I am worried that before we take a jump, or a leap, in the dark, we take stock of the situation. We might be causing problems for what we have built up together over the past four or five years. That is why I said from the beginning that there is a serious risk element in entering into talks without a clear idea of what we are doing. We need to know where we are going and how we can get there. We need to calculate the risk of damage to the Agreement and we need to calculate what you see at the end of the pathway.

Unionist Position

We have now given you our assessment of the Unionist position in three or four detailed meetings. We have given you our assessment of the positions of Molyneux and Paisley and have emphasised that, in our view, it is only they who can deliver the Unionist position. We need to have a very in-depth assessment of the Unionist position and of current Unionist thinking. We have no clear definition from you on that. We need an assessment from you on how you see it developing.

British Paper on Objectives in Bringing About Talks

I have no great objection to the thrust of this paper. However, it does little or nothing to clarify the likely direction or detailed objective of talks. There are a whole series of issues

which the paper does not even attempt to address. These include an assessment of current Unionist thinking and whether you think unionist and SDLP demands are likely to prove reconcilable. We need a clear picture of that. We also need to have an idea of what powers you see being given to a future devolved government; whether and how you see power-sharing being implemented in practice; and what you see as the likely structures for the North/South and East/West relationship. I can see, of course, that it is not easy to answer these questions precisely but you must at least have given some thought to the likely answer. It is necessary also, as I said this morning, to avoid any idea of disagreement between us.

British Paper on Unionist Pre-Conditions

I agree that the first unionist pre-condition (on willingness to consider an alternative to the Agreement) has been effectively met.

On the question of "a natural gap", the timing and duration are critical. Your officials gave the impression in Dublin on Tuesday that they were thinking in terms of two to three months as the length of the gap you had in mind. I myself feel that any gap longer than two months would be stretching credibility too far. I know that we have had longer gaps in the past but they were not planned in advance and arose, for example, because of illness or "pairing" difficulties in the Dail. I think, therefore, I see difficulty with a gap that would be any longer than two months.

On timing, I know that you were thinking of a "gap" shortly after Easter. However, I would say that the timing is very important. I know that you believe in the quotation that you have borrowed from Shakespeare that "there is a time and tide in the affairs of men". However, as an old boatman myself, there are times when I would prefer to stay afloat and wait. It is sometimes better to wait for the next tide rather than take chances. We require to do very careful groundwork on this and it is doubtful if we would have the time to do it on the basis of your timetable.

I note your assurance on a firm commitment to adhering to the date of a Conference meeting fixed for the end of "a natural gap". You have given a firm commitment on that. I accept that and I agree totally with you that to do otherwise would be a "recipe for disaster". We would have to be at one on that issue.

The Secretariat

On the question of the Secretariat, it is an issue which presents very considerable difficulty for us. We see serious potential problems in a situation where the unionists were allowed to proclaim triumphantly throughout Northern Ireland that the Secretariat was non-operational. That would present us with a serious political problem and it would be hard to see how we could afford not to rebut such a public unionist approach. It is essential, therefore, if we were to go down this road, that you should leave the unionist leadership in no doubt about the commitment of both Governments to the Secretariat. It is essential also that Unionists be clear that the two Governments are unwilling to stand by and see the Secretariat (and with it, in our view, the Agreement) being undermined by false Unionist claims about it having been suspended or rendered non-operational. It is very important that all should recognise full well that the Secretariat would not be suspended and that it was working away on a day-to-day basis.

Joint Response to Unionist Pre-Conditions

It is also vital, if we are to give serious consideration to going down this road with you that we both agree in advance that our response to unionist pre-conditions is a joint one and represents - as your officials said on Tuesday - the outer limit of what is on offer. It is important that there should be no difference between us on matters of this kind. It is equally the case that there can be absolutely no question of this being turned into a bargaining process. That would be damaging and divisive. We would need a cast-iron commitment from you that there is absolutely no question of this happening.

British Paper on Format of Talks

On this paper, the role envisaged for our Government is entirely inadequate. I have consistently emphasised that the negotiating structures and the timing of the various sets of talks must reflect the interdependency of the three relationships. Your paper is extremely vague on the starting time for a North/South set of talks. It is very vague also on how our input into internal Northern Ireland talks will be made. In addition, it doesn't address the concept of a Steering Committee to take an overview of, and pull together, the three separate sets of talks.

I noted that your officials seemed to accept in Dublin a need for the establishment of some kind of overall Liaison Group or Inter-Relationship Group, involving the two Governments and the three political parties, at or near the outset of the negotiations and that consideration of the North/South relationship would begin no later than a week after internal Northern Ireland talks had opened. I would very much like to see your thinking here elaborated in writing to enable us to give further consideration to your proposals. I think we need to tread very carefully here. We need to move slowly. There are very serious risks involved if the thing goes wrong. We need to make sure that we have taken out an insurance policy against it going wrong. To that end, we have to evaluate closely the seriousness of interest of those involved. I accept the seriousness of your intent of course. However, there are other parties involved. In some cases, the public utterances made by some of these recently have not been helpful. I see that Paisley and Molyneaux, following their meeting with you last week, added a new condition to their previous conditions of the suspension of the Conference and the Secretariat. They are now waiting for proposals from us as to what a new agreement would contain.

As I have said already, only Paisley and Molyneaux have the political weight and clout to deliver on the Unionist side. It is important that we be sure that they are not simply trying to knock and scuttle the Anglo-Irish Agreement. They say that, if

they had been involved all along, there would be no problem. Yet, they engage in every subtle trick to scuttle the Agreement. If they are serious, and if we have an Anglo-Irish Agreement no. 2, we would want to be sure that they won't scuttle the Secretariat in Belfast. There has been talk about an office in Belfast. An office is one thing and a Secretariat is another. The Secretariat works in a certain way - we all know how it has worked up to now - and an office would be an entirely different way of working. We would need to have some further information on that point. As I said, it was helpful last week (on Tuesday) that things were put on paper. What we need now is further meetings to put things down so that we can address them. We need, therefore, to have an early meeting of officials to address these issues. We now know what timetable you have in mind. We must approach this matter with great seriousness since there is the danger of damage to the Agreement. If that happens, the only result will be "kudos" to the terrorists on both sides.

British Response

Mr. Brooke: Thank you very very much. My response, I am afraid, will be somewhat discursive. I won't go over our earliest paper. I would refer first to your allusion to the Unionist position. In terms of the possibility of conversations, we are at a significant time. Much of the past six months has been spent on Unionist pre-conditions. I think, however, that there was no question in their thinking and approach but that there were more dimensions to this than just internal arrangements. They have come to accept that there is a North/South and an East/West dimension. Now, I admit that you can take a pessimistic view of their behaviour since. Alternatively, you can take an optimistic view. An optimistic view would be based on the fact that with the passage of the last four years it is beyond peradventure that they have begun to accept the legitimacy of an Irish Government interest in Northern Ireland - it is, you could say, now a given. In addition, they have made a specific statement of recognition that they must come to a modus vivendi with the minority community in Northern

Ireland and there seems to be an acceptance of John Hume's point of living with the majority in the island of Ireland as a whole.

You went on to raise how we saw the future. I have to say that we are looking through a glass darkly. If there are substantial negotiations it is difficult to predict what the outcome will be. It is true that we entered talks without pre-conditions but, I think, on our side we are assuming that the most likely outcome is going to be a devolved administration, representing both sides, and that such an administration would have administrative/legislative power.

Mr. Collins: The Unionists have been talking about more power for local government...

Mr. Brooke: The question of a genuine transfer of power to local government has been raised. I don't rule that out. That is not, however, what I envisage here. There are the two other dimensions (North/South and East/West) described already. What would emerge would be a new Agreement with the endorsement of Unionists. It would have to address all the three dimensions we discussed. I really can't predict what the outcome would be. I have found that, for historical reasons, the Unionists and the SDLP are reluctant to identify their negotiating positions in advance.

The Unionists have laid stress on the two Governments being prepared to contemplate an alternative or new agreement. They raised this with me last week. I said in response I thought it was possible that the statements made by the two Governments being prepared to consider a new agreement already covered the first unionist pre-condition. In relation to the other two, I said that in the case of the non-operation of the Secretariat - placing it in abeyance - I said I saw no way that this could be agreed to. They accepted and endorsed that at the time. At a later stage, they restated it in a document to the press. They came back to me with the draft press statement and told me what they proposed to say. I said they were painting themselves into

a corner and that it would make it difficult to negotiate. Nevertheless, they still went ahead and did it.

They did say, however, that the process in the first instance would be that the two Governments would state that, if negotiations were carried out and a conclusion reached which everybody could endorse, then the two Governments would agree to an alternative to the Agreement. Once that statement was made, they would then envisage substantial conversations with the British Government to see if there was a possibility of getting anywhere. Any subsequent pre-condition would only be triggered during the substantial conversations and in circumstances in which the British Government thought there was a prospect of success and was trying to bring the process to a conclusion. The first pre-condition would be triggered at the first stage. [The Secretary of State's point here was unclear to me and the above is the best interpretation I can put on it following conversation with British colleagues. The point seems to be that the statement by the two Governments of a willingness to consider an alternative to the Agreement, allied to the gap and the Secretariat "fig leaf" would be enough to get the Unionists to engage in talks with the British Government initially. The other pre-conditions would arise at a later stage, that is, at some stage during talks with the British Government].

You referred to the problem of the size of the gap. There is the possibility of further conversations between us on this. You talk about two months and we have talked about three months. Perhaps we could strike a middle ground there. The gap would be finite. We would agree to have the next meeting on such and such a date. We will make sure that our diaries are not all tied up. I stress that there is no edge to what I am saying. [The Secretary of State was referring, probably, to the fact that the Irish side had to ask for a postponement of the Conference on 31 January].

Mr. Collins: We need your whip...

Mr. Burke: They would like our opinion polls...

Mr. Brooke: I did hear that. You can have ours... In relation to the Secretariat, I said to the Unionists that it was much the most difficult area. I agree that we must have a joint position on it. I said that one could not do more than create a gap. The Secretariat would continue to be present. I would allow that the British Head would be involved in talks if they were occurring. [I took the Secretary of State to mean that he would say this in public]. It is not for me to decide what to do about the Irish Head of the Secretariat - it is not for me to decide what Declan [O'Donovan] would be doing. The factual position is that the Secretariat would continue.

You raised the risks to the Agreement. They exist in both directions. There are risks in doing nothing as well. You have a concern that we could do damage to the Agreement. I do not think that. The Agreement is a rock as it has proved over the last four and a half years. What I would say is that Paisley has made it perfectly clear that there is a powerful incentive to unionists to talk and to agree. If talks failed, they would be in a much more difficult position in maintaining that they were subjected to an agreement in which they played no part.

On your point that there would be a risk that failure would carry the risk of the paramilitaries gaining, I agree that the risk is there. I would say also, however, that there is a considerable prize to be gained if we were to achieve success.

On the role of your own Government, you said that the document provided by us was vague on it. I agree that it may need more work on that point. As to the Irish input in relation to internal arrangements in Northern Ireland, the Agreement provides a guide. The Conference is a two-way process. [I took the Secretary of State to mean here that the British could keep us informed through the Conference and that we could have an input through the Conference on various issues, including the modalities of devolution via Article 4].

You made a point about a Steering Committee. That probably needs further consideration.

On the future of the Secretariat, patently, if there is an Anglo-Irish Agreement Mark 2, there would be a continuing need for the Secretariat. What I can't predict is what alteration would occur in the North/South linkage in relation to those matters which were devolved. As you know, the Agreement provides that such matters will be taken out of the purview of the Agreement once they are devolved. I would be astonished if the parties in Northern Ireland did not see the need for a North/South linkage. I can't, however, make a prediction about it. We are looking through a glass darkly. I pause for breath...

Mr. Collins: It would be best to try and get officials to attempt to clarify the issues. We can then go on from there.

Mr. Brooke: I would like to say a word in relation to the timetable. Mr. Paisley is in Romania - or is about to go there shortly - and will not be back until mid-March. I think he will be back around 12 March. In any event, we have agreed to meet again with the Unionists on 15 March. They expect me to respond to them, at that stage, in a more formal sense. At that stage, I would be concerned and anxious that both Governments should be committed to engage in talks. I have no idea whether that proposition would be acceptable to the Unionists. If it is not, my concern would be that progress should be conserved. I would find it difficult to further prolong the conversations with the Unionists. There are still talks ahead to allow discussion between you and me. However, there is a premium on the next two weeks.

Mr. Collins: I am not against that. Perhaps Mr. Paisley could extend his holidays. The serious point is, however, that I have to go to Government with firm and definite proposals. I require a Government decision. There is also the matter of the Parliamentary Parties to be considered. That is a time-consuming process. What we need is to have a meeting of officials as rapidly as possible. However, I have to say that to try and move it at the timescale you are talking about is very very difficult for us. I would think it would not be wise to let that timescale

be known in case we can't meet it. There may be problems other than logistical ones.

Mr. Brooke: The problem is that the middle March date is known. Maybe there would be some latitude forthcoming. But, on the whole, it is not good for business to delay...

Mr. Collins: Are you tied into the 15th of March? I think you are probably moving far too quickly given the amount of ground we have to cover. The other aspect is the public position of Molyneaux and Paisley. If they can't back themselves out of the cul-de-sac, in relation to suspension of the Conference and of the Secretariat, are we really going anywhere? Where are you going on your agenda if they say they won't avail of a natural gap - if, for example, they say on the 15 March "we won't agree"? If they are as adamant as they were in public, where are you going? You are heading towards no conclusion.

Mr. Brooke: What I would do then is pause and return to the matter some time in the future. I would be concerned, at that stage, that we not move backwards in "a feast of mutual acrimony". I have one question for you in relation to the issue you raised about processing the matter through the Parliamentary Party. It is something odd in relations between Governments.

Mr. Collins: We are true believers in democracy. We discuss these things.

Mr. Burns: But there is a difficulty created if there is consultation with your partners in Government before the parties in Northern Ireland.

Mr. Collins: I see what you say. Whatever about Parliamentary Parties, the fact is that I must go to Government. What we can do now is to get officials to move it forward.

Mr. Brooke: Where will you be in your enviable perigrinations during the next month. [There then followed a discussion of Minister Collins' calendar for the next month or so.]

Mr. Collins: You can see that I am fairly busy. Nevertheless, if there were agreement between us and we were looking for a natural gap, we could find ways and means.

Mr. Brooke: Officials can decide here today when they meet. The date of mid-March is not immutable. However, an alteration would create speculation which would be unfounded. The next Conference meeting is on 19 April. In that sense, we need all the time we can get. We are talking about a natural gap. It would be a peculiarly relevant natural gap since you are absent a lot during the course of this six months. As you know, if we go on to July, to do anything at that time is very difficult in Northern Ireland. We therefore need to take advantage of the present...

Mr. Collins: I see your reasoning in that. Nevertheless, there are a number of important areas outstanding. We will try to advance it very soon but it will be difficult.

Mr. Brooke: O.K. We have reached this point at 1.35. Would there not be virtue in a brisk lunch and we would deal with the rest of the agenda after lunch.

Mr. Collins: Let's see. I think we don't have to worry now about no. 3 (the McGimpsey judgement). It seems that we could deal with the rest of the agenda fairly quickly. We need to deal with the Stevens Inquiry and UDR accompaniment. We have already dealt (in tete-a-tete and restricted security session) with petrol smuggling and cross-border roads.

Mr. Brooke: We would like to have a word on item no. 2 (economic matters). My question about lunch is purely a physiological one. Perhaps we could continue to talk over lunch and have somebody to take notes.

Mr. Collins: O.K. Who wants to do without lunch? [The meeting then adjourned for lunch. Ministers were accompanied to lunch by the Joint Secretaries who took notes of the discussion].

JOINT SECRETARY'S NOTE OF CONFERENCE DISCUSSION OVER LUNCH

McGimpsey Judgement

Mr. Brooke: I must express appreciation that the Agreement is intact as a result of the Supreme Court decision. We will read the full judgement in measured time.

Economic Matters

Mr. Brooke: I think we can take note of the fact that the exploratory joint paper on Transfrontier Cooperation has been lodged in Brussels. We will need to follow this up. We can also take note of the Secretariat report on widened Ministerial participation in the Conference.

Mr. O' Donovan: Do Ministers wish to consider now which subject area might come up first and when the relevant Ministers might join the Conference? Would you envisage them participating after the next Conference on 19 April or at that Conference?

Mr. Collins: We can leave participation by other Ministers until after 19 April. We don't need to make a decision on the areas now; perhaps the best thing would be for the Secretariat to examine the matter and make proposals to us.

Mr. Brooke: I agree. Can I also mention the North-West Study?

Mr. Collins: The boys from Donegal have been expressing their unhappiness to us.

Mr. Brooke: Well, I think there has been candour on both sides. I was a little surprised that the report was released from your side to the Donegal people which upset people in Derry.

Mr. O' Donovan: I am not an expert on this, but my understanding is that the consultants in their contacts with the people in Donegal left them (Donegal) with the feeling they were being short-changed. That is why they came to us threatening to boycott the launch of the study.

Mr. Collins: I think that is right. I have nothing about release of the document in my note.

Mr. Brooke: Well, the Derry people cry why weren't we consulted. We can ride out the exasperation of people in our part of the North West but I do think it is important that we should learn lessons from the North West Study since more of these studies are envisaged. I was quite sharp with the consultants when I met them. It is quite clear that their proposals would occupy the next 15 years or more. The study is much more on strategy than on tactics. There is not much on priorities which is what we really want to know about. On future occasions, the ground rules should be clearly understood. In regard to Letterkenny Airport, the important thing is not whether the airport is on one or other side of the border; it can be on either side provided it is in the optimal place.....

Mr. Collins: The issue has not yet been discussed in Cabinet. The points you have made have to be taken into consideration

Mr. Burke: In the general rather than the specific

Mr. Collins: The Minister for Justice attends more Cabinets than I do!

Cross-Border Roads

Mr. Brooke: We discussed this in the restricted session. Have we dealt with with it or do we want to speak further?

Mr. Burke: No, we dealt with this in restricted session.

Ministers: We have also dealt with the petrol smuggling issue.

(This concluded the Conference discussion. In the ensuing informal discussion Ministers agreed that the first meeting of the Anglo-Irish Parliamentary body in London during the week had gone extremely well; attendance had been very high at all the sessions and there had been an impressive level of discussion.)

Resumed plenary session

Mr. Collins: O.K. Now that the Chief Constable is here let's start.

Mr. Brooke: For the benefit of those not with us we have now discussed economic matters, the McGimpsey case, petrol smuggling and cross-border roads. We have agreed that we have nothing to raise under "any other business". The issues which remain, therefore, are accompaniment and the Stevens Inquiry and the UDR.

The UDR

Mr. Collins: I have a number of points to raise in relation to the UDR. The first relates to two brothers who are members of the UDR and whose activities in putting up loyalist posters we felt should be referred to the new UDR screening unit. This case has been raised in a Parliamentary Question by Austin Currie in the Dail recently. The other thing relates to the Panorama programme on the UDR and specifically to statements on that programme by the former Chief Constable Jack Hermon and Brigadier Ritchie. As you know, Hermon said that he had not been given the resources to put the commitment on accompaniment into practice. Brigadier Ritchie said that the UDR were not briefed "as a matter of course" on loyalist paramilitary suspects.

Mr. Brooke: I will try and deal with all three. I will deal with the Brigadier Ritchie remarks first. I was asked about this in the House of Commons yesterday. I was asked if he had said that the UDR was not routinely briefed on loyalist recognition material. The problem here is that not all the things recorded for the interview were shown on the Panorama programme. I had said - and it was not broadcast - that the job of tasking the UDR is for the RUC. It is for the RUC to make an analysis of the terrorist threat and on how to handle it.

In terms of what Jack Hermon said, I have obviously enquired if there is any evidence of a request from him for what he calibrated as 1500 extra men. I have to say that there is no

evidence of such a request being received. I know that is different from your point, namely, that he was not under any pressure to have accompaniment. However, there was an upgrading in accompaniment. Nevertheless, in 1985/86 there were resource constraints. It was raised in the Conference framework. The point is that the policy of accompaniment continues and is maintained.

You raised with me also the issue of plastic baton rounds to the UDR at Coalisland on 31 December. That decision was taken in the light of the guidelines/parameters which we set out to you at the Conference meeting on 18 October. It was an exercise in connection with an incident of recovering and defusing a device. I have to say also that it was not only the UDR who were present. There was also an Army/RUC presence. The problem was that it was New Year's Eve and that, since crowds would be coming out of pubs, it was sensible as a precaution lest confrontation developed.

On the point about the activities of the UDR members which you mention and which Austin Currie has raised with you, I am genuinely unsighted. I don't know if anybody around the table knows about it. I leave it open to anybody who does.

Mr. Collins: It was raised in the Secretariat. I can refresh the memories of those around the table who ought to know about it. We are talking about two brothers called Hicks - members of the UDR - who were reported to be putting up posters on telegraph poles indicating their support for loyalist paramilitary organisations. I said, on 8 February, in reply to a P.Q. from Austin Currie that I had asked that their suitability for the UDR be submitted to the new screening and vetting unit. In fairness, I should give you a chance to consider it.

Mr. Gallagher: It was raised in the Dail. In fairness to the British side, I should say that the person who raised it - a local farmer - is reluctant to give evidence. That is understandable. However, we would argue that, if a member of Parliament, such as Austin Currie, raises such an issue then that

should be enough to have the matter referred to the new screening unit for the UDR.

Mr. Miles: I can confirm that the issue was raised through the Secretariat.

Mr. Collins: In relation to Coalisland, I am puzzled about the deployment of the UDR there since it is a predominantly nationalist area. The other problem is that the UDR seem to have been deployed in anticipation of crowd problems. We had understood that the UDR would not be deployed in riot control situations. This was clearly understood at the Conference meeting on 18 October where we received assurances on this point from you. We also understood clearly at that Conference that plastic baton rounds would be issued to the UDR only very rarely. What happened in Coalisland is in total contradiction to the statement in the Communique of the Conference on 18 October that the UDR would not be deployed in riot-control situations. I can't understand why PBRs were issued in that situation.

Chief Constable: I would like to provide just a little background there. The RUC station at Coalisland has been damaged repeatedly by bomb attacks and by petrol bombs. It is somewhat of a sporting event in the area. In relation to the incident on New Year's Eve, the background is that there had been a number of major finds - 6 deep hides had been found on 7 January. On New Year's Eve there were UDR units there, one of which had PBRs. There were also, however, 20 soldiers and the RUC consisting of one Superintendent, one Inspector, two Sergeants and 10 Constables. There is a tendency to see in the New Year in Northern Ireland in an unusual way. You will know about that. The operation there was under the direct auspices of a Superintendent. It is a vulnerable station. The actual operation was taken against that background. There were things found there such as boiler suits etc. The point is that a major anti-terrorist operation was in process and protection was needed for the RUC engaged in searching etc.

Mr. Collins: I thank the Chief Constable. I cannot, however, reconcile what he has said with the UDR having plastic baton rounds. Why didn't the RUC have the plastic baton rounds?

Chief Constable: The RUC would have had them as well. There was a major operation in process and, if as a result, a major disorder had broken out, there would have had to be recourse to either PBRs or live ammunition.

Mr. Collins: Was it not enough that the RUC should have had plastic baton rounds.

Chief Constable: The problem was that the main search operation was by the RUC. However, as you will appreciate, significant outer perimeter protection and coverage is required for such an operation.

Mr. Collins: This raises the whole question of accompaniment.

Chief Constable: I should say that the search operation was based on good quality information. We need a lot of soldiers to cover the RUC in that situation.

Mr. Collins: I can see some of the difficulty, but if the fear is of revellers gathering ...

Chief Constable: No. The fear was that people would see in the New Year with shooting and bombing of the local station.

Mr. Collins: But I understood that what you were afraid of here was revellers ...

Chief Constable: No. No. The problem is that there has been a tendency to have a go at the station. In addition, there was always the possibility that some revellers would gather outside. I think, however, the fact that it went well is a compliment to the way the operation was handled. It illustrates the fact that you can have too few soldiers and police and you end up with trouble, whereas if you have too many you have no trouble.

Mr. Brooke: I hope you agree that it was a sober decision taken in response to a particular threat.

Mr. Collins: What the Chief Constable said is also responsible for my measured comment. What is the position on the Stevens Inquiry? Are you still aiming to have the report finished in mid-March?

Mr. Brooke: I think it is a bit more pessimistic than that. We are probably talking about the end of March.

Chief Constable: Problems were created by the recent fire and that has put it back until the end of March. However, all the papers were duplicated but they have to be put together again. I saw Mr. Stevens, accidentally, yesterday and he confirmed to me that he was aiming for the end of March. What will probably happen is that, when the report is completed, he will leave a small residue of people to tie up loose ends. That is the position based on what I know now. That is what I can say now. You will forgive me, however, for allowing for the possibility that events in Northern Ireland, or further arrests, have the capacity to stretch events.

Mr. Brooke: Anything else on Stevens?

Mr. Collins: No. Our understanding is that it is working away.

Chief Constable: Can I make one comment? There has been an attempt recently to drive a wedge between the RUC and Stevens. There is definitely no bad blood between Mr. Stevens and the RUC and we are determined that it shall not be so. The fact is that Mr. Stevens has made over 50 arrests - I correct myself - there have been 50 charges and well over 70 arrests...

Mr. Collins: There were reports in one of today's papers that the Stevens report would not be published...

Mr. Brooke: John [Minister Cope] dealt with this matter in the House yesterday.

Mr. Cope: Perhaps the Chief Constable should deal with this since he knows more about it. What I said is that it is a report to the Chief Constable and that not all of it would be published. It is not that sort of document. I do expect a large part of the information and recommendations would be published.

Chief Constable: I endorse that. There would be some issues not totally suitable for circulation. I expect that a significant summary can be published, but there will be issues which cannot.

Mr. Collins: Our point - our overall point relates to the implications for law and order. We will have to have a full and frank discussion of that when the report is published.

Mr. Cope: One other thing... I would like to assure myself that you do not now believe that the recent fire in the offices used by Mr. Stevens was a deliberate attempt at sabotage?

Mr. Collins: There have been a certain amount of conflicting statements on this matter. We had first a statement from the RUC saying that "we can now confirm that the fire was accidentally caused". Then there was a statement from Mr. Stevens that "there was no evidence to suggest the cause of the blaze was anything other than accidental". Then there was a final statement issued jointly by the Chief Constable and Stevens saying "let us state categorically there are no divisions". It was put to me by media people - and I am only saying what these people said to me - that there were serious doubts about what was going on. Mr. Stevens is an experienced officer and he must know that fires don't start accidentally. It is very fortunate from all our points of view that he had duplicates of the papers.

Chief Constable: I think the issue is worthy of a slight elaboration. I take issue with you that fires don't start accidentally. It has been my experience over the years that most fires start accidentally. The other point I would make is that Mr. Stevens' statement was very cautious. He is an experienced CID officer with an innate tendency towards caution. CID

officers are especially cautious in relation to fires because of concern about insurance cover. They are a very cautious lot. The fact is that, if it were an arsonist in this case, he would have had to break through secure cover, then through a burglar alarm, then through guards, start a fire, and get out again - all in fifty-five minutes. We have had the matter thoroughly investigated and the scientist's view was that the fire started in the waste-paper box and was, almost certainly, cigarette-ignited. Our initial concern was to keep an open-mind.

Mr. Collins: Can I just ask how satisfied you are with the entire personnel in this case?

Chief Constable: Totally. The fact is that Mr. Stevens was being cautious and he used the term "no direct evidence". We have no doubt now that it was an accidental fire. I say this particularly since there was shredded material in the waste-paper basket and this ignites easily.

Mr. Collins: I must say that it was great foresight on Mr. Stevens' part to have duplicated material. If he did not, no-one would have believed him.

Mr. Brooke: You will note the remarkable restraint they showed in relation to your own comment in the Dail that the fire was not accidental...

Mr. Collins: One of your colleagues (a reference to Ambassador Fenn) was sitting behind me...

Ambassador Fenn: I did not have the right of reply.

Mr. Collins: You would not need much prompting... I wish Mr. Stevens the best of luck.

Mr. Brooke: Are we ready now to move to the Communique?

Mr. Collins: There is one item I would like to add something on. There was a recent shooting and wounding of a joy-rider

(Sean Kierney) in Lenadoon and the killing in January of the three men in the Whiterock Road by the security forces. There are investigations going on in these matters. They raise obvious concerns in relation to security force activities and set back efforts to improve confidence. Any idea what is happening on the investigations?

Mr. Brooke: I would like to refer that for answer through the Chief Constable.

Chief Constable: I went to the incident room in the Whiterock case. I have no doubt that a serious investigation is going on. I can also assure you that suggestions about various soldiers disappearing are completely wrong. Nothing could be further from the truth. What happened was that when the soldiers saw black taxis congregating they got out of the area immediately - and damaged their car in the process - and went and reported to a police station and handed in their guns etc.

In relation to the shooting of the joy-rider in Lenadoon, the investigation is at a very early stage. I would only say at this point that the incident did occur on the back of a very serious terrorist operation.

Mr. Brooke: There is one other thing and that relates to the remarks made by Brigadier Ritchie. I don't want any legend to grow up around it. I referred to the RUC having the duty of tasking and analysing the terrorism threat. Perhaps I should ask the Chief Constable to say a word on this. As I say, I don't want any legend to grow up about it.

Chief Constable: When questioned on a programme like Panorama there must always be a question about the fullness of the answers. However, it is no secret to anyone here that the terrorist threat is mainly in republican areas. There is also the fact that there is a difficulty in interrogating the Provisional IRA. Unlike the loyalists, they won't talk. We are, therefore, deeply dependent on forensic evidence and sightings in

relation to the Provisional IRA. The loyalists are easier and the success rate of the police in getting convictions against them shows this. For example, in relation to 42 loyalist murders, 62% of them have been cleared up. The situation in relation to republican murders is different. For example, in 24 such cases only 42% have been cleared up. What I am trying to illustrate is that the modus operandi of both sets of terrorists is very different [the Chief Constable then showed a montage in relation to sightings on 29 June 1989. This showed that the sightings comprised 4 republicans and 10 loyalists. The point the Chief Constable was making was that IRA and loyalist terrorists operate in completely different ways and need, therefore, to be handled differently from a security point of view]. I am sure that if Brigadier Ritchie had the question to answer again he would handle it in a very different way.

Mr. Brooke: There is one final matter I would like to mention. This meeting is the last Conference which Oliver Miles (the British Joint Secretary) will attend. I would like to thank him for the service he has rendered to the Conference and to wish him well.

Mr. Collins: I agree whole-heartedly with that. Where are you going?


Mr. Miles: Back to base for a while.

Mr. Collins: I would also like to mention that it is Declan O'Donovan's first Conference as Joint Secretary. (Turning to Mr. O'Donovan). We have great faith in you. I know you will do the job well...

Mr. O'Donovan: I had better...

Mr. Brooke: I endorse your welcome to Declan.

Mr. Collins: They have made life easier for all of us. [There was then a brief discussion on the Communique and the plenary ended at 3.15 p.m.].



Padraic Collins

3 March 1990



Roinn an Taoisigh
Department of the Taoiseach

Dympna
Mr Callaghan
Letter for
Mr [unclear]
[unclear]
[Signature]

(No 3) →
(No 5) →

FAX COVER SHEET

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QUESTION NOS: 1, 2 & 3.

DAIL QUESTIONS addressed to the Taoiseach
by Deputies Peter Barry, Dick Spring and
Proinsias De Rossa, for answer on
Tuesday, 13th March, 1990.

QUESTION NO: 1

To ask the Taoiseach if, in view of interpretations that are being put on the Supreme Court decision on 1st March, 1990, regarding the Anglo-Irish Agreement, he will confirm that it is the Government's view that unification can only come about by peaceful means and with the consent of a majority in Northern Ireland. - Peter Barry

QUESTION NO: 2

To ask the Taoiseach if he will make a statement regarding Articles 2 and 3 of the Constitution in light of the recent Supreme Court judgement (details supplied); and if he is prepared to respond to overtures from Unionist leaders to discuss the possible repeal of those Articles. - Dick Spring

QUESTION NO: 3

To ask the Taoiseach if the Government intends to propose any amendment to Articles 2 and 3 of the Constitution in light of the judgement of the Supreme Court on 1st March, 1990 in a case (details supplied); and if he will make a statement on the matter. - Proinsias De Rossa

REPLY:

A Cheann Comhairle I propose to take questions 1, 2 and 3 together.

The Government have noted the Supreme Court decision referred to.

In reply to a Question in the House on 3rd May, 1988, I referred Deputies to paragraph 5.7 of the report of the New Ireland Forum, which was endorsed by all the parties participating in it. This states:

"The particular structure of political unity which the Forum would wish to see established is a unitary state, achieved by agreement and consent, embracing the whole island of Ireland and providing irrevocable guarantees for the protection and preservation of both the nationalist and unionist identities."

As I said at the time it is not possible, at Question Time, to attempt to set out any exhaustive set of steps towards achievement of the form of unity wished for by the parties to the Forum, except to say that such measures would in my view have to meet the requirements set out in chapter 5 of the Forum report.

These requirements would, among others, include:

a total cessation of violence which can have no place in the building of the Ireland of the future that we all desire;

constructive dialogue with Unionists in Northern
Ireland;

accommodation of the two traditions, their aspirations
and their loyalties;

an all-round constitutional conference to formulate
new structures.

This Government's policy and actions under the Anglo-Irish Agreement are in accordance with those requirements and I have made it clear that I would be willing to meet unionists at any time to discuss their concerns. Such a meeting could take place without preconditions and without prejudice to the Unionist position on the Agreement.

0236C
TO: HQ FR: BELFAST
DATE: 13.3.90

*C. ec Mr Miles; PH
Carroll's R1
2. Mr Ancher*

FOR: ASS/SEC GALLAGHER FR: JOINT SECRETARY

14/3/90 0835
25

MR MILES SPOKE TO ME TODAY ABOUT THE PAPER ON THE IMPLICATIONS OF 1992 FOR THE WHOLE ISLAND OF IRELAND WHICH THE TAOISEACH MENTIONED IN THE DAIL ON 22 NOVEMBER. HE REFERRED TO PREVIOUS DISCUSSION IN THE CONFERENCE OF 30 NOVEMBER IN WHICH THE BRITISH SIDE NOTED THAT THE PAPER WOULD AFFECT THE WHOLE ISLAND AND THAT, THEREFORE, IT HAD AN INTEREST IN ITS PREPARATION. MR MILES SAID HE HOPED THE BRITISH GOVERNMENT WOULD HAVE AN OPPORTUNITY TO MAKE AN IMPUT BEFORE ANY PAPER WAS PUBLISHED.

FOLLOWING OUR CONVERSATION, I WENT BACK TO MR MILES LATER TO SAY THAT A NUMBER OF SPECIALIST CONSULTANTS HAD BEEN COMMISSIONED BY THE GOVERNMENT AND THAT WE EXPECTED THAT THEIR CONTRIBUTIONS WOULD BE PUBLISHED ABOUT THE END OF THE FIRST WEEK IN APRIL. I DREW ATTENTION TO THE POINT THAT THE PAPER WAS NOT BEING PREPARED BY THE GOVERNMENT ITSELF.

NOS

*by Mr McCarthy
15-3-90
1513*

05
0271C

cc PSM
Mr. Walsh; PCE
Mr. Matthews; Mr. Raven
Counselor R1
Rov.

CODED MESSAGE
IMMEDIATE URGENT
CONFIDENTIAL
22/3/90
DATE: 22/3/90
INITIALS: [Signature]

TO HQ FROM BELFAST
22 MARCH 1990

/////

FOR A/SEC. GALLAGHER FROM JOINT SECRETARY

THE BRITISH SIDE HAVE APPROACHED US AGAIN ON THE QUESTION OF AN INFORMAL MINISTERIAL MEETING IN DUBLIN AND ON THE POSSIBILITY OF A COURTESY CALL ON THE TAOISEACH.

THE SECRETARY OF STATE NOW ASKS WHETHER A VISIT BY HIM TO DUBLIN ON 5 APRIL WOULD BE SUITABLE FROM OUR POINT OF VIEW. MR. BROOKE WOULD WELCOME THE OPPORTUNITY TO PAY A COURTESY CALL ON THE TAOISEACH. PERHAPS YOU WOULD LET ME KNOW WHETHER THE SECRETARY OF STATE'S SUGGESTION IS ACCEPTABLE TO US.

IT IS UNDERSTOOD ON THE BRITISH SIDE THAT WE WOULD WANT THE NEXT MEETING OF THE CONFERENCE ON 19 APRIL TO BE HELD IN BELFAST GIVEN THAT THE LAST TWO CONFERENCES HAVE BEEN IN DUBLIN AND LONDON. THE SECRETARY OF STATE WOULD HAVE A PROBLEM WITH A MORNING CONFERENCE BECAUSE OF A CABINET IN LONDON AND IS, THEREFORE, SUGGESTING THAT THE MEETING BE HELD IN THE AFTERNOON.

ENDS
/////

1210

/////

Note:
5th is unavailable for the Taoiseach -
conferred to British Ambassador.

23/3

[Signature]

26.3.90

~~Mr. H. Gaffey~~
Dr. M. Hanrahan

SECRET

MEETING OF THE ANGLO-IRISH

INTERGOVERNMENTAL CONFERENCE

LONDON, 19 APRIL 1990

Handwritten notes:
Kerr
Cherry notes 6
+ 7
m.
P.S.



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- Speaking Points
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- Speaking Points
- Background Note

1

MEETING OF ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE,
LONDON, 19 APRIL, 1990

OUTLINE OF ARRANGEMENTS

Thursday 19 April 1990

12.00h Minister for Foreign Affairs, Minister for Justice and party depart on G3 for London, Heathrow.

Passengers: -

Minister for Foreign Affairs

Minister for Justice

Mr. D. Matthews

Mr. D. Gallagher

Garda Commissioner

Mr. D. O'Donovan

Mr. N. Ryan

Ms. A. Anderson

Mr. M. Collins

Ms. C. Bergin

Mr. J. Brosnan is in London and will proceed directly to the Conference. Mr. R. O'Brien will travel by commercial flight early on Thursday morning.

13.00h Arrive Heathrow. Transfer to cars

13.35h Arrive at Embassy
Briefing session

14.45h Depart for NIO

15.00h Tete-a-Tete between Ministers

15. 30h Restricted Security Session

16. 15h Plenary Session

19. 30h Ministers depart Heathrow (by Beechcraft)
(approx)

Details of other departure times and passenger
lists to be decided.

London 19th April 1990

IRISH DELEGATION

1. The Minister for Foreign Affairs
2. The Minister for Justice
3. Ambassador A. O' Rourke
4. Mr. D. Matthews
5. Mr. D. Gallagher
6. Mr. J. Brosnan
7. Garda Commisioner
8. Mr. D. O' Donovan
9. Mr. N. Ryan
10. Mr. P. Collins
11. Mr. R. O' Brien
12. Ms. A. Anderson
13. Mr. M. Collins
14. Mr. M. Gaffey
15. Ms. C. Bergin

London 2nd Mar. 1990

BRITISH DELEGATION

1. Secretary of State Brooke
2. Minister of State Cope
3. Sir K. Bloomfield
4. Sir J. Blelloch
5. Mr. I. Burns
6. Ambassador Fenn
7. Chief Constable Annesley
8. Mr. R. Alston
9. Mr. J. Ledlie
10. Mr. Q. Thomas (possible)
11. Mr. Ted Hallett
12. Mr. T. George (possible)
13. Mr. M. Dodds
14. Mr. Tony Canavan

AGENDA FOR CONFERENCE OF 19 APRIL

Tete-a-tete

**Restricted Security
Session**

Plenary

1. Political Developments
2. McGimpsey Judgement
3. Recent Extradition Judgements (Finucane, Clarke and Carron).
4. Economic/Social Matters
 - (i) Following the Review commitment on widened cross-border economic cooperation: possible participation of other Ministers in discussion of social/economic areas in the Conference.
 - (ii) Joint submission for a cross-border programme under the E. C. Structural Funds.
 - (iii) Proposed Irish paper on implications of 1992 for the whole island of Ireland.
5. Confidence Issues
 - (i) Accompaniment
 - (ii) Stevens Report
 - (iii) Inquests
6. Cross-Border Roads)Ministers may wish
)to raise these
)issues in plenary
)in addition to
7. Petrol Smuggling)discussion, if any,
)at the restricted
)security session.
8. 48 Hour Rule for Cross-Border Shopping
9. Any Other Business.

OVERVIEW NOTE

Political Developments

British Approach

1. The principal British objective at the Conference will be to secure our acquiescence in continuing with the political initiative begun by Mr. Brooke last November. Despite all the discouraging indications in recent weeks, the NIO persists in its optimism that progress is "possible". In particular, they will argue that the pathetic turnout at the demonstrations organised by the DUP to coincide with the Taoiseach's visit to Belfast last week demonstrates that grass-roots Unionism is increasingly moderate in its approach. More fundamentally, they will argue that their experiment is in effect risk-free, since the minimal gestures - as they see them - designed to meet Unionist pre-conditions cannot damage the Agreement; conversely, they will argue, if the experiment fails, the Agreement cannot but be strengthened since it will be unequivocally clear that there is in fact no realistic alternative at this time.

Our Assessment

2. We maintain our view that the British experiment has little chance of success, given the character of present Unionist leadership: put bluntly, Molyneaux has no interest in devolution and Paisley's interest is in a return to majority (Stormont-style) government. Our assessment is widely shared by informed political opinion (including as strong a proponent of devolution as John Alderdice) - and most serious journalists believe in fact that Brooke is being "poorly advised". If anything, prospects have deteriorated further in the past few weeks - Molyneaux, who had no appetite for talks from the outset, seems to have seized on the Supreme Court judgement in the McGimpsey case as a

further pretext to avoid involvement, while Paisley's behaviour in relation to the Taoiseach's attendance at last week's IOD Conference in Belfast is simply not a posture of a man ready to enter into serious negotiations.

Our Role in Talks

3. One of the areas of most ambiguity - most worryingly from our viewpoint - is the part to be played by the Irish Government in any talks that may get underway. The British papers conveyed to us earlier suggested three strands in talks (internal Northern Ireland, North/South and East/West); it was suggested that the first strand would be essentially a matter for the parties themselves under the chairmanship of the Secretary of State.

- "In addition, a mechanism would be needed to ensure that due weight was given to any views and proposals put forward by the Irish Government on the modalities of bringing about devolution in Northern Ireland, insofar as they relate to the interests of the minority community".

The language on the crucial second strand (North/South) was more forthcoming.

- "The second strand in talks - that is to say the question of the relationship between any new Northern Ireland administration and the Irish Government - might be expected to proceed broadly in parallel, though it seems likely that no substantive discussion of the nature of this relationship would take place until initial progress had been made on the first strand: it would involve the Irish Government in direct discussion with Northern Ireland parties, and probably the British Government".

4. The British (Ian Burns) at one stage interpreted "broadly in parallel" as meaning that North-South talks would begin within a week or so of internal Northern discussions. We

would have some doubts with regard to British intentions on this; much more crucially, however, we would have serious doubts about their capacity to deliver, given known Unionist attitudes. It is therefore imperative that we signal at this stage the need for a definitive statement of the Secretary of State's attitude and of Unionist thinking in this regard; we will need to return to the issue following the Secretary of State's meeting with the Unionist leaders.

Risks (in any approach we adopt)

5. Given our judgement that the experiment is probably doomed to failure, the crucial questions for us - not necessarily in this order of importance - are (i) what are the consequences if we effectively place a veto on the British initiative? and (ii) what are the risks for the Agreement if we acquiesce in further moves by the British?
6. There is no doubt that if we inform the British that we are not prepared to countenance any gestures in relation to gaps or the Secretariat in order to meet Unionist pre-conditions, their reaction will be, at best, one of frustration, and, at worst, one of embitterment. However strong our arguments in support of our position, the British will inevitably feel that we withheld support at a crucial time and showed a lack of trust in their assurances about the Agreement. The significance of such a British reaction lies in its implications for the future operation of the Agreement or indeed their attitude towards entering with us into any subsequent - possibly wider - initiative in relation to Northern Ireland.
7. On the other hand, we run a different set of risks if we acquiesce in the concessions proposed by the British. At present, these proposals consist of (a) a "natural gap" in Conference meetings of approximately three months and (b) a formula in relation to the Secretariat according to which Unionists would be allowed claim that, since the Conference was not meeting, the Secretariat did not have a role in

servicing it (as distinct from carrying on the other normal business of the Agreement); additionally Unionists would be made aware that the British Joint Secretary was being re-deployed to service the inter-party talks for their duration.

8. At one level it could be argued that these "gestures" amount to nothing of substance: a "natural gap" is simply attaching a label to the space between Conference meetings; the Secretariat formula does little more than give the Unionist leaders a licence to mislead their followers, if they choose to do so. At the same time, an efficient propaganda machine could exaggerate the significance of a long pre-planned gap between Conference meetings and of the reassignment of the British Joint Secretary during this period. In this regard, it has to be particularly recognised that, for the nationalist community, the symbolism of the Secretariat is as important as the substance - damage to the image is therefore as significant as damage to the reality.

9. Moreover, we are concerned that if talks got underway and subsequently failed, this could lead to a general disillusionment with the political process; the only group to gain from such a development would be the Provisionals. This would be particularly unfortunate given that the Provisionals seem to be under some pressure at present to reconsider their current strategy. Hume in particular believes that the Sinn Féin leadership wishes to edge towards a wider dialogue; his view would seem to have been reinforced to some degree by last week's interviews by Mary Holland with Gerry Adams and Martin McGuinness where they used such (political) language as developing a process and of people having to read between the lines of what they were saying.

Suggested Strategy

10. The overall dilemma for us at the Conference would seem to be: how do we exercise maximum restraint on the British

while arousing minimum resentment (and avoiding possible subsequent and ill-founded public criticism for preventing talks getting underway)? Unless we are to be seen as responsible for a breakdown, Brooke probably has to be allowed offer something to Unionists at his next meeting with them. In an effort to strike a reasonable balance it is suggested therefore that the elements of our response to Brooke might be as follows:

- we maintain our assessment that the prospects for launching talks are poor, and of having them reach a successful conclusion are poorer still;
- we do not believe that such an experiment is risk-free. We are particularly concerned at the possibility of damage to the perception of the Secretariat;
- we can only assume that British optimism is based on comments made by the Unionist leaders in private discussions. It is regrettable that the British have not felt able to share any such insights in more detail with us - it might have helped us to better understand the British position;
- at the same time, we do not wish to inhibit any prospects for progress that might exist. Therefore, we would not wish to object to Brooke exploring and testing the ground further with Unionist leaders along the following lines;
- on the length of the gap, we would feel that eight weeks should be sufficient if adequate notice is given to parties so that informal contact is well-established in advance;
- we continue to be concerned about the formula on the Secretariat, in particular the British proposal to reassign their Joint Secretary to service the inter-party talks; we would certainly not be prepared to leave unrebutted any Unionist claims about the

Secretariat becoming non-operational and we are reassured by the firm British commitment that they would equally refuse to countenance any such claims;

- however, in an effort to be as helpful as possible, we are prepared to say that, if the Unionist leaders make very modest claims to the effect that the gap between Conference meetings inevitably has implications for the work of the Secretariat in servicing the Conference, we would avoid taking direct issue with them on such claims. [It has to be understood of course - and the British have said this all along - that the SDLP is not circumscribed by any understandings between the Governments];

- in exploring further the Unionist pre-conditions, the SDLP pre-conditions (in effect the simultaneous addressing of the North/South and internal Northern sets of relationships) must in no way be overlooked. We will also obviously require assurances as to the Unionists' understanding of and approach to the question of the Government's role in talks; we would assume that the Secretary of State will explore this issue fully in his next meeting with them;

- following the Secretary of State's further contact with Unionist leaders and the SDLP, the prospects for progress should be comprehensively and realistically reviewed between us.

McGimpsey Judgement

11. There is a suggestion that the British will raise the possibility of the issue of a public restatement by both Governments of Article 1 of the Agreement. We might take the line that it would be inappropriate to single out one aspect of a binding international agreement and to restate it in this way. Both Governments have after all in last May's review reaffirmed their full agreement to all the provisions of the Agreement and to the shared understandings

and purposes set out both in the Preamble and in the Agreement itself.

12. There could of course be no question of a statement by us which would go beyond or seek to interpret the text of Article 1. The text is a finely balanced one, which was agreed on after very long, difficult and complex negotiations. Moreover, the reality is that this issue is very much an artificially manufactured one, designed in significant part to drive a wedge between the two Governments.

Recent Extradition Judgements

13. A separate briefing note is being prepared on this issue by the Department of Justice. The essential point which we might make is - as the Taoiseach said in media interviews in Belfast - that recent cases were dealt with under the 1965 legislation, which allows wide use of the claim of political offence; however, future cases should come under the 1987 legislation which considerably restricts the political offence claim.

Economic/Social Matters

- (i) Follow-up to Review commitment on widened cross-border economic cooperation.

The specific issues here are: which economic topics lend themselves to early discussion at the Conference and what is the most suitable timetable and format for participation of other Ministers in the work of the Conference? We would tend to feel that Agriculture and Tourism are the topics which could most usefully be discussed in the near future; the matter might be remitted for further discussion in the Secretariat, with Ministerial guidance obviously being sought in any decision-making.

(ii) Cross-Border Programme under EC Structural Funds

The British side may express some unease at what they perceive as a lack of enthusiasm on our part for securing EC funding for a Cross-Border programme. We might refer to our other priorities (gas interconnector and shuttle), while at the same time reassuring the British that we are actively working on the development of a Cross-Border programme.

(iii) Irish Paper on 1992 Implications

The British side will probably press us on when they can expect to receive an advance copy of this publication [copies are in fact available but we are reluctant to hand them over at this stage, in advance of any decision on a publication date]. The Minister might undertake to endeavour to provide a copy to Mr. Brooke within a week or so.

Confidence Issues

(i) Accompaniment

A working group was set up some months ago by both governments with a view to making progress on the implementation of accompaniment, particularly in sensitive areas, and the provision of satisfactory statistics on a regular basis in order to enable progress to be assessed politically from time to time. The Secretariat working group has however made very little progress, due to difficulties on the British side. We expect to hear about these difficulties from the Chief Constable at the Conference. [In this regard, we are concerned at British suggestions that this essentially political issue be taken in the restricted rather than the plenary session. The issue clearly needs to be given political impetus at this stage and, in our view, is most appropriately dealt with in Plenary].

(ii) Stevens Report

We anticipate hearing an interim report from the Chief Constable on the Stevens Inquiry Report. We should urge the fullest possible action subsequent to the Report in view of the fact that collusion is likely to continue as a major problem in Northern Ireland. This is an issue which we will, of course, be returning to in a comprehensive way at a future Conference.

(iii) Inquests

We will express our disappointment at the recent House of Lords decision in the McKerr case which means that security force personnel cannot be compelled to give evidence at Inquests in respect of killings in which they were involved; the general question of the long delay in holding inquests might also be raised. We might also raise briefly the Seamus Duffy plastic bullet case, and the recent British move to prevent the families of the three people killed at Gibraltar from pursuing their claims for compensation in the Northern Ireland courts.

Cross-Border Roads

14. The meeting can be expected to note the work being undertaken under the direction of the Commissioner and the Chief Constable to review road closures. We will be urging that this task be undertaken as expeditiously as possible.

Petrol Smuggling

15. We expect to hear helpful news from the Secretary of State which should open the way for legislative action in both jurisdictions against North/South petrol smuggling.

48 Hour Rule

16. Mr. Brooke is likely to express the hope that, if the Court

of Justice affirms the opinion of Advocate General against the 48 hour rule, the Irish authorities will not seek alternative ways of achieving the same effect. The Minister might make a non-committal response, undertaking to convey Mr. Brooke's comments to the Minister for Finance.

Anglo-Irish Division

18 April, 1990

Political Developments

SPEAKING POINTS

Our Assessment

- We have been reflecting very seriously on these issues since our last discussions with you and weighing carefully everything you said to us.
- Overall, our general assessment as to the attitude of Unionist leaders and the prospects for success of talks has changed very little. I made our views very clear at our last meeting and I will not repeat them in detail again.
- We were of course encouraged by the fact that the turn-out for Paisley's demonstration against the Taoiseach's attendance at the IOD Conference was so pathetically small. But, listening to the ranting and raving of Paisley on that occasion, who could honestly believe that this was a man ready to do serious business with anyone - let alone be prepared to sit around a table with representatives of the Irish Government in the near future.
- We were struck too by the pessimism of someone like John Alderdice - who is of course one of those most committed to devolution - at his recent annual conference. He seems to see little or no prospect of inter-party talks leading anywhere in the foreseeable future.
- We have been trying to take fairly wide soundings of political opinion in Northern Ireland to see how prospects are currently assessed. I have to say, in all honesty, that those who retain any optimism are very much in the minority.

Acknowledgement of British position

- I know and sympathise with your sense of frustration at the present situation and your feeling that the risks of inaction outweigh the risks of action. I know too your view that there is little or nothing to be lost by trying, particularly since you feel that the Agreement is fully safeguarded and will not be exposed to any degree of risk.

- If we shared your view that there was no degree of risk, obviously we would not be as concerned as we are about this initiative. I know I have said it before but I have to say it again - our greatest fear is that what both governments have so painstakingly built together over the last four years might be damaged by an untimely or ill-fated experiment. We cannot but be conscious of the single-minded Unionist endeavour over these past years to breach the Agreement: it would be naive to suppose that this does not remain at the top of their agenda.

Unionist Pre-Conditions

- Because the Unionists from the outset have made unreasonable demands, there is always the temptation for us to rush to accommodation simply because they have become slightly less unreasonable. I think it would be fundamentally mistaken - and I know you agree fully with me on this - to allow the Unionists to feel that we can gradually be persuaded to give in to their demands on the various pre-conditions.

- As we know, their first pre-condition - an acknowledgement that the Agreement has been superseded - has been met by statements both by the Taoiseach and by yourself.

- Their second demand - a gap in Conference meetings - is a tricky one. The duration of a gap has obviously a great

deal to do with the perception as to whether or not it is a "natural" gap. A month is the normal gap - although I accept that at times and for particular reasons there have been longer ones - but anything significantly longer than that begins to give rise to questions.

- I feel that a three month gap must strain credibility as a "natural" gap. Moreover, I doubt that three months is actually necessary. I seem to recall Peter Robinson suggesting that a comparatively short time would be sufficient as long as "talks did not start from a cold place". It seems to me that if parties had advance notice, so that informal preliminary contacts could take place, a gap of eight weeks maximum would be sufficient.
- Our agreement about sticking to the date of the Conference scheduled for the end of the gap, come what may, would of course be fundamental to the whole arrangement.
- The third pre-condition, in relation to the Secretariat, is by far the most difficult and I will say a few words about our concerns now and come back to them again at a later stage.
- I know that at our last discussion you carefully delimited the proposed "gesture" in relation to the Secretariat. I accept that the Unionists will not be allowed make any claims about the Agreement being non-operational - that you as well as ourselves would immediately rebut any such suggestion.
- However, any gesture at all in relation to the Secretariat is extremely difficult for us. The Secretariat is of enormous symbolic as well as substantive importance to the nationalist community - it is a core element of the Agreement. You must understand that, in this perspective,

damage to the image of the Secretariat is as real as damage to the substance.

- What you are proposing in relation to the Secretariat may not amount to a great deal in practice - but what worries us is what it might amount to in the hands of skilled propagandists. I do not need to spell it out to you - you know how very little can be dressed up to appear something of substance, and how spurious claims can appear to be substantiated by governmental silence.

Boost to Provisionals

- I have expressed before our worries about a failed political initiative giving a propaganda boost to the Provisionals. I know your analysis would be somewhat different. But I think we need to proceed very, very carefully in this area at present. I was struck by the language used by Adams and McGuinness in their television interview with Mary Holland last weekend - there is undoubtedly some rethinking going on; the last thing we want to do at this time is to discourage this or to give a boost to the militarist wing.

Role of the Government in talks

- In the three papers your side made available to us earlier, you gave some attention to the role for the Irish Government in talks. This is an area which we need to address in much more detail. In particular, what I would very much want to know is the attitude of Molyneaux and Paisley to our role. I accept fully that you would have no difficulty in seeing us involved at a very early stage - within a week is what your officials have said to us - but I would be anxious for an assurance that the Unionist leaders shared this approach. I would hope that this would be an area you might explore more fully with them in your next

contact so that we could take the matter further between us when we next meet.

Wish to be helpful

- I have said enough today and at our earlier discussions for you to appreciate our concerns and, indeed, to put it frankly, our scepticism.
- However, at the same time, I want it to be clear that the last thing we would want to do is to inhibit any genuine prospect for progress that might exist. I know you have invested time and energy and hope in this initiative and, if there is a chance of it succeeding, then we will certainly not want to undermine it. You obviously want to be able to say something to the Unionist leaders and indeed to the SDLP when you next meet them. With this in mind, I will try to put our position as helpfully as I can.
- On the second and third Unionist pre-conditions, you know our views. We are not particularly comfortable with an eight week gap, but we will be prepared to live with it if you think it will help advance matters.
- On the Secretariat, again I cannot say that we are happy with the proposal to redeploy your Joint Secretary. However, I take it that he would continue to be available when necessary in the Secretariat and that of course the rest of your team in the Secretariat would function exactly as normal. In these circumstances, we are not raising an objection to your proposal.
- As to what Unionists might say in relation to the Secretariat, I have tried - despite all the difficulties I have outlined - to see what might be feasible. As we both have acknowledged, certain claims would require an immediate

rebuttal on both our parts. However, I am prepared to say to you that, if the Unionist leaders make very modest claims to the effect that a gap between Conference meetings inevitably has implications for the work of the Secretariat in servicing the Conference, we would avoid taking direct issue with them on such claims. [It has to be understood of course - and you indeed have said this all along - that the SDLP is not circumscribed by any understandings between the Governments].

- I think that this should give you a sufficient basis to continue your explorations with the Unionist leaders and to test the seriousness of their intentions.

SDLP Position

- In the anxiety to test the Unionist willingness to make progress, it is extremely important that the SDLP pre-conditions are not forgotten about. I need hardly remind you of their insistence on the need to address relationships within Northern Ireland and the North/South relationship at the same time - in fact, they would far prefer that the North/South relationship was addressed in advance. This of course is related to the point I made earlier about the need for clarification as to the Irish government role in talks. It is a point to which we should return more fully in our next talks.

Future meeting

- Your next contacts with the Unionist leaders and the SDLP will obviously be very important; I would suggest that, in the light of these discussions, we should get together - perhaps at the next Conference - for as comprehensive and realistic a discussion as possible as to where we go from there.

Mc Gimpsey Judgment

Speaking Points

1. We believe that the controversy over the Mc Gimpsey judgment and Articles 2 and 3 is very much a manufactured one. What is most important from our joint points of view is that the decision of the Court successfully sees off a threat which was designed to bring the Agreement to an end. And, as the Taoiseach said in his Ard Fheis speech, the Constitution can never 'be invoked by anyone to justify the use of force to achieve the purposes of Articles 2 and 3'. He added that 'we trenchantly reject any idea of achieving unity by force or imposing the jurisdiction of this State' on the North. It is perhaps significant that the Unionists have chosen to ignore these most helpful remarks as well as similar sentiments in the Supreme Court judgment.

2. I think you know our view about possible changes to Articles 2 and 3 of the Constitution. We do not believe that these should be changed except in some entirely new circumstances and in the context of new political arrangements on this island which may emerge at some stage in the future; indeed it could well be counterproductive to attempt to do otherwise.

3. I am a little disturbed that the Mc Gimpsey judgment continues to be projected as something on which a difference exists or should exist between the two Governments. Our position, and your position if I understand it correctly in particular from Dr Mawhinney's statement in the adjournment debate in the House of Commons in March, is that the decision of the Supreme Court does not affect the position regarding Article I of the Agreement. Indeed Dr Mawhinney indicated that the judgment was not a 'surprise'. Both Governments therefore remain committed to this Article of the Agreement as well as to all its other Articles. We have said this clearly in the Review document last May. It is my view that we should leave it at that and not allow

ourselves to be unduly affected by those who seem intent on using manufactured issues of this kind.

Note; If the British press for a reiteration of Article I of the Agreement in the context of the Mc Gimpsey judgment the Minister might say;

- We do not believe that it would be proper to single out one particular Article of a binding Agreement for particular attention or emphasis. We both signed and lodged the Agreement with the UN. This is the most positive possible reflection of its status and binding nature. Let us leave it at that.

Anglo Irish Division

18 April 1990

MCGIMPSEY CASE

Background Note

Christopher and Michael McGimpsey sought a declaration from the courts that the Anglo-Irish Agreement was unconstitutional principally on the ground that Article 1 of the Agreement was incompatible with Articles 2 and 3 of the Constitution. They failed in both the High Court and the Supreme Court. The essence of the Supreme Court's judgment was that;

[1] Article 2 of the Constitution consists of a declaration of the extent of the national territory as a claim of legal right;

[2] Article 3 prohibits, pending the reintegration of the national territory, the enactment of laws applicable to Northern Ireland;

[3] The Anglo-Irish Agreement is not inconsistent with the Constitution and in particular Articles 2, 3 and 29 [devotion to the ideal of peace and friendly co-operation amongst nations founded on international justice and morality; and peaceful settlement of disputes;]

[4] The Agreement was not concluded in disregard of the interests of the Unionist Community in Northern Ireland.

In replying to a PQ in the Dail on 13 March 1990 on the judgment of the Supreme Court, the Taoiseach referred to §5.7 of the Forum report; "The particular structure of political unity which the Forum would wish to see established in a unitary State, achieved by agreement and consent, embracing the whole island of Ireland and providing irrevocable guarantees for the protection and preservation of both the Nationalist and Unionist identities." The Taoiseach went on to say that the requirements for achieving this objective would include "a total cessation of violence...; a constructive dialogue with Unionists in Northern Ireland; an accommodation of the two traditions, their aspirations and their loyalties; and an all round constitutional conference to formulate new structures." In the course of replies to supplementary questions, the Taoiseach said that the Government had no plan to amend Articles 2 and 3 of the Constitution.

The Government successfully opposed an Independent members' motion in the Seanad on 13 and 21 March calling for the amendment of these Articles of the Constitution.

In the course of his reply to an adjournment debate on the House of Commons on this judgment, Mr Mawhinny said that both Governments had spelt out in the Agreement that the status of Northern Ireland cannot be changed save by the freely given consent of the people of the Province. The fact that Articles 2 and 3 constituted a legal claim was something the Unionists have always known and they did not need the Supreme Court judgment to spell this out. Mr Mawhinny also said that it was the Irish Government's duty to explain their claim in light of the Helsinki Final Act. [Note: a preliminary reading of the terms of the relevant provisions of the Final Act would appear to show that our interpretation of Articles 2 and 3 is consistent with the Final Act.]

Anglo-Irish Section

April 1990

Likewise they will refrain from any manifestation of force for the purpose of inducing another participating State to renounce the full exercise of its sovereign rights. Likewise they will also refrain in their mutual relations from any act of reprisal by force.

No such threat or use of force will be employed as a means of settling disputes, or questions likely to give rise to disputes, between them.

III. *Inviolability of frontiers*

The participating States regard as inviolable all one another's frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers.

Accordingly, they will also refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of any participating State.

IV. *Territorial integrity of States*

The participating States will respect the territorial integrity of each of the participating States.

Accordingly, they will refrain from any action inconsistent with the purposes and principles of the Charter of the United Nations against the territorial integrity, political independence or the unity of any participating State, and in particular from any such action constituting a threat or use of force.

The participating States will likewise refrain from making each other's territory the object of military occupation or other direct or indirect measures of force in contravention of international law, or the object of acquisition by means of such measures or the threat of them. No such occupation or acquisition will be recognized as legal.

V. *Peaceful settlement of disputes*

The participating States will settle disputes among them by peaceful means in such a manner as not to endanger international peace and security, and justice.

They will endeavour in good faith and a spirit of co-operation to reach a rapid and equitable solution on the basis of international law.

For this purpose they will use such means as negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice including any settlement procedure agreed to in advance of disputes to which they are parties.

In the event of failure to reach a solution by any of the above peaceful means, the parties to a dispute will continue to seek a mutually agreed way to settle the dispute peacefully.

[Mr. Ken Maginnis]

appearance's sake, perhaps they can at least accept that it is meaningless. When I was first sent to this House in 1983, the honest to God decent people who sent me here thought that this was a place where they would get justice. Enoch Powell always insisted that this Parliament was the final arbiter, but Harold McCusker died believing otherwise. On behalf of the people of Northern Ireland I ask the Minister to tell us who is right. Are we to continue to be sold out for political expediency or will the Government now recognise, in the light of the McGimpsey judgment, their obligation to justice and the people I represent?

1.10 am

Mr. Ivor Stanbrook (Orpington): With the leave of my hon. Friends the Member for Fermanagh and South Tyrone (Mr. Maginnis) and the Minister I wish to say a few words about the subject of this debate.

The constitution of the Irish Republic suffers from all the defects of written constitutions in that it embodies national ideals, vague aspirations and noble objectives, but has to respect certain major legislation which it inherited from this country. It also comes within the common law tradition. As a result, when its Supreme Court interprets the constitution, it provides many opportunities for obscurity and tendentious interpretation to cover almost any decision that the court may see fit to take, even those which are purely politically motivated. That is the crux of the problem that we have faced in recent years in relation to the actions of the courts in the Republic.

The McGimpsey case illustrates the ambiguity. The court treated the Single European Act as law within the terms of article 40 of the constitution. It was treated as law because the court accepted that a derogation of the sovereignty of the Irish Republic was all right because it was properly done and was, after all, a treaty. However, the Anglo-Irish agreement, which is also supposed to be an internationally binding treaty and must be respected by all sovereign states party to it, is not law for this purpose. Why? After studying the constitution, the court concluded that provision for the Anglo-Irish agreement came out of the section of the constitution that allowed for the mere ordering of peaceful international relations. That was the basis of authority for the Irish Government to conclude that that agreement with the United Kingdom was an international treaty, but it did not reach the status of law for the purpose of the constitution. That ambiguity is reflected in the constitution in articles 2 and 3. It is difficult to construe the meanings of those two articles, but the message is repeated in article 1 of the Anglo-Irish agreement, which states that there will be "no change in the status of Northern Ireland."

My right hon. and hon. Friends, the leaders of the Government, assigned that agreement with those very words and have paraded it as if, at last, the Irish Republic has accepted that Northern Ireland is a part of the United Kingdom. It has done nothing of the sort. The phrase that there will be

"no change in the status of Northern Ireland" makes one ask, what is its status? Under Irish law, the status of Northern Ireland is that it is a part of Ireland, not the United Kingdom. Under British law its status is that it is a part of the United Kingdom. That ambiguity has never been resolved and, politically, the British Government

have asked us to accept that the meaning should be that attributed to it by British courts; whereas we all know that the meaning attributed to it by Irish courts, such as in this case, is quite different.

Due to that ambiguity and the many times that we have allowed Irish courts to get away with—and forgiven them for—the errors which, according to our jurisprudence, they continually make, we have enabled them to block off all possibility in law of the extradition of terrorists from the Irish Republic. Under the most recent judgment, a finding of fact was made which will be instanced in future to show the impossibility of extraditing anyone to the United Kingdom because they may be beaten up when they arrive in United Kingdom jurisdiction.

Previously there was a finding, allowed and confirmed by the courts, by the Attorney-General to say that in the case of Father Ryan no extradition could take place because there was no chance of his getting a fair trial. That ambiguity is at the heart of the Anglo-Irish Agreement. It is a tragic mistake that has been confirmed by the recent experience that we have had to endure.

1.15 am

The Parliamentary Under-Secretary of State for Northern Ireland (Dr. Brian Mawhinney): I do not have too much time to respond to this interesting debate. I congratulate the hon. Member for Fermanagh and South Tyrone (Mr. Maginnis) on obtaining such an early Adjournment debate on this important subject. I also congratulate him on his speech. He asked me to place a copy of the Supreme Court judgment in the Library, and I shall see that this is done.

The hon. Gentleman indicated his belief that the recent judgment of the Irish Supreme Court in some sense substantially changed Northern Ireland's position and that, perhaps, Unionists had never before understood article 2 of the Irish constitution to be a legal claim on the north.

I cannot accept that argument. I fully understand the sense of dismay felt by many, including Unionists, at the clear affirmation in the judgment that articles 2 and 3 constitute a legal claim to Northern Ireland. But Unionists have always known that the claim was legal and territorial. They did not need the Irish Supreme Court to spell it out. When the hon. Gentleman and I were growing up in the Province, Unionists were not referring to article 2 as some sort of political aspiration. If they had believed that, they would have been much less agitated. It was precisely because they believed that the article did lay legal claim to the Province that Unionists were so upset and offended—as, indeed, were others in the United Kingdom. In fact, the hon. Gentleman may remember the report from an all-party committee of the Dail, chaired by George Colley, a Fianna Fail deputy if I remember correctly, which reported in 1967 and which proposed a number of Irish constitutional amendments, including the desirability of converting articles 2 and 3 into a political aspiration using the words:

"The Irish nation hereby proclaims its firm will"—and so on.

After all, a constitutional document, almost by definition, has to be seen and understood in a legal sense. Most people accepted this. While it may come as a shock to many that this understanding should have been confirmed in such stark terms in 1990, it cannot be said to be a surprise.

The hon. Gentleman postulated that the judgment changed something fundamental in our relationship with the Irish Republic in general and rendered meaningless article 1 of the Anglo-Irish Agreement in particular. I shall deal with each claim in turn.

It is not my responsibility to defend the Irish constitution. It is for Irish Ministers to consider and if they feel it necessary to explain this territorial claim in light of that country's signature of the Helsinki Final Act. Our two countries have differing historical perceptions and constitutional frameworks, and as we are entitled to ours, so they are to theirs. It is also for Irish Ministers to relate article 2 of their constitution to their signing of the Anglo-Irish Agreement.

Rev. Ian Paisley (Antrim, North) rose—

Dr. Mawhinney: I cannot give way, as I have little time left.

That notwithstanding, both Governments value the Anglo-Irish Agreement, its aims and its *modus operandi*. Whatever the constitutional facts, in practice it has proved to be an important treaty.

I cannot accept that the hon. Gentleman is seriously asking the House to believe that the Supreme Court judgment actually makes any difference in reality to the United Kingdom's unwritten constitution or Northern Ireland's safe inclusion within it. As far as we are concerned, Northern Ireland is part of the United Kingdom and is clearly so in international law. He said that it does not matter what the Government believe, but in the United Kingdom—that includes Northern Ireland—what Parliament and the Government believe is all important.

Article 1 of the Anglo-Irish Agreement, which is an internationally binding treaty, is not and cannot be affected by a judgment of the Irish court. In signing the Agreement, the Irish and British Governments recognised the reality of Northern Ireland's position within the United Kingdom, whatever the the different *de jure* positions.

I say that because the nub of article 1 is not a definition of the status of Northern Ireland but says that that status cannot be changed save by the freely given consent of the people of the Province. Willingness to contemplate change

carries with it, *de facto*, recognition of the position from which change might occur. I hasten to add that the British Government's view is that there will be no majority for change in the foreseeable future. In other words, the declaration on status in the Anglo-Irish agreement is simply aligned with reality. The reality is that the status of Northern Ireland is British.

Lest the hon. Member thinks that I theorise, let me point out to him that we are having this debate in the House of Commons, not the Dail. It is in this forum that decisions affecting Northern Ireland are taken—as is affirmed by article 2b of the Anglo-Irish Agreement. And the court judgment makes no difference to that reality either. I accept that the Irish Government have not abandoned any aspiration to unity. They have accepted, however, that this aspiration can only be realised on the basis of the consent of the people of Northern Ireland. This position holds, irrespective of the Irish constitution and the Supreme Court's interpretation of it.

Let me summarise. The people of Northern Ireland and the United Kingdom have lived with this territorial claim for over 50 years. The United Kingdom Government have never accepted it, do not accept it and have said so, as I do again tonight. We regard it as having no validity in international law. It has never had any practical effect on Northern Ireland's position as part of the United Kingdom.

Nor do I lend credence to the view that the court judgment will serve to sustain the Provisional IRA in its campaign of violence. PIRA does not recognise the legitimacy of the Government, institutions or constitution of the Republic. It cannot therefore be argued that it will be influenced by some legal interpretation of a part of that constitution.

I wish to make one final point. In light of what I have said, the Government believe that it would be wrong to suggest that this judgment should in any way affect prospects for political progress in Northern Ireland. As the talks offered are without precondition, Unionists may legitimately—

The motion having been made after Ten o'clock and the debate having continued for half an hour, MADAM DEPUTY SPEAKER adjourned the House without Question put, pursuant to the Standing Order.

Adjourned at twenty-two minutes past One o'clock.

EXTRADITION/CRIMINAL LAW (JURISDICTION) ACT

Speaking Note

FINUCANE, CLARKE AND CARRON JUDGMENTS

There are a number of points to be made in relation to the judgments in these three cases and the reaction they have prompted.

(a) General

I acknowledge that the decisions were not what might have been hoped for. But I also feel obliged to point out that those judgments were delivered by our Supreme Court whose decisions, as the highest appellate court under our system, demand respect on the part of the Government.

(b) Political Offence Exception

On the question of the implications of the judgements for the political offence exception, there is of course the important consideration that the Extradition (European Convention on the Suppression of Terrorism) Act 1987 did not apply in these cases. The position in regard to the other cases now pending before the High Court is that the warrants in each of those cases were issued after the coming into effect of the 1987 Act on 1 December 1987 and account will therefore have to be taken of the provisions of that Act when the issue of whether the political offence exception is to be applied is considered.

The effect of the Act is to withdraw the political offence exception from all offences covered by Article 1 of the Convention (e.g. offences involving the use of explosives and

automatic firearms where such use endangers persons, the taking of hostages or serious false imprisonment).

The Act also provides for a court to decide that offences covered by Article 2 of the Convention are not to be regarded as political offences where the Court, having given due consideration to any particularly serious aspects of the offence concerned, is of opinion that the offence cannot properly be regarded as a political offence. The offences covered for this purpose are serious offences involving an act of violence against the life, physical integrity or liberty of a person or involving an act against property if that act created a collective danger for persons.

Those provisions mean in effect that Ireland is one of a small number of countries (8 out of 22) which has accepted the provisions of Article 1 of the Convention in full without recourse to a reservation under Article 13. That should also to be seen against a background where other countries following that course do not extradite their own nationals. Furthermore, it means that we gave effect in part to Article 2 of the Convention which is purely optional in character.

Leaving aside for a moment the question of whether a case comes under the 1987 Act, it also needs to be stressed that what the Supreme Court has decided is simply not to follow its earlier decision in the Russell case. That leaves open the possibility that the courts may refuse the political offence exception on the basis of the lines of authority developed in the McGlinchy

and Shannon cases on the one hand and in the Quinn case on the other.

(c) New Legislation (if suggested by the British side)

Such a course now would be premature. The 1987 Act has yet to be tested, we need to see how it operates in practice. There are also, as I have pointed out, other lines of authority previously established by the courts here which can be explored depending on the facts of a particular case.

(d) Finucane and Clarke Cases: Article 40 proceedings (probability of ill-treatment)

Despite what you may feel about the decision in the Finucane and Clarke cases in regard to the probability of their being assaulted if returned, the reality is that the considerations which influenced the Supreme Court to intervene concerned matters which were largely within your control. It is accepted I think that prisoners were assaulted in the immediate aftermath of the Maze escape; it is also accepted that prison officers did engage in a conspiracy to cover up that fact. And, finally, it is accepted that it has not been possible to identify those involved with a view to disciplining them.

You will also recall that difficulties were anticipated in the Finucane case in advance of the High Court proceedings because, among other things, of the decision in the Pettigrew case and the attitude being taken by your prison authorities in relation to issues that were being raised in the proceedings here in that regard. You were urged at that stage to consider proceedings

under the Criminal Law (Jurisdiction) Act but declined to take that course.

(e) Criminal Law (Jurisdiction) Act 1976

We should also remember that we have already agreed that the problem of fugitive offenders should be tackled by all legal means at our disposal. Extradition is one such approach. The other, of course, is the extra-territorial prosecution route provided by the Criminal Law (Jurisdiction) Act. It has been decided that prosecutions should be brought under the 1976 Act in appropriate cases. Therefore should there be cases which legal advice indicates may not result in successful extradition applications it will be possible to consider proceedings under the 1976 Act. As you will be aware, the record of prosecutions taken under that Act is quite impressive.

(f) Working Group 2 Meeting (if proposed by the British side)

We would have no objection to Working Group 2 meeting to discuss the effect of the Supreme Court decisions and any issues arising therefrom.

SPECIALITY

I have used the occasion of the last two meetings of the Conference to raise with you the question of your enacting reciprocal provisions on speciality corresponding to those contained in section 3 of our 1987 Extradition Amendment Act.

By this stage I hope that you have had an opportunity to consider the issue. Do you have anything to report?

[IN EVENT OF NO INFORMATION OR NEGATIVE RESPONSE]

I must stress that this is a matter of some concern to us. It is now over 2 years since the 1987 Amendment Act became law and no progress towards putting the necessary legislation in place seems to have been made on your side. The fact that no order has been made under section 3 of the 1987 Act has already been the subject of comment and is potentially embarrassing to the Government. I would urge you to give the matter serious consideration in the light of what I have just said and would like to return to it at our next meeting. [If a meeting of Working Group 2 has been agreed in the context of the Finucane et al judgments, you might also suggest that the matter be discussed there].

POINT OF DEPARTURE (if raised by the British Side)

As I have indicated before the issue of the point of departure is being kept under review. This is not a pressing issue which we need to discuss now as the point of departure has already been specified in the cases presently pending before the courts. There is no means by which that question can be re-opened for the purposes of those cases. There is no other case immediately pending so I don't think that we should rehearse the discussion we have already had on a number of occasions already on this issue. We know your position and, as I have said, we are keeping the matter under review.

Review Commitment on Widened Economic Co-operation

Speaking Points

- I agree it is time that we made a serious attempt to give substance to the commitment in the Review Document to expand our work in the economic and social area.
- We will obviously want to ensure that any involvement of other Ministers in the work of the Conference is productive - a good use of their time as well as ours. It makes sense therefore to choose sectors where there is a mutual interest in expanding co-operation; I would see merit in starting with a sector where there is already a good deal of co-operation as well as substantive issues on the agenda for future action.
- Agriculture strikes me as a particularly suitable sector with which we might begin, perhaps to be followed shortly thereafter by a discussion on Tourism. We might try to concretise arrangements along these lines through the Secretariat.
- We will obviously need to carefully structure the arrangements for attendance of other Ministers at the Conference. I understand the idea has been floated of having them join us for lunch - I would be open to this or indeed to any other arrangement which provided a natural point of entry and departure from Conference meetings.

Review Commitment on Widened
Economic Co-operation

Briefing Note

1. The Review Document gave considerable emphasis to the enhancement of co-operation in the economic and social sectors; the question of how best to follow up on this Review commitment has been under discussion for some time.
2. We see presentational as well as substantive benefits in the attendance of specialist Ministers at future Conference meetings; it conveys a useful signal about the vitality of the Conference - that it is covering new ground and becoming fully comprehensive in its approach. While much of the substantive work between specialist Departments could probably be done equally well outside the Conference, the public impact is considerably increased if the relevant Ministers are actually present at the Conference.
3. There is a connection between this sub-item and the following one (joint submission for a cross-border programme under EC Structural Funds) in that the Commission is insisting on a cross-border programme being backed by strong institutional arrangements for overseeing cross-border economic co-operation. The Northern side and ourselves would want to convince the Commission that an adequate institutional framework - i.e. the Inter-governmental Conference - already exists and can be developed further as necessary; attendance by Economic Ministers at future Conference meetings clearly strengthens that argument.
4. The immediate issues before this week's Conference are whether Economic Ministers should attend the next meeting of the Conference, if so, which Ministers, and what should be the format for their attendance? Ministers could either decide these issues at the Conference or remit them

for decision through Secretariat channels. Provided the pressure of other Conference business permits - and of course subject to the availability of Ministers - we would be inclined to favour the presence of other Ministers (either Agriculture or Tourism would seem to be particularly suitable) as of the next Conference.

W4480

Cross-Border Programme

Speaking Points

- I have of course seen the latest Commission document on the Cross-Border Programme (Interreg) and the report of the meeting which our officials had with the Commission on 6 April.
- It is obviously important that we continue to co-ordinate our positions very closely in relation to this Initiative. For our part, we are now asking the various Government Departments to flesh out their thinking about the possible content of a joint programme in further detail. We shall be back in touch with you when that exercise is a little more advanced. In any event, I note that the Commission is anxious to schedule a further joint meeting with our officials around the end of May, possibly with a further joint document to be submitted by us in advance.
- [If Brooke is in any way critical of a perceived lack of enthusiasm on our part: No, of course there is no lack of interest or enthusiasm. As you know, however, we are anxious to secure Structural Fund support for our other priorities also - the gas interconnector, for example, and the air and sea shuttle. Ideally, we would hope to advance on all fronts in parallel - this should prove easier now that the situation in relation to the interconnector seems to have been clarified.]
- [If Brooke wants to put a figure on the overall size of the Cross-Border programme: I think it would be premature at this stage to try to put a price tag on the programme. I gather that, at the recent meeting, the Commission hinted at a total figure of around 84 MECU (£65m) for North and South; however, it is of course up to us how much we want to bid for. When each side has developed its thinking a little further on possible programme content, we should get together and try to work out realistic overall figures.]

Cross-Border Programme under EC Structural Funds

Briefing Note

1. The Commission is currently preparing a package of Community Initiatives to be funded from the residual Structural Funds; one of these - known as "Interreg" - is specifically designed to assist cross-border measures. The total Community budget for Interreg is 700 MECU (about £540m); the Commission has tentatively indicated that it would expect to see about £65m. of this amount allocated to Ireland, North and South.

2. Our priorities for assistance from the residual Structural Funds have been identified as (i) the gas interconnector with Britain and (ii) improved air and sea access services; the Interreg Programme is seen as our third priority. In these circumstances, we have been extremely cautious in our dealings with the Commission on the Interreg Programme. Our attitude has been that until the position became clearer in relation to funding of our first and second priorities, it would be premature to advance very far down the road in relation to our third priority.

3. To date we have (i) submitted an exploratory paper to the EC Commission jointly with the Northern authorities last February and (ii) as one of a series of information meetings with the Commission on the various draft Community initiatives, we met - again jointly with the Northern side - with Commission officials on 6 April to discuss Commission thinking on the Interreg Programme.

4. There is a distinct difference in emphasis between ourselves and the Northern side in our approach to the Interreg Programme. The Northern side appears unequivocally enthusiastic about the Programme, and anticipates getting most - if not all - of its allocation from the residual Structural Funds via Interreg. Given the competing priorities on our side, we have been much more reserved in our discussions about the Programme. Not surprisingly in the circumstances, the Northern side has expressed "disappointment" with the approach adopted on our side at the recent joint meeting with the Commission.
5. The Northern authorities have conveyed this sense of disappointment to the SDLP. In the middle of last week, Minister Cope met with SDLP representatives and asked them to "use what influence they have with Dublin" to engender a more positive attitude towards Interreg. The SDLP - which of course attaches considerable importance to enhanced cross-border economic co-operation - was subsequently in touch with us on the matter; we assured them that there was no lack of enthusiasm on our part; it was simply a question of tactics and timing to ensure that all our priorities are taken fully into account by the Commission.
6. The situation has now been clarified to some extent, in that Commission funding for the interconnector seems assured. It is anticipated that the full package of Community initiatives will be prepared by around mid-May; once the entire picture has become clear, it will be easier for us to plan our approach to individual Initiatives. On present calculations, we are likely to have a six month period - probably July to December - to finalise details of an Interreg programme to be submitted to the Commission.

7. At this week's Conference, we might reassure the British that we are actively working on the development of a cross-border programme, while avoiding any specific commitment on timetable or amounts.

W4479

Paper on Implications of 1992

Speaking Notes

- Given the very short timeframe for the preparation of this Study, we felt that the best approach was to commission a team of consultants to contribute individual chapters and to provide an overview by the Department of Finance.

- The overall Study will consist of eight chapters; the various chapters will of course be clearly presented as the work of consultants and not bearing in any sense a government imprimatur. The Overview chapter will be simply a factual presentation of the characteristics of the two economies. The Study will be launched as a contribution to the general debate about 1992 and its implications, and not to be interpreted as the Irish government's prescription for what should happen.

- I know you are anxious to see an advance copy and I will try to facilitate that as soon as possible. All going smoothly, I would hope to be in a position to transmit a copy to you in a week or so. The launching date for the Study has not yet been decided - we will obviously let you know as soon as a decision is reached.

Paper on Implications of 1992 for the
Island of Ireland

Briefing Note

on the implications of
1992 for North and South

1. The proposal for the preparation of this paper was made by the Taoiseach in his Dáil statement on Anglo-Irish Relations at the end of November. The paper was written in the first few months of this year: it consists of an Overview chapter prepared by the Department of Finance and a series of seven individual chapters (Agriculture, Industry and Trade, Financial Services, Tourism, Transport, Environment and Energy, Human Resources) written by various consultants. The Study amounts to about 200 pages overall and it is proposed to publish it as a paperback book entitled "1992 - A Shared Challenge" (Subtitle: "Implications of the Single European Market for Economic Co-operation on the Island of Ireland"). The draft has been finalised since early April, however a date for launching the Study has not yet been decided.
2. The Northern authorities are most anxious to be given an advance copy of the Study as soon as possible. Their preferred scenario would be for us to hand over a copy in sufficient time for them to comment - and possibly seek amendments - before the text went to print. For our part, we have from the outset made clear that this is our initiative; we would be very reluctant at this stage to begin an exercise where they would submit a multitude of amendments (as they almost undoubtedly would, if invited to comment) and we would then be faced with the difficult task of deciding which should or should not be taken on board. (Apart from substantive difficulties, this would certainly be a time consuming exercise, with implications for the launching date of the book).
4. Given the concerns of the Northern side about the content of the Study, it will be helpful to offer some reassurance at

the Conference. An important point is of course that the various chapters are the responsibility of the individual consultants and do not necessarily reflect governmental views. (The overview chapter prepared by the Department of Finance is simply a factual description of the economies, North and South). The point can also be made that the consultants were specifically encouraged to take full account of the Northern Ireland perspective in approaching the various topics.

5. If pressed on when we might make a copy of the Study available to the Northern side, the Minister might indicate that he would hope to do this within a week or so.

Confidence Issues
Speaking Notes

i). Accompaniment

Note: This issue may also arise at the Restricted Security Session

Depending on what the Secretary of State/Chief Constable have to say, the Minister might make the following comments;

1. I have noted what you have said. I am not on this occasion going to rehearse the importance that we attach to this issue. You know this already and you know also how crucial we view the commitment to progress on accompaniment.

2. It is now six months since we agreed on 18 October last to set up the Joint Working Group charged with making early recommendations on the implementation of the principle of accompaniment. Good progress was made at the meeting between our officials which was held in January but I have to say that we are disappointed that it has taken up to now to hear further from you on this matter. We had expected that following the January meeting of officials there would be a further early meeting at which we could agree on a listing of sensitive areas and other details relevant to the monitoring exercise but the several requests that we made that this meeting should be held did not meet with a fruitful response. Frankly, delays of this nature seriously strain credibility. While I appreciate that difficulties can arise in working things through, I think that we now need to give some further political impetus to the work that our officials are undertaking on accompaniment to ensure that we do not run into the sands and that progress is made as expeditiously as possible on this vital political issue.

3. Incidentally, I noticed that the RUC recently secured quite a substantial increase in their budget. We hope that some of this increased funding will be committed to the area of

accompaniment.

4. (In the light of what has been said I hope that our officials can now meet again as soon as possible to carry the matter forward and to report on progress to a meeting of the Conference in the not too distant future).

ii). Stevens Report

Note: This issue may also arise at the Restricted Security Session

It is understood that the other side may give a briefing on the Stevens Inquiry in response to which the Minister, depending on the content of the briefing, might make the following comments;

1. I note that the Stevens Inquiry Report is with the Chief Constable at the moment and that he has said that both he and Mr Stevens will make statements on the Report as soon as possible. Can you at this stage give us an indication of the timing that is involved here and how you would envisage the public presentation of the Inquiry's findings?.

2. We ourselves will be under considerable pressure to respond publicly to the Inquiry findings and we will, of course, have to do so. It is important therefore that we should have the fullest possible information -(and I welcome the information that you have given us here today)- on the findings of the Inquiry and the measures that you are going to take to address the problem. We will, of course, be reflecting on what you have said and may, if need be, seek further information or clarification through the Secretariat. Let me say that we welcome whatever improved measures that you can take to deal with this problem and to ease the widespread concerns that exist on this issue. It is vital that you should take the fullest possible action and be seen to do so.

3. We will, of course, have an opportunity at a future Conference to discuss the Stevens Report, and related issues, in

a full and comprehensive manner.

iii). Inquests

1. As you know Inquests in Northern Ireland are in effect the only form of inquiry into killings by members of the security forces. To many these Inquests are rendered almost meaningless because those members of the security forces responsible for killings cannot be compelled to appear as witnesses. If we have so far refrained from public comment on the decision of the House of Lords in the Mc Kerr case, this should not conceal our disappointment at this decision which we see as having very negative consequences for the administration of justice in the eyes of the Nationalist community.

2. There are many cases involving killings of persons by members of the security forces in Northern Ireland. The concern - and it is a real one - is that there is no public forum in which those responsible can be called to account, even in a limited way, for their actions. This is deeply frustrating and contributes significantly to the bitterness and sense of alienation on the part of the bereaved. There is also the further problem that the holding of some of these Inquests has been subject to excessive delay - in some cases Inquests have still not been held into killings that occurred some eight years ago. Now that the Mc Kerr decision has been reached by the House of Lords, however disappointing it may be, we would hope that outstanding Inquests can be held as promptly as possible.

3. One such outstanding Inquest is that of Seamus Duffy who was killed last August by a plastic bullet and where the DPP has recently decided that no charges should be brought against the member of the security forces involved. As the Duffy family see it, the inability of the Inquest to question those involved in the killing, the fact that there is no further elaboration of the DPP's decision not to prosecute and the fact that the investigation and deliberations of the Independent Commission for Police Complaints remain secret does nothing to reassure them that the circumstances of their son's killing has been

satisfactorily investigated.

5. Finally, the whole question of fairness in the administration of justice in Northern Ireland will inevitably come up in the context of the civil case before the Courts in Northern Ireland which has been brought by the relatives of the three persons killed in Gibraltar. You have advised us of the legal step you have taken which will have the effect of denying the families the opportunity to raise the case before the Courts in Northern Ireland. We have no doubt that this move will be interpreted by many as indicating that there are certain actions by the security forces for which they or others who may be responsible will never be called upon to account in any real way. It is simply not realistic, as a response, to say that the families can pursue their case in Gibraltar. On the grounds of legal costs alone - it would seem that they would not be entitled to legal aid in Gibraltar - this would be prohibitive.

Anglo Irish Division

18 April 1990

CONFIDENTIAL

Background Note - Accompaniment

In an attempt to go some way towards meeting our profound and long-standing concerns regarding the UDR, the Hillsborough Communique of 15 November 1985 contained a commitment by the British Government to the policy of ensuring as rapidly as possible that, save in the most exceptional circumstances, there is a police presence in all operations which involve direct contact with the community. This commitment was explicitly repeated in the Review Document of May 1989.

The most recent attempt to try to accelerate implementation of this long-standing commitment was made at the Conference meeting of 18 October 1989. The communique issued after that Conference "agreed that a working group of officials should make early recommendations, in accordance with the Review, on further effective development of the policy of ensuring as rapidly as possible that, save in the most exceptional circumstances, there should be a police presence in all operations which involve direct contact between the Armed Forces and the community".

The last meeting of the Conference on 2 March, took note of the progress report of the working-group which reflected agreement by the British side to put in place, as and from 1 January, a comprehensive system for monitoring levels of accompaniment at RUC Sub-Divisional level on a monthly basis (note: there are 39 RUC sub-divisions in Northern Ireland).

Comment:

Up until that time, the British had consistently refused to provide statistics on accompaniment on an on-going basis. [In fact, since the signing of the Agreement, we had only managed (after some considerable effort) to extract three statistical snapshot pictures of the rate of accompaniment for short periods of time, and these were broken down as between three broad geographical areas of Northern Ireland.]

The agreement to establish an on-going comprehensive monitoring exercise based on 39 separate areas of Northern Ireland marked a significant breakthrough in two important respects -viz-

- It would allow for a coherent on-going analysis of progress on the implementation of the policy.
- The existence of this system would oblige RUC sub-divisional Commanders to pay increased and continuing attention to the factor of accompaniment in the tasking of security force patrols in their district.

It was clear from the progress report of the working-group that further work remained to be done on two further elements -viz-

- The listing of sensitive areas: While there is broad agreement on the definition of what constitutes a sensitive nationalist area, we have yet to see the areas defined as sensitive in each sub-division.
- How best to make available to the Conference the results of the monitoring exercise: The Secretary of State gave an undertaking at the Conference of 18 October (reflected in the Joint Record of that meeting) "to share with the Irish side the results of the monitoring of accompaniment in areas to be agreed between the two sides". In discussions in the working-group, it became clear that the British side are concerned at the possible presentational aspects of the exercise, and are particularly anxious that a monthly score-sheet should not become a regular occasion for public controversy.

Despite repeated requests in the Secretariat, we have been unable to get the British side to agree to schedule a meeting to iron out these remaining problems.

We have been told that the Chief Constable is prepared to make a substantial presentation on this question in the restricted security session. These developments raise two major concerns - viz-

- This issue is very much a political one. By attempting to situate the discussion in the restricted security session, the British may be attempting to move the debate away from the political arena and into the more "technical" context of the restricted security sessions of the Conference.
- The British may be attempting to wriggle out of their earlier commitments contained in the Progress Report of the working-group by blocking discussion of the outstanding elements which have yet to be agreed.

Brendan McMahon
Anglo/Irish Division
17 April 1990

CONFIDENTIAL

BACKGROUND NOTE - STEVENS INQUIRY

Terms of Reference

On 14 September 1989 the RUC Chief Constable announced the appointment of Mr John Stevens, Deputy Chief Constable of Cambridgeshire, to investigate

- the theft of a document listing IRA suspects from Dunmurry RUC station;
- the report by BBC Chris Moore that he had been shown classified RUC material by the UFF in justification of their murder of Laughlinn Maginn
- the theft of a document listing 9 IRA suspects from Ballykinlar UDR base.

The scope of the inquiry, however, was widened to include the rash of subsequent leaks, and on 28 September the number of staff working on the inquiry was increased from 15 to 19.

While the specific terms of reference were never revealed publicly, we were informed in the Secretariat that, in addition to the matters already mentioned, Stevens had been asked to report on "any other matters relevant to this area of inquiry". It was suggested to us that while Stevens had not been asked to make recommendations, this formulation would lead him to do so, rather than leave it simply at passing relevant information to the DPP for criminal prosecutions. It would, however, we were told, be a matter for the Chief Constable to decide what to do about such recommendations.

Course of the Inquiry

From the outset, the Inquiry has been surrounded with controversy. The more notable cases have been:

- An apparent avalanche of leaks of security material involving at least twenty reports of leaked material covering some 500 IRA suspects, including a number living in this jurisdiction.
- Within a month of its establishment, the inquiry team arrested 28 members of the UDR in a dramatic dawn raid. Eleven of these were subsequently charged. [These arrests and the relatively minor nature of the charges were to lead to criticisms that the inquiry was focussing unfairly on the UDR and left the UDR men exposed to possible attack, with the result that some of the men arrested had to be re-housed subsequently for security reasons.]

- In October, the Irish News made allegations about the existence of a group within the RUC called the Inner Circle dedicated to the eradication of republican terrorism and the overthrow of the Anglo-Irish Agreement.
- There was further controversy last January when the London Independent reported that loyalists had received advance warning of another dramatic swoop by the Stevens team, this time on a number of known loyalist activists.
- There were also a number of clumsy publicity attempts by loyalist paramilitaries to embarrass the Inquiry and to implicate the RUC in the leaking of material.
- On 10 January, a fire destroyed the offices of the Stevens team followed by a flurry of statements by both the Chief Constable and Stevens scotching rumours of a serious split between the Inquiry and rank and file members of the RUC.
- There have been a number of media reports highlighting the point that no RUC officers have been charged with offences in connection with the inquiry, although a considerable number of the leaked documents came from police sources.

Arrests, Charges and Convictions:

Apart from the UDR, the main target of the Stevens inquiry has been the UDA. One of those arrested and charged, UDA intelligence officer Brian Nelson, appears to have been an army informer for some years and his arrest has caused consternation in loyalist paramilitary circles. It now appears that the entire leadership of the UDA has been arrested as a result of the inquiry.

Overall, we understand from the Secretariat that 59 people have been charged so far as a result of the Stevens inquiry. Our own monitoring of media reports record that from some eighty arrests, 47 people have been charged. Of these, 11 were members of the UDR and one a member of the British army. The bulk of the remainder appear to be members of the UDA/UFF along with a number of members of the UVF and the Red Hand Commandos. No member of the RUC has been arrested or charged with any offence in connection with the inquiry, though it has been suggested that a number of officers were questioned.

Outcome of investigation

The Stevens team has now completed its investigations, and has sent its report to the RUC Chief Constable. It is not clear when, or how much, the Chief Constable will report to the Secretary of State, or how the matter is to be handled presentationally, though the Chief Constable in his press conference on 5 April indicated that both himself and Stevens will ultimately make a statement on the matter. At the last Conference meeting of 2 March, Minister Cope expressed the view that not all of the report would be published, but that he did

expect that a large part of the information and recommendations would be published. His comments were endorsed by the Chief Constable who expected that a significant summary of the report could be published.

While no details on the report have yet emerged officially, an article in the London Times of 31 March suggested that Stevens would, inter alia, report that in a society where security force personnel are largely drawn from one side of the community and most of the violence is coming from the other, it is probably impossible to eradicate collusion. The report then apparently goes on to argue, however, that it can be kept to a minimum by strict controls on handling intelligence and stiff penalties for abuse. The report apparently recommends the creation of a new auditing and accounting regime for intelligence material.

Comment:

If this is an accurate reflection of Mr Stevens' findings, it is unlikely to prove satisfactory from our point of view or from the point of view of nationalists in Northern Ireland. If the London Times has reported Stevens accurately regarding the impossibility of completely eradicating collusion in the prevailing situation in Northern Ireland, then this would appear to be a problem which needs to be addressed on an on-going basis with specially designed measures -eg: a special anti-collusion squad coupled with periodic external monitoring of the problem and of the efficacy of measures established to address that problem.

Overall however, while we can welcome the tightening of procedures, the Minister has argued strongly in Conference that the question of collusion goes beyond disciplinary or procedural matters but lies at the heart of the problem of the relationship between the security forces and the nationalist community in Northern Ireland. The communiqué issued after the Conference of 18 October 1989 placed these concerns on record and indicated that following the completion of the Stevens inquiry, it was the intention of the Irish side to return to their proposal for a comprehensive inquiry into all issues affecting the security forces (in particular the UDR) and the community.

Brendan McMahon
Anglo-Irish Section
17 April 1990

CONFIDENTIAL

INQUESTS IN NORTHERN IRELAND
The McKerr Case

Inquests - the legal position

Inquests in Northern Ireland are governed by the Coroners Act (Northern Ireland) 1959 and the Coroners Rules (NI) drawn up under Section 36(1)(B) of the Act and differ in three important respects from procedures in Britain -viz-

First, unlike the position in England and Wales (or for that matter Gibraltar), though analogous to the provisions of Irish law, the scope of an inquest is limited to determining who the deceased person was and how, when and where he came to his death. The Coroners Rules specifically state that neither the coroner nor the jury shall express any opinion on questions of criminal or civil liability.

Second, while the Coroners Act provides that a coroner may issue a summons for any witness whom he thinks necessary to attend; the Coroners Rules provide that where a person is suspected of causing the death, or has been charged or is likely to be charged with an offence relating to the death, he shall not be compelled to give evidence. [This rule is at variance with the practice in both Britain and in this jurisdiction.]

Third, it is also the practice of coroners in Northern Ireland, though there is no rule to this effect, not to open any inquest until they have been informed by the prosecuting authorities that no charge is to be made in respect of the killing or until any charges have been disposed of. This practice has meant that in some instances the inquest has opened long after the disputed death or deaths.

The net effect of these provisions has been that inquests in Northern Ireland have in certain important cases failed to meet the general public expectation of a speedy and complete investigation of the circumstances of disputed killings.

Background to the McKerr case:

The shooting dead of three unarmed members of the IRA, Sean Burns, Gervaise McKerr and Eugene Toman, near Lurgan Co. Armagh on 11 November 1982 was the first of three incidents at the end of that year which gave rise to allegations of an RUC shoot-to-kill policy, and evidence of a subsequent cover-up by the police was to lead ultimately to the Stalker/Sampson Inquiry. (The other two incidents were the shooting dead of 17-year-old Michael Justin Tighe and of INLA members Roderick Carroll and Seamus Grew).

The Inquests in these cases have been surrounded with controversy from the very beginning -viz-

- In 1984 the then Armagh coroner, Garry Curran, adjourned the inquests into the deaths both of Grew and Carroll and Burns, McKerr and Toman, because of "unexplained delays by the Director of Public Prosecutions". He subsequently resigned citing "grave irregularities" in police evidence.
- He was replaced as Armagh coroner by his deputy, James Rogers, who subsequently withdrew from presiding over the inquests on the grounds of "professional commitments".
- The Fermanagh and Omagh coroner, Rainey Hanna, was appointed in his stead but owing to ill health was replaced in February 1988 by James Elliot, the Belfast Coroner.
- The inquest into the deaths of the three men finally opened in Craigavon on 14 November 1988, six years after the killings and over four years after the acquittal of the three policemen accused of their murder.

Craigavon Inquest

At the Craigavon inquest the Coroner, Mr James Elliot, informed the jury that the three RUC officers suspected of causing the deaths of the three men did not wish to give evidence at the inquest and that he proposed to admit in evidence written statements made by them. This was challenged on the opening day of the inquest by the solicitor acting for the widow of Gervaise McKerr, [Mr Pat Finucane, subsequently murdered in controversial circumstances by loyalist paramilitaries], who sought leave for a judicial review of the Coroner's decision.

This was granted by Mr Justice Carswell in Belfast High Court on 16 November 1988, and after an initial delay, the Coroner agreed to adjourn the inquest pending the outcome of the review.

Mr Justice Carswell, however, in his judgment delivered on 22 November 1988 refused to make a declaration that the Coroners rules were ultra vires. This decision, however, was in turn referred to the Court of Appeal where it was overturned in a judgment delivered by the Lord Chief Justice, Brian Hutton, on 20 December 1988, which stated that the coroners rules "constituted a major departure from the general law relating to the compellability of witnesses in coroners' courts." The Court of Appeal also made an order prohibiting the coroner from proceeding with the current inquest and requiring a fresh inquest to be instituted in which the three RUC officers suspected of causing the deaths would be compellable witnesses (although once sworn, it would open to them to claim privilege against self-incrimination, as provided under the 1959 Act).

House of Lords Judgement:

On 8 March 1990 the House of Lords in a unanimous verdict upheld the appeal by the British government against the ruling of the

Northern Ireland Court of Appeal. Their decision has implications for a total of 24 controversial deaths involving the security forces, some dating back to 1982, which have not yet come to inquest. The decision has been condemned by Séamus Mallon as "possibly the worst judicial decision that has been made in the past 20 years".

Comment

Despite the limited scope of inquests in Northern Ireland, they are often the only form of public inquiry into the circumstances of controversial killings involving the security forces and so assume a more than ordinary significance. Apart from the Craigavon inquest, the ruling of the House of Lords will have implications for the inquests into the three other 1982 shoot-to-kill cases (Tighe, Grew and Carroll) as well as eighteen others - all of them highly controversial - which have not yet reached inquest stage and where security force evidence would be relevant i.e.: nine Loughall deaths (including the innocent bystander, Anthony Hughes); Aidan McAnespie at Aughnacloy; Martin and Gerard Harte and Brian Mullen at Drumnakilly; Seamus Duffy killed by a plastic bullet last August; Brian Robinson, the UVF member shot on the Crumlin Road in September 1989; and most recently, the three people shot dead outside the bookies shop on the Whiterock Road in West Belfast.

Brendan McMahon
Anglo-Irish Division
17 April 1990

CONFIDENTIAL

Background Note

Plastic Bullets - Killing of Seamus Duffy

Background:

Following the killing in the early hours of 9 August, the Government expressed their deep concern and an immediate and detailed report on the incident was requested through the Secretariat.

The initial reaction from the British side, coupled with the RUC statement issued on the matter, betrayed considerable uncertainty as to how Duffy had been killed; where he had been shot; and as to who had shot him. We were informed that the Army had fired 4 rounds and the RUC 96 rounds during the disturbances in the New Lodge that night. Subsequent contact with the British side of the Secretariat has yielded little further information other than indications that the security forces may have a video showing Duffy involved in rioting (though it is unclear whether the same video shows him rioting at the time he was shot); and that the postmortem revealed that he had drink taken at the time of his death.

The Chief Constable appointed Detective Chief Superintendent Caskey as investigating officer and referred the investigation for supervision to the Independent Commission for Police Complaints (ICPC), which appointed its Vice Chairman, Brian Garrett, to supervise the investigation.

That investigation has now been completed and the ICPC have certified that the investigation has been properly conducted. The file was referred to the Director of Public Prosecutions who recently announced that no prosecutions would be instituted in respect of the death of Seamus Duffy.

Comments by the Duffy family:

The parents of Seamus Duffy and one of his uncles called to the Department on 9 April. They were not surprised at the decision of the DPP as they had little faith in any investigation into the RUC conducted by the RUC. [They commented that they had learnt of the DPP's decision on the BBC evening news and were bitter that the RUC had not had the good grace to at least inform them in advance of the outcome of the investigation.]

They now find themselves in the position that the RUC have conducted an investigation (which is confidential) and the DPP has made a decision not to prosecute (also confidential). They

felt that in light of the House of Lords Judgement on the McKerr Inquest, that any Inquest into their son's death will shed no light on the circumstances of his death as those members of the security forces involved can not be compelled to attend the Inquest.

In the circumstances they intend to pursue the matter by

- instituting a civil case against the Chief Constable.
- if possible, instituting a private criminal prosecution.
[NOTE: This is not a very promising course of action as under existing provisions, in order to preclude malicious or spurious private criminal prosecutions, the DPP is empowered to take over any such private prosecution if he considers this appropriate, and to terminate the prosecution.]

Their ultimate intention is to take the case to Strasbourg and in this, they will have the support of the United Campaign Against Plastic Bullets (UCAPB). [NOTE: An earlier case involving the killing of Brian Stewart failed in Strasbourg in 1984, but neither the Duffy's nor the UCAPB appear to have been deterred by this precedent.]

Follow-up in the Secretariat:

We have asked a number of questions in the Secretariat regarding the outcome of this case -viz-

- Did the investigation reach a conclusion on (a) where precisely the incident took place; (b) the circumstances immediately preceding the firing of the fatal shot; and (c) which member of the security forces actually fired the fatal shot?
- Was there a fault with the plastic bullet gun used in the incident and is it the case that new equipment is likely to be issued in the near future?
- Whether the ICPC offered any comments on either the incident itself, or on the overall question of the control over the use of plastic bullets by members of the security forces.
- Whether there will be disciplinary proceedings against any RUC officers.
- When the Inquest is likely to be held.
- When will compensation be paid in this case.
- Whether, based on this investigation, the security forces have drawn any useful lessons regarding the procedures governing the use of plastic bullets.

Comment:

Overall, the Duffy case again raises two important issues

- The absence of any transparent means by which the public can be satisfied that members of the security forces can be held accountable for their actions.
- Plastic bullets and the controls exercised over their use in Northern Ireland.

Brendan McMahon
Anglo/Irish Division
17 April 1990

CONFIDENTIAL

Information Note - Gibraltar

The families of the Gibraltar Three have been pursuing a civil case against the Ministry of Defence through the Northern Ireland Courts.

On 26 March, their Solicitor, Paddy McGrory, was served with certificate signed by the Foreign Secretary under the terms of Section 40 [3] [a] of the Crown Proceedings Act, which states:

A certificate of the Secretary of State to the effect that any alleged liability of the Crown arises otherwise than in respect of His Majesty's Government in the United Kingdom shall, for the purpose of this Act be conclusive as to the matter so certified.

The purpose of the Certificate in this case is to choke off legal action by the families in either Northern Ireland or Britain and to situate any further legal action by the families in Gibraltar.

At first glance, there would appear to be grounds for disputing this certificate which denies liability on the part of Her Majesty's Government in either Britain or Northern Ireland -viz-

- The Gibraltar Inquest showed that the officer commanding the SAS group (Officer O) did not actually travel to Gibraltar, but briefed the SAS team in the United Kingdom prior to their departure.
- The Gibraltar Inquest also showed that the Chief of the Gibraltar Police signed over authority for the operation to the SAS team leader immediately prior to the shooting, and this authority was signed back to the Chief of Police by the SAS team leader immediately after the shooting.

While it is McGrory's intention to contest the certificate in the Northern Ireland Courts, it is unclear whether a certificate of this nature can be the subject of judicial review. If he fails to obtain a judicial review, the case would have to be pursued through the Gibraltar Courts where under existing legal aid provisions, the families would appear to be precluded from receiving legal aid.

While we received advance notice of this move from the British Ambassador, and while McGrory himself has been officially informed by the Crown Solicitor's Office, this latest development has yet to reach the public domain.

Comment:

When the matter reaches the public domain, it is likely to be perceived by nationalists as a cynical attempt by the British Government to frustrate legal action in the case. Once again, the nationalist perception is likely to be that members of the security forces are being shielded by the British Government and will not be held accountable for their actions. A possible consequence, may well be to increase pressure on the Government to accede to the request of the families for the Government to initiate an inter-state case against Britain.

Brendan McMahon
Anglo/Irish Division
17 April 1990

Cross Border Roads
Speaking Points

Note; This issue may also be discussed at the Restricted Session.

1. I understand that the Commissioner and the Chief Constable met last week and discussed this matter as we asked them to do at our last Conference meeting and that they have asked that an operational review of cross border crossings be undertaken by the responsible Chief Superintendents. The results of this review are to be submitted to the Commissioner and the Chief Constable as soon as possible.

2. At this stage I would simply urge that the work be undertaken as expeditiously as possible. We would very much wish to be able to agree that some - even a small number- of the many closed crossings should be re-opened. This would serve the double purpose of easing the very serious disruption that some of these closings have caused and also, I believe, limiting and weakening the campaign to reopen these roads which has a significant Provo involvement.

Anglo Irish Division
18 April 1990

CROSS BORDER ROADS
BACKGROUND NOTE

General

There are 291 recognised border crossing points, including all major and minor public roads, private roads and some tracks across the border not capable of being used by vehicles.

101 crossing points have been officially closed off by the Northern Ireland security forces. In many instances closed crossings are negotiable on foot or by farm machinery or have been reopened unofficially by local people. The latter are subsequently reclosed by the security forces but there have been no new closures in recent years.

Details on a County basis are as follows:

County	Total No. of Crossings	No of Blocked Crossings
Donegal	93	44
Leitrim	10	10
Cavan	21	9
Monaghan	134	41
Louth	33	1

Level of representations on a county basis:

Donegal: Many of the closed crossings are in remote mountain areas and there has been relatively little pressure from public representatives in Co Donegal to have roads reopened apart from some minor roads which have inconvenienced local farmers rather than the population at large.

(Strabane District Council recently passed a resolution calling

for more road closures on the Donegal/Tyrene border in the wake of recent IRA bomb attacks on Strabane and Sion Mills and the murder of Olven Kilpatrick in Castlederg. The Chairman of Strabane District Council, Mr. Edward Turner (OUP), called to the Department on 26 January, 1990, to discuss the security situation on the Donegal/Tyrene border and in particular Castlederg where there have been 20 murders since 1969.)

Leitrim: The six passable crossings in Co Leitrim are all closed with the result that people wishing to travel to the North from Leitrim must travel through either Blacklion in Co Cavan or via Co. Donegal. This can involve a 26 mile detour to a destination only one mile away. The Tanaiste received a deputation from Leitrim Co Council in 1988 which pressed very strongly for the reopening of at least one road - Cashel Bridge near Kiltyclogher. The Gardai have indicated that they there are at present no crossings open between Leitrim and Fermanagh and there are constant representations and PQs from public representatives. Cashel Bridge was the subject of a specific approach in December, 1985 during which it became clear that the Gardai opposed its reopening as much as the British. Dooard or County Bridge on the road between Rosinver and Garrison is also raised as a candidate for reopening but the Gardai share the British reluctance to reopen it. Tourism interests in Fermanagh and Leitrim have pressed strongly for the reopening of the Dooard crossing, because it affords the easiest access to the Fermanagh/Leitrim lake district from the south west.

The other four crossings are not negotiable by vehicle in any event.

Cavan: Aghalane bridge on the National Primary Route N3 between Belturbet and Enniskillen has generated more representations in favour of reopening than any other closed crossing. The pressure to reopen this road continues to grow now that there is the prospect of reopening the Ballinamore/ Ballyconnell canal. The Gardai are opposed on the grounds that it would facilitate Republican attacks in the North and Loyalist attacks in the

South. (The bridge was blown up by terrorists in 1972 and Loyalists were responsible for an explosion in Belturbet in 1973).

Monaghan: There has been a lot of pressure to reopen Lacky Bridge near Clones and recent attempts by the local community to reopen the bridge led to three arrests. It was closed in June 1980 and is now open to pedestrian traffic only. The British Army removed a permanent checkpoint from the other side of the bridge in July, 1989. The British have cited security grounds in their refusal to reopen and have made it clear that they will not reconsider this decision in the absence of a Garda/Army checkpoint on our side. Both the Gardai and the Army are opposed in principle to static checkpoints which they consider to be a wasteful use of resources.

In recent months the "North Monaghan South Tyrone Community Association" has reopened a number of minor roads between Emyvale and Clogher, Co. Tyrone. The British have indicated that they do not, at the moment, plan to reclose one of these crossings which is located at Drumfurrer (BCP 108). There are two other reopened crossings in that area Greagh (BCP 106) and McMeel's which are still open, and which according to Fr. Dawson the PP of Clogher, Co. Tyrone, are extremely popular with the local community who have had to endure twenty years of major inconvenience as a result of the closures. The reopened roads are very popular with the local community and they are hoping that they will be left open. As a result of our raising the problems faced by this particular area in the Secretariat, the British Army civilian representative has met with Fr. Dawson to discuss the situation. Fr. Dawson was pleased with the meeting and very appreciative of our part in bringing it about.

An attempt to reopen Ballagh Bridge (BCP 98) on 13 January, 1990, led to an incident involving the RUC and some elements of the crowd and allegations that a plastic bullet fired by the RUC injured a youth (Kevin Connolly) from Augher, Co. Tyrone who was on the southern side of the bridge at the time. We have raised

the incident in the Secretariat. The Gardai's reports have not turned up conclusive evidence that Connolly's injuries were caused by a plastic bullet.

Some sources have suggested that the RUC have no guidelines on how to deal with unofficial attempts to reopen border crossings and hence the different approaches from area to area. The matter may also be complicated by the fact that the Emergency Provisions Act does not make it an offence for people to build roads around closed crossings, whereas it is an offence to interfere with or try to remove obstacles placed on a roadway by the security forces. The Secretary of State has indicated that this issue is being examined with a view to introducing an amendment to the EPA.

Repairs are almost complete on Moy Bridge, on the main Dublin-Derry road, which was damaged by an IRA bomb in July 1989, and was the subject of a further bomb attack (defused) in September 1989.

Louth: Co. Louth has been least affected by road closures. Despite the attempted reopening of a minor road near Kilnasaggart on 19 November which led to the arrests of eight people there has been very little agitation to have this road reopened.

Department's Policy

The Department generally favours the reopening of cross border roads (security considerations permitting) because of the hardship and inconvenience caused to communities on both sides of the border and the cross-border economic and social activity which has been choked off because of the closures.

Cases Deserving of Special Pleading

The roads which have been the subject of the heaviest lobbying to the Minister and the Department and which have been raised most frequently through the Secretariat are as follows:

1. Aghalane Bridge on National Primary Route N3 between Belturbet and Enniskillen;
2. Cashel Bridge, near Kiltyclogher, Co Leitrim;
3. Dooard or County Bridge between Rosinver in Co Leitrim and Garrison, Co Fermanagh;
4. Lucky Bridge, near Clones, Co Monaghan.

Economic and Social Considerations

Aghalane Bridge merits priority treatment given that its closure obstructs a National Primary route (which would probably take over 700 cars a day according to the Gardai) and cuts the town of Belturbet off from its natural hinterland in Co. Fermanagh. The reopening of the Ballinamore/Ballyconnell canal would fail to realise its maximum potential if this road were to remain closed.

County Leitrim must also be regarded as a priority given that there is no crossing open in the entire county and the undoubtedly negative effects which the closed border has had on the local economy. As mentioned, a detour of up to 26 miles can be necessary to travel between two places a mile apart.

The town of Clones which is almost completely encircled by the border has suffered serious economic disruption and any measure which would help to alleviate those problems, such as the reopening of Lucky Bridge, deserve sympathetic consideration. See supplemental note on Clones in the Annex.

Security Considerations

Prior to the last Conference in March the Garda, while generally against reopening closed roads, indicated that they would not see any major security problem if the following four crossings were re-opened [though in one case this would be conditional on increased manpower]: No 191 at Kiltyclogher which would provide a crossing from Co Leitrim into Co Fermanagh; No 235 at Meenagolan which would provide a crossing from Co Donegal into Co Tyrone; No

238 at Carnhill which would provide a crossing from Co Donegal to Co Tyrone; and No 312 at Mullagood which would provide a crossing from Co Donegal to Co Fermanagh.

The March Conference asked the Chief Constable and the Commissioner to look at the possibility of reopening some cross border roads. This work has begun and is continuing.

J Farrell
Anglo-Irish Section

February 1990.

Closed Cross-Border Roads in the Clones Area.

The following Border Crossing Points in the Clones area are closed:

BCP 124	Aghafin, on most direct route from Clones to Roslea.	Cratered	Reopened unofficially on 12.11.89 and re-closed on 14.04.90. <u>Plastic Bullets were fired and one man from Co. Fermanagh was arrested at this checkpoint on 13.4.90.</u>
BCP 127	Benson's Bridge	Caissoned	Re-opened unofficially on 8.4.90.
BCP 128	Priest's Bridge	Caissoned	Attempted re-opening on 8.4.90.
BCP 129	Lucky Bridge	Caissoned	reopened unofficially on 10.12.89 and again on 8.4.90.
BCP 137	Lisanroe No. 2 (aka Clonatty Br)	Caissoned 12/12/88	
BCP 140	Munnilly Bridge	Blown up	
BCP 171	Aghalane Bridge.	Blown up	The Taoiseach recently said that he supports the re-opening of this bridge.

The Northern Ireland Security forces have indicated that they will move in to remove a makeshift bridge at Lackey Bridge and to reclose the unofficially re-opened crossings at Priest's Bridge and Benson's Bridge on 19 and 20 April. They re-closed two other unofficially re-opened crossings at Kilanny and Drumfurrer (near Roslea) on 18 April. The re-closure of the Drumfurrer crossing is expected to cause a very negative reaction locally.

Arguments in favour of re-opening closed crossings in the Clones area:

Many arguments in favour of reopening closed crossings in the Clones area have been made by public representatives over the years and these can be summarised as follows:

- Since the roads around Clones were closed the town, already at a competitive disadvantage with nearby towns in Northern Ireland, has declined dramatically as an economic and social centre as a result of the choking off of its Northern hinterland;
- The majority of local people on both sides of the border are overwhelmingly in favour of reopening these crossings;
- The local community feels that the closures have had no discernible impact on the IRA's activities and they achieve nothing that other appropriate security measures could achieve;
- The negative impact which the continued closures are having on the attitudes of the local community and the manner in which the IRA/Sinn Fein is exploiting the situation;

The Gardai in a recent assessment (Report dated 26 February, 1990) have indicated that for security and policing reasons they would not be in favour of re-opening any roads in the Clones area, but they would not object to the re-opening of one crossing in Co. Leitrim (Kiltyclogher) and three crossings in Co. Donegal: Meenagolan, Carnhill and Mullagood.

Petrol Smuggling
Speaking Note

(There has been an impasse on this issue but it has been recently indicated to us that the Secretary of State will respond at the Conference meeting and that his response will be 'helpful and something that we can live with'.)

Depending on what the Secretary of State has to say the Minister might say;

I am grateful for these comments which are very constructive and helpful and should, I hope, allow the matter finally to be concluded in a satisfactory way. I appreciate that there will be a certain delay on your side in bringing in the necessary legislation. For our part, I hope that we will be in a position to move on the legislative front in the coming weeks.

I think that our officials should meet again as required to carry the matter forward.

PETROL SMUGGLING

1. The Minister raised this issue at the last meeting of the Conference and stressed the urgency we attached to an agreement to ban the import of petrol in commercial quantities from Northern Ireland. The urgency derives from the fact that if we are to take action this year we would need to insert the necessary enabling provision into the Finance Bill at the Committee stage at the latest which is expected to be in late April.

2. Three meetings at official level have taken place since the last meeting of the Conference. Two of them were between the customs authorities on either side of the border and one was a meeting in the Secretariat attended on our side by officials from the Departments of Foreign Affairs and Finance and from the Revenue Commissioners.

3. At the meeting in the Secretariat, the British side reiterated their willingness to implement the scheme we have proposed to introduce a dye or marker into petrol sold in commercial quantities in Northern Ireland. However, they also said that in order to be able to obtain the agreement of other Government Departments, they would need to have an agreed estimate of the volume of smuggled petrol. For their part they have estimated the amount in the order of 2 million litres per annum. Our estimate is in the region of 16 to 26 million litres per annum. We have encountered serious and to our mind inexplicable difficulties in trying to persuade the British side to agree to our figure or one close to it. They rely on an industry estimate [which as we have found out for ourselves cannot be relied on for objectivity] while our figure is based on observation and intelligence by Customs and Excise.

4. A number of associated issues have been cleared up in the course of the discussions at official level. These include the non-application of the 48 hour rule to petrol in private motorists' tanks; the fact that we will bear the cost of

providing the dye or marker [the Revenue Commissioners have already received a proposal from an Irish company which has been sent to the British side for their comment]; and legal procedures on the British side in the event that the oil companies do not voluntarily subscribe to the scheme.

5. In the last week the British have indicated to us that the Secretary of State will reply to our concerns on this issue at the Conference and that his response will be 'helpful and something that we can live with'. It appears that Mr Brooke will indicate preparedness to bring in necessary legislation on their side and will suggest that a joint study of what is required should be undertaken by the Customs authorities. The British side have also confirmed that the legislative change needed on their side will take a year to accomplish. However, in the meantime, they have suggested that we may be able to amend our Finance Bill, as we wish to do, in anticipation of the legislative change on the British side.

Anglo-Irish Section

17 April 1990

Travellers Allowance: 48 hour Rule

Speaking Points

[In response to British presentation]

- We are of course awaiting the decision of the Court of Justice and will review the situation fully in the light of the Court's decision.

- I have noted carefully what you have to say and will convey it fully to the Minister for Finance.

Travellers Allowances: 48 hour rule

Background

1. On 31 March 1987 the Minister for Finance signed regulations under Section 3 of the European Communities Act 1972 which clarified the definition of a "traveller" for the purposes of interpreting Council Directive 69/169/EEC relating to travellers' allowances. A traveller is now defined as a person who, upon arriving in the State, has been outside the jurisdiction for the immediately preceding 48 hours. A person not qualifying as a traveller (or unable to prove a 48 hour absence to customs) is not entitled to any traveller's allowance.

2. These measures were introduced to combat a gross distortion of trade caused by the gap between Ireland's then standard VAT rate of 25% and Britain's 15%. It was estimated by customs that there were 3.6 million shopping trips to Northern Ireland by Irish residents in 1986, and that those shoppers imported goods valued in excess of £300 million in their baggage.

Infringement proceedings against Ireland

- 3 The Commission began infringement proceedings against Ireland on 15th April, 1987 alleging that the above regulations were in breach of the Treaty of Rome. During the written and oral proceedings in the European Court of Justice - which concluded in February of this year - the British authorities supported the Commission and put forward its own view that the 48 hour rule was contrary to European Community Law

4. On 21 March the Advocate General submitted his opinion to the Court to the effect that the rule was in contravention of the Treaty of Rome (the function of the Advocate General is to make submissions to the Court in order to assist it in reaching its judgments). Although the view of the Advocate General is not legally binding on the Court, it is nonetheless the practice in approximately 80% of cases for

the Court to confirm the Advocate General's opinion. The Court's final decision on the 48 hour rule is expected in the summer.

Discussion at Conference

5. It is not anticipated that there will be any substantial discussion on the item at the Conference (which is on the agenda at the request of the British side). It is our understanding that the Secretary of State may express his Government's hope that, in the event of the Court of Justice confirming the opinion of the Advocate General against the rule, the Irish authorities will not seek alternative ways of achieving the same effect. No final decision has yet been taken on what our response will be in the event of the decision of the Court of Justice going against us. The preliminary view of the Attorney General's Office is that in such an eventuality we should then formally discuss the matter with the Commission with a view to obtaining a sanctioned derogation which takes adequate account of our particular problem caused by the disparity in rates of indirect taxation between Ireland and Britian. However, this is obviously not a line of thinking that we would wish to share with the British at this stage.

April, 1990

NOS

London
27/4
W. by [unclear]
17-4-90

SECRET

23 April 1990

cc. P.S.M
Mr Nally P.S.S
Mr Martin, *Mr Brennan*
Commissioner A.I.
Box.

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

Dear Assistant Secretary

I enclose a draft note on the meeting of the Anglo-Irish Intergovernmental Conference held in London on 19 April 1990.

Yours sincerely

Padraic Collins

Padraic Collins

MEETING OF THE ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE,

OLD ADMIRALTY BUILDING, LONDON, 19 APRIL 1990

Report of Discussion at Plenary Session

Introduction

The Anglo-Irish Intergovernmental Conference met at the Northern Ireland Office (Old Admiralty Building), London, on 19 April 1990. The Irish side was represented by the Joint Chairman, Mr. Gerard Collins T.D. (Minister for Foreign Affairs), Mr. Raphael Burke T.D. (Minister for Justice and for Communications), Mr. Noel Dorr, Ambassador O'Rourke, Mr. Des Mathews, Mr. Dermot Gallagher, Mr. Joe Brosnan, Ms. Anne Anderson, Mr. Michael Collins, and, from the Secretariat, Mr. Declan O'Donovan, Mr. Noel Ryan, Mr. Padraic Collins and Mr. Michael Gaffey. The British side was represented by the Joint Chairman, Mr. Peter Brooke M.P. (Secretary of State for Northern Ireland), Mr. John Cope M.P. (Minister of State at the Northern Ireland Office), Sir John Blelloch, Sir Kenneth Bloomfield, Mr. Ian Burns, Mr. John Ledlie, Ambassador Fenn, Mr. Timothy George, Mr. Ted Hallett, and, from the Secretariat, Mr. Robert Alston, Mr. Marcus Dodds and Mr. Tony Canavan. Also present were Mr. Eugene Crowley, Commissioner, Garda Siochana, and Mr. Hugh Annesley, Chief Constable of the RUC.

The meeting began with a tete-a-tete between Ministers at about 3 p.m. Ministers briefed the Joint Secretaries on the conclusion of the tete-a-tete. A restricted security session (which is recorded separately), confined to Ministers, the Chief Constable, the Commissioner of the Garda Siochana and selected officials, began at 4.55 p.m. The plenary session proper began at 5.55 p.m. and ended at 9.35 p.m. approximately. A Joint Statement (copy attached) was agreed at the end of the meeting. The account under of the proceedings at the plenary session is in the form of direct speech and is based on detailed notes taken during the meeting. It does not, however, purport to be a verbatim account nor is it necessarily exhaustive of all the exchanges at the meeting.

PLENARY SESSION

Political Developments

Mr. Brooke: I was presented with a Fairisle sweater and I had to put it on for politeness and it has the effect of showing up my green braces. Gerry [addressing Minister Collins], I haven't said it before - and I should do so now - I greatly appreciate the fact that you have put yourselves out by coming to London. As you know, we have a problem with government whips and we needed to be here in London. I know you understand since you had a similar problem yourself on an earlier occasion...

Mr. Collins: Glad to oblige...

Mr. Brooke: O.K. If it is agreeable to you we will take the agenda as it stands. We can pass over the first item - political developments - quickly, since we have covered it enough at the tete-a-tete. You have given us a response in outline on political developments as you said you would. Do you want to speak further on the matter or are you satisfied to move on...

Mr. Collins: We have covered it fairly thoroughly at the tete-a-tete. The main points have been recorded by the officials on both sides already ...

Mr. Brooke: I have one question to raise and I am raising it because I want to make certain that there is a meeting of minds. You made the point that you would want your Head of Secretariat involved in servicing talks if they occur. We would need some prior discussion on that in terms of format. However, I want to make the point that in relation to internal talks we would conduct these ourselves with the political parties. Your involvement would be in relation to North/South talks...

Mr. Collins: We would have to be involved in anything that was in the nature of transcending the Anglo-Irish Agreement.

Mr. Brooke: Yes, that is so, if we were to emerge with a different Agreement. However, it would be illogical if your Head of Secretariat was involved in internal talks. That being the case, as I told you earlier, our Head of Secretariat would not do so either, though, as you know, we had

proposed earlier that he would service these talks. Therefore, the involvement of the Heads of Secretariat, would be in the North/South and East/West aspects. The first thing I want to be sure of, then, is whether that is clear between us.

Mr. Collins: Well. Really, I think, and I'm being advised that the best thing would be for officials to work out the exact formula to make sure there is no possibility of misunderstanding.

Mr. Brooke: My only concern in seeking to sort it out now is to make the best use of time before we next meet. You see there is a need for me to have another round with the Unionists. I must have a basis for a way forward. Provided the principle is clear, I have now got a basis. In relation to the proposals we are talking about, they [the Unionists] might well have things to say and we would probably need to meet again. I will see you again anyway. Officials can work out the details and we can sign, seal and deliver the results at the next meeting of the Conference.

Mr. Collins: Again, and so that there is no misunderstanding, we would want to be in from the beginning on anything touching the Agreement. For example, we would need to be involved if there was to be any talk about any function of the Agreement being devolved. We are partners in the Agreement...

Mr. Brooke: We, of course, naturally assume that if there is to be any change we must all agree. In terms of devolution, however, ...

Mr. Collins: But when do we become involved? That is an important point...

Mr. Brooke: You mentioned being involved from the beginning. That is true in relation to North-South negotiations but it is possible that North-South negotiations would not be simultaneous with internal talks. And we would then have to think of what arrangements might be made in those circumstances.

Mr. Collins: But what sort of arrangements? We would have to be involved in relation to the Agreement being changed in any way. That being the case, we would have to be in on talks from the beginning. We can't have a situation where you talk to one side about matters of concern to us and we are not involved. We are equal partners in the Agreement.

Mr. Brooke: In relation to internal Northern Ireland issues, there is a provision in relation to devolution. There is a specific provision in Article 4 that provides a very specific role for you. But, in relation to the actual discussions - since these would not be affecting the Agreement as such - we would be conducting these ourselves with the Northern Ireland parties.

Mr. Collins: It would be best to have officials work out something on the Secretariat and on timing.

Mr. Brooke: What do you mean by timing?

Mr. Collins: In relation to when discussions start etc.

Mr. Brooke: What do you envisage exactly?

Mr. Collins: Our position is that we must be involved in anything affecting the Agreement. We must be involved in all or any discussions affecting the Agreement as equal partners since we are equal partners in the Agreement.

Mr. Brooke: I am giving a qualified yes to that Gerry. I would like to come back to Article 4 in relation to devolution. It has a specific reference there as to how devolution might be achieved and what your role would be. Let us say that some miracle happened and we got a new agreement this very night and the political parties in Northern Ireland agreed on the issues to be devolved, then these subjects would be removed from the purview of the Conference. That would involve no change in the Agreement. In fact, it is clear that the Agreement allows for that and it does not, therefore, involve a change in the Agreement. However, where we are envisaging changes in relation to North-South matters or East-West matters these are, obviously, issues which could involve changing the Agreement. It goes without saying that, in such a situation, you would have to be involved.

Mr. Burke: But have the Unionists accepted face-to-face discussions with us?

Mr. Brooke: It wouldn't arise. In relation to internal Northern Ireland issues, you would not be involved. The precise formula in terms of North-South discussion remains to be worked out but the idea would be that in discussions with Unionists we would make progress and it was assumed that the

rest, including your involvement, would flow out from that. The fact of North-South discussion has been recognised by the Unionists and is accepted.

Mr. Collins: But the problem is that if the talks have to do with changing the Agreement we have to be a party. We have no room for manoeuvre there. Devolution would involve a change. In relation to particular functions being devolved, we have a say in that. If you look at Article 4 (c), it says, and I quote,

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

Mr. Burns: Article 4 is an opportunity for the Irish Government to put forward views on matters to be devolved. That opportunity remains. It can't be removed. It continues to exist. I could understand your problem if the last paragraph of Article 4 did not exist.

Mr. Collins: I am concerned to get this straight. It seems to me that we have a new boggle coming up now in what we agreed earlier. Our position is that we must be involved from the beginning in all the talks that affect the Agreement in any way. Article 4 says that the Conference shall be a framework within which the Irish Government may put forward views and proposals on the modalities of bringing about devolution etc. If there are developments in that area to be talked about or mooted, then we must have an input.

Mr. Brooke: I am not a lawyer but, on my reading, Article 4 was specifically devised to take account of your role and contribution in that area. It says that "the Conference shall be a framework" for your views on the modalities of bringing about devolution.

Mr. Burns: Well, we have one of the authors of the Agreement not very far away from you [a reference to Secretary Dorr]. It may be clearer in his memory than in mine. What the Article says is what the Article meant. It does not say that talks with the Northern Ireland political parties on

J. A. - ray - 10/25/74

devolution can only take place under the Agreement. [Note: I understood Burns to mean roughly the following: that the Agreement did not provide for Irish Government involvement in initial talks with the political parties in Northern Ireland on devolution but rather that - and here Burns was taking a very literal view of Article 4 - the Irish Government's right was to put forward views and proposals on the modalities of devolution once a devolution scenario had been worked out between the British Government and the Northern Ireland political parties.] There are two parallel thoughts involved here. Point 1 is that talks are needed if progress is to be made and, as the Taoiseach has said, these could be free-standing. They have not, necessarily, anything to do with the Agreement. But that fact does nothing to conceal the Irish Government's right to put forward views and proposals on the modalities of devolution. That right continues whatever the format. On top of that - if I understand your point correctly - if, and when, any talks start and there is any question of a change in the structure of the Agreement, then the Irish Government must be involved. That is understood....

Mr. Burke: Surely your talks are designed to transcend the Agreement or to having some new form.

Mr. Brooke: The position is that it is a declared policy of the United Kingdom Government that responsibility in respect of certain matters within the power of the Secretary of State for Northern Ireland should be devolved within Northern Ireland on a basis which would secure widespread acceptance throughout the community. But that element is internal to Northern Ireland and doesn't involve a change in the Agreement. On the other hand, it seems to me that the wording of the final sentence of Article 4(c) of the Anglo-Irish Agreement couldn't be more specific. The Conference, it says, shall be the framework within which the Irish Government may put forward views and proposals on the modalities of bringing about devolution. The framers of the Agreement allowed for the contingency that there might be devolution without a change in the Agreement. However, it is perfectly true if we, as is the desired request, if I understand your position correctly, are actually looking at North-South/East-West issues, then it is implicit that there would be a change in the Agreement. That is an issue to which you would be wholly a party obviously. As regards the Secretariat ...

Mr. Collins: There are very certain risks for us involved here. I want to look at the whole picture. I am especially concerned about the position of

the Secretariat. That is vital for us. What I would like is to have officials advise us urgently on these issues.

Mr. Brooke: My only request is really are we clear where we are now? I remember the last time - we have been over this before. I want to be clear on what you are telling us. The idea of further definition alarms me a little.

Ambassador Fenn: Would it be helpful, Ministers, if some officials were to meet now and the rest of the participants could carry on with the agenda of the Conference as a whole.

Mr. Gallagher: But you now have proposed an additional modification in relation to the role of the Joint Secretaries, that is, that they would be involved only in North-South and East-West matters. We need to reflect on that.

Mr. Brooke: I was only responding to the proposal made by Minister Collins in relation to the involvement of the Head of the Irish side of the Secretariat and I said that, since the Head of the Irish side of the Secretariat would not be involved in internal talks, then we would not have our Head of the Secretariat involved in that either.

Mr. Gallagher: We would want to be involved in all talks.

Mr. Collins: Let us have a little adjournment now and see what we can come up with.

Mr. Dorr: If I might just respond to what Ian Burns said about what the authors of the Agreement intended in relation to Article 4. First, I doubt if there was any clear picture at that time of how it might work in practice. You could say that what Minister Collins has just been saying is a view of the modalities of bringing about devolution. I note that paragraph (c) of Article 4 of the Agreement has two elements. The first is that it is very specific in stating that devolution can be achieved "only with the co-operation of constitutional representatives within Northern Ireland". It is important to note that it does not say that devolution can be achieved by them - it is achieved with their co-operation. The second element of paragraph (c) is, of course, that the Conference shall be a framework for putting forward views and proposals on the modalities of achieving devolution. The point is, I think,

that the Irish Government - in order to have the information we need to provide a view on the modalities of bringing about devolution - would need to be involved in talks from the beginning.

Mr. Collins: I wonder if we shouldn't have an adjournment?

Mr. Brooke: Do you simply want the whole Conference to adjourn or simply certain officials?

Mr. Collins: I think we should have a short adjournment of the whole Conference to discuss these latest developments.

Mr. Brooke: What I understood was that there was a proposal that simply certain officials would absent themselves for 10 or 15 minutes and the rest of us would continue with the remainder of the agenda.

Mr. Collins: I think it's best if we have a short adjournment of the whole Conference. [The plenary session then adjourned - at 6.25 p.m. There was a private meeting between Ministers between 6.45 p.m. and 7.30 p.m. Agreed note of the private meetings, including the private meeting between Ministers on Friday morning, 21 April, have been prepared and are recorded separately. The plenary session resumed at 8.20 p.m.]

Resumed Plenary - Social and Economic Issues

Mr. Burke: For the record - I have already mentioned it elsewhere - I would like to express the thanks of the Taoiseach and of all of us for the cooperation of yourself, Peter, the NIO, the RUC, the helicopter crews etc. in facilitating the Taoiseach's visit to Belfast. It was all done very efficiently and we are most grateful to all concerned.

Mr. Brooke: I am delighted. Thank you very much.

Mr. Burke: I had lunch with the Confederation of Irish Industry the other day and they thought that the business part of the meeting went very well. They were very pleased and valued it highly.

Mr. Brooke: In order to do business briskly I would like to make a proposal about how we handle things. As you know, we have a deadline for a vote in the

House of Commons and we must spend a little time on the Communique. Looking at our agenda we can say that we have dealt with political developments at the tete-a-tete and otherwise. We have also dealt with McGimpsey at the tete-a-tete and the Joint Heads of the Secretariat are to exchange Dail statements etc. on that. We have also dealt with extradition. I would like to move on now, however, to economic and social matters.

Participation of Economic and Social Ministers in the Conference

Mr. Brooke: We have, as you know, thought about a possible programme for participation of other Ministers in discussion of social and economic areas in the Conference and we had talked about a programme of topics. My own suggestion - and this would fit in with what the Taoiseach said in Belfast on Wednesday - would be that we have tourism as a topic. Tourism and Transport are two separate subjects for us. However, there is a lot of support for classic tourism to both parts of the island. We would, however, need a paper to be prepared by officials so as to have a basis for discussion. If we couldn't manage to have economic and social Ministers at the next Conference we could have them at the one after that.

Mr. Collins: I would like to make a suggestion. As you know, Tourism and Transport is one person for us, but if you want it, we could think about Agriculture. Could you consider that?

Mr. Brooke: There is a complication there from our point of view especially on issues where there are representations to Brussels. They are East/West issues for us. It is therefore a matter for Cabinet colleagues in Whitehall rather than Northern Ireland Ministers....

Mr. Collins: O.K. If you consider that there is a problem we will leave it out.

Mr. Brooke: In relation to having the relevant Ministers attend, I think one month is too short a period to allow it to be done properly.

Mr. Collins: Could I suggest that we have the Ministers in for lunch at the next Conference. They could then go away and we could have a paper for the following Conference?

Mr. Brooke: I am happy with that.

Sir K. Bloomfield: Would Minister Collins have any objection if officials were to do some preliminary sounding out in relation to these issues. What I have in mind is that we should at least start the ball rolling.

Mr. Burke: Yes. Let's get on with it straight away.

Mr. Collins: Are we talking about tourism for the North or the South here?

Mr. Brooke: Both.

Mr. Collins: I notice that over the Easter weekend there was a huge amount of Northern cars in the South.

Cross-border Economic Programme

Mr. Brooke: We need to take note of the discussion on 6 April with the Commission in Brussels on the joint submission for a cross-border project under the Structural Funds. There was a meeting of officials from both sides on that date with the Commission in Brussels. We do need now to have a reasonable timetable for discussions with the Commission. We need to get on with our preparations.

Mr. Collins: Before the end of May....

Sir K. Bloomfield: It is now becoming clear that the Commission's attitude is emerging fairly rapidly and we need to be rapid in response. The Commission has now ruled out some notions and officials from both sides could get together immediately. There is no need to hold up action until the end of May.

Mr. Collins: The meeting with the Commission is at the end of May?

Sir K. Bloomfield: Yes. But we need to get ahead with preparation for that now.

Mr. Cope: We would need to have things in train by mid-May.

Mr. Collins: O.K. Officials should get together and see what blockages there are.

Sir K. Bloomfield: We have already come to grips with some of the problems.

Irish Paper on 1992

Mr. Brooke: In relation to the proposed Irish paper on the implications of 1992 for the whole island of Ireland, you have undertaken to show us a draft...

Mr. Collins: We will try and give you a copy shortly.

Sir K. Bloomfield: Could we have the timescale for the record?

Mr. Collins: The Government has not seen it yet. It will be something that will be looked at by the Department of Finance. I should make clear that it is not a Government paper. It consists for the most part of reports by outside agencies and consultants. It is not a Government publication.

Sir K. Bloomfield: What I would like to get clear is that if we did have any comments would there be time to take them on board?

Mr. Collins: We can talk with you at official level about that.

Accompaniment of Military Patrols by the RUC

Mr. Brooke: O.K. Let's move on to confidence issues. I would specifically like to say something about accompaniment. Perhaps it would help if I were to say something and then the Chief Constable might like to come in and add something. Because of the perfectly proper importance which both sides attach to confidence issues, we have spent a lot of time on the issue over the last six months. That is as it should be. It is essential that security policy should command confidence. Without it, it will not be an effective security policy. I would add the rider that, in order to command confidence, security operations must be effective. In the context of our discussion of confidence issues, we have spent much time, within the Conference, discussing the question of RUC accompaniment of military, especially UDR, patrols. There should be no doubt about the British side's commitment to this concept. We want to ensure that, to the maximum extent that is both feasible and sensible,

military patrols (especially UDR patrols) which are likely to come into contact with the public are accompanied by one or more members of the RUC.

As evidence both of our commitment to the principle and of our concern to be able to assess the extent to which the policy of accompaniment is being implemented in practice, the RUC has instituted, for its own internal management purposes, a comprehensive system of monitoring levels of accompaniment at sub-divisional level. Information is being collected each month from every sub-division which, over time, will allow conclusions to be drawn about levels and trends in police accompaniment of both UDR and Regular Army patrols.

Except in a few areas to which special considerations apply, the RUC would not expect these monthly returns to show that they are at all times achieving anything like 100% accompaniment of all military patrols in all places. They will wish, however, to see in them evidence of our commitment to accompaniment in the case of those patrols which are likely to have significant contact with members of the public. They will, especially, want that to be the case in areas where the local people have made it clear that they would prefer that their contact with the security forces should be with the police rather than with the Army. Communities with such preference are likely, as you know, to be predominantly nationalist rather than unionist. It is our aim that, for the most part, military patrols operating in nationalist areas should normally be accompanied by the RUC. But we would not expect that all patrols in such areas would be accompanied. Given the different nature and purposes of Army operations and the constraints of logistic and personal safety which flow from that, it would be neither feasible nor sensible to try to achieve that.

The Chief Constable can, if necessary, explain to you in more detail the precise nature of the logistic constraints I have mentioned.

However, given the very real constraints that do exist, I have to tell you that I have been much encouraged by my understanding of the initial results of the RUC comprehensive monitoring exercise. I would stress that the RUC have undertaken this monitoring because they wish to be able to measure how well they are doing in pursuit of a policy objective to which they, as well as the British Government, are wholly committed. Indeed, as I have seen from my own examination of papers relating to security policy well before the Anglo-Irish Agreement, it is a policy to which Her Majesty's Government and the security

forces have long been committed. But, and I stress that this is an important qualification, accompaniment is an objective which is being pursued within the larger context of our total determination to see that security force operations against terrorism in Northern Ireland are, at all times, the most effective that they can be. The responsibility for the conduct of these operations is vested, however, not in British Ministers, but in the Chief Constable with the support of the GOC. In its details, therefore, the policy of ensuring that, where feasible and sensible, military patrols are accompanied by police officers is one which it is for the Chief Constable to take forward. The Chief Constable must remain operationally independent at all times. That is not only constitutionally right; it is politically right. The Chief Constable is not accountable to me for his operational decisions, which include the ways in which he deploys his men. By the same token, he cannot be accountable - nor can I let it be thought that he is accountable - to the Intergovernmental Conference.

On that basis, and on the assumption that you will accept the good faith of my assurance of the British Government's firm commitment to a policy of accompaniment, where feasible and sensible, I shall share with you the essentials of the product of our monitoring of accompaniment levels. I would propose to do this on a regular six-monthly basis. We will need to smooth out and get rid of seasonal complications in these figures. Given that the RUC monitoring system has only just been established and that we do not have a sequence of figures on a reliable basis, I am not in a position to give you any actual figures today. Although the Chief Constable has told me that the preliminary results in respect of the figures available are encouraging, he and I would both like to see the new system "bedded down" before too much reliance is placed on it. We will want to see a run of figures. Therefore, I would propose to let you have results in the Autumn relating to levels of accompaniment for the six months beginning from 1 April this year. In this way, you will get a picture of accompaniment levels in what may be the most difficult period of the year - including both the Easter and Summer marching seasons. The next six months figures would be available the following Spring.

I have it in mind that these figures should show you percentages of accompaniment for each of the three RUC regions and for Northern Ireland as a whole. In the latter case, it might be convenient, and helpful to you, if the percentages were offered in terms of both Army and UDR patrols and split into "orange", "mixed" and "green" areas. The one proviso that I would make in

honouring the offer is that it is important that the information, as and when it is shared with you, should be treated as having been given in confidence within the Intergovernmental Conference. It will not be material intended for publication. This is an important condition. I would be giving you within the Conference a good deal more than I would be giving to the House of Commons. It would be politically very difficult for British Ministers if figures were released in the Dail or elsewhere. Indeed, if there were to be any disclosure on your side, I would have to end the sharing of the monitoring results. But in terms of the need to do it and my promise to share it with you, I am happy to do it with the proviso I mentioned.

Chief Constable: I have probably mentioned this before but it is important, before getting into an analysis of the issue of accompaniment, to realise that soldiers are not policemen, and vice-versa. Some of the duties vary widely. There are differences between protecting static targets, searching for explosives, etc. There are also significant differences between a rural patrol and an urban patrol and between foot and vehicle patrols. There is the issue of how to handle searches, how to conduct searches based on information and, finally, there is the issue of Permanent Vehicle Checkpoints (PVCs) and their protection. In addition, for example, in parts of Fermanagh, you have the problem of protecting soft targets. There is also the complication of the police force shift system which is very different from the Army shift system. The police force quite clearly is trained primarily for police duties. They do not work 24 hour a day shifts whereas the Army does and, in fact, can patrol for days at a time. There is, further, the timing of Army patrols which sometimes straddle RUC shifts. There is also the remoteness of the Army in many areas. As I have said before, there is no co-location between the Army and the RUC.

There are also differences in training between the two forces. The Army can "dig in" in a certain area whereas the RUC does not. As well as that, there is the issue of transportation and how it shall be done, e.g., do we use helicopters? It is, for example, easy to assume that you can get policemen to a point A to accompany an Army patrol. What you must remember is that you have to get a helicopter to get the policemen there and/or to get back. If you take Downpatrick, for example [note: 4 members of the UDR were killed by a culvert bomb in Downpatrick recently], you need a helicopter there because there are several areas, because of the dangers involved in road culverts,

where it is not possible nor appropriate to have people transported on foot. The fact is that more accompaniment means either fewer military patrols, or more policemen, or more overtime. There are also anomalies in relation to the season. This affects the availability of policemen for accompaniment since the police have the responsibility for public order during the marching seasons of Easter and July. The fact that the police take the lead in the marching season decreases the number of policemen available for accompaniment.

Then we have the concept of "surging", a new tactic whereby the Army can step up its patrols in respect of a very high terrorist threat in a given area. There is no problem for the Army in doubling patrols with their Roulement Battalions. [Note: A Roulement Battalion is one which does a shorter than normal tour of duty (the normal tour of duty can be up to two years) of about three/four months, is designed to be flexible as regards movement and is not based specifically at a given barracks. Members of such battalions are "deployable" quickly in almost any part of Northern Ireland.]

There has been an increase in accompaniment patrols since 1986. In West Belfast, Derry and South Armagh we don't use unaccompanied patrols anywhere. In Belfast, the accompaniment level is almost 100%.

It is, however, very difficult to draw conclusions from the figures on accompaniment. One finds, for example, that there is a very high level at the start of the year. Then when the marching season begins - in March/April - there is a dip or decrease in the figures. Following that you find a high level again in May and June and, of course, because of the loyalist marching season, there is a dip or decrease again in July and August. All of the above means that the initial ideal of complete accompaniment is a long way away. I know that the Secretary of State said he had no figures but I can give you some indicative ones. The rate of accompaniment of UDR patrols in January 1990 was 86% in "green" areas while the overall level of accompaniment for all military patrols across the province was about 64%. [Note: I understand subsequently from the British side that the 64% refers to March 1990 and not, as might appear from what the Chief Constable said, to January 1990.]

But it might be best if I could give you an example of what the real problems are. If you take a town like Magherafelt or Bellaghy village in Souty Derry, you come to an area near the RUC station which is mixed, but then, within a short distance, it becomes 100% "orange" and then further, it becomes 100%

"green". Within this area also you have places close together like Tobermore which is 100% "orange" and Draperstown which is 100% "green". Newry town, for example, is 98% nationalist. The north-west of the town is "mixed" and further out it becomes completely "orange".

But what I'd like to share with you is not so much figures but the outlook of the Sub-Divisional Commanders. We have given accompaniment a very high priority and it is repeated at most of our RUC Conference meetings. Our Sub-Divisional Commanders recognise the importance of accompaniment and it is highly valued. We would like to do more of it if the circumstances were in our favour. I want to stress that it is widely recognised as important. However, I have to say to you frankly, that, if I got - from a generous Secretary of State - 700-800 extra men, I am not at all sure that the best use I could make of those men would be in accompaniment. I would have to consider neighbourhood policing, public order, etc. What I am saying is that we give accompaniment a very high priority but we must have some latitude. What we want to achieve is that the Army should be in support of the police. That is basically the position. What we are trying to do, as I said before, is to "edge up" accompaniment.

Mr. Collins: Thank you. I have noted what you have said. I am not on this occasion going to rehearse the importance that we attach to this issue. You know this already and you know also how crucial we view the commitment to progress on accompaniment. It was fudged in 1985 and it is important now that we get back to implementing the principle.

It is now six months since we agreed (back on 18th October) to set up a joint working group charged with making early recommendations on the implementation of the principle of accompaniment. Good progress was made by the working group on some issues at a meeting which was held in January but I have to say that we are disappointed that it has taken up until now to hear further from you. In fact, we asked for a further early meeting and there has been no meeting at all since January.

Mr. Brooke: That is my fault. The point is that I felt it was politically important for Ministers on the British side to have a view and an understanding of the work being done by the RUC before we had any further meetings with you at official level. What is important now is the work we have been doing on our side. I appreciate the spirit in which you have spoken.

Mr. Collins: I accept what the Chief Constable says in a general sense. I can understand the difficulties that he faces in many areas. I accept that there are many areas where it is hard to define the colour scheme of "orange" and "green". Nevertheless, what is important now is to try and come to grips with that 14% of nationalist areas which are left where there is an unsatisfactory rate of accompaniment. We should try and get down to it and define sensitive areas. It is an important issue in relation to confidence as a whole.

I recognise that responsibility for operational matters rests with the Chief Constable. That is as it should be. It is a good thing, very necessary and an important principle. If I may, however, without contradicting the Chief Constable and without treading onto the operational security areas and interfering with the fight against subversion and terrorism, ask that the 14% of "green areas" where there is an unsatisfactory rate of accompaniment could now be tackled. It is very important. It would help me and it would help the security situation. The lack of accompaniment in these areas is a serious problem. It is one that won't go away. You know that it was fudged in 1985. There was a form of words used then which you are now taking back. We should now proceed to work on it whenever it is at all feasible. I recognise that it can't be done overnight. We should now let the working group get at it quickly.

Mr. Brooke: I hope that what both the Chief Constable and I have said indicates where the problems lie. It will be helpful, I think, if we can give the working group a better understanding of where we are and what the problems are.

Mr. Collins: Yes. What is important now is that the working group sit down and discuss the matter.

Chief Constable: What I was explaining in some detail might be best illustrated if I were to take an example. If you take the Dungannon/Lisnaskea/Cookstown areas, the level of terrorist threat is such in these areas that the tasking of patrols is not done by the RUC. That, of course, affects the overall percentages and you get percentages short of 100% because of these areas. In the operational tasking in these areas there are two different kinds of jobs to be done. The point I want to make is that the RUC are not soldiers and nobody would wish them to be. That gives rise to

some difficulties. What we do want to do is to have as much accompaniment as we can and what we are trying to do, despite difficulties, is to "edge" it up incrementally.

Mr. Collins: I see the Chief Constable's point about the RUC not being soldiers. What we must do now is get the working group to sit down, examine the outstanding issues and come back to us.

Mr. Brooke: I appreciate the spirit in which you make that point. There was much discussion on this in the latter half of last year and we explained the difficulties we had in delivering against the commitment on accompaniment. What I want you to understand is that where it is less than 100%, it is not that we are reluctant to fulfill accompaniment, it is rather that there are good reasons for the situation that exists. In that context, I should say that the process of the work in the Working Group is likely to be one of understanding the complex problems that arise in this area.

Mr. Collins: Yes. We all need understanding. Thank you very much. I should add that of course I fully recognise and appreciate the need for confidentiality in relation to the monitoring information you give us.

Stevens Inquiry/Inquests

Mr. Brooke: In relation to the Stevens inquiry, the Chief Constable has already reported in the restricted session. [Note: Mr. Noel Ryan has abstracted the discussion on the Stevens Inquiry at the restricted security session and a copy of his report is attached as an appendix to this report.] In relation to inquests, do you want to take that up?

Mr. Collins: Yes, I do. I shall be very brief on it. Inquests are, in effect, the only form of inquiry into killings by members of the security forces in Northern Ireland. The fact that members of the security forces are now not compelled to give evidence at inquests has an adverse affect on the whole administration of justice in Northern Ireland. As you know, the House of Lords decided in the McKerr case that members of the security forces could not be compelled to appear as witnesses at inquests. That was very disappointing for us and we see it as having very negative consequences for the administration of justice in the eyes of the nationalist community.

You know that in the case of the killing of Seamus Duffy the DPP has recently decided that charges should not be brought against the member or members of the security forces involved. As the Duffy family see it, the inability of the inquest to question those involved in the killing, and the fact that there is no further elaboration of the DPP's decision not to prosecute, together with the fact that the investigation and deliberations of the Independent Commission for Police Complaints remain secret, does nothing to reassure them that the circumstances of their son's killing have been satisfactorily investigated. It has led to a large amount of frustration on the part of the family. Then you have the Gibraltar case. You advised us that an order has been signed which will prevent the families from having access to the courts in Northern Ireland in relation to the Gibraltar issue. This creates a public perception which is detrimental to the creation of confidence. There really is no point in telling a Northern Ireland family that they have to go to Gibraltar to take Court action. How can they afford to do that? The fact that people can't go before their own courts will have a significant effect on perceptions of the administration of justice.

Mr. Brooke: You have chosen your words carefully as I did, indeed, on extradition. The point is that there is the independence of the courts to be considered. I confirm the point about non-compellability of security force witnesses. I should make the point, however, that what the ruling does is to restore the legal situation which was well understood previously. I should make the point also that there is no specific prohibition on security force personnel giving evidence at inquests. All it means is that they can't be compelled. I would want to stress that point. I accept that the hearings and the proceedings before the House of Lords have led to delays. I share your concern about that. Nevertheless, it is right that criminal proceedings or decisions not to prosecute should be disposed of before inquests are held. I hope that the delayed inquests can now be held. I understand that the Craigavon inquest [Note: The Secretary of State was referring to the McKerr inquest] will be held on 23 April. Obviously, I absorb what you said about delays and I appreciate the language you used. It was very much in the same spirit as I talked about extradition. We have to respect the independent decisions of the Courts.

Mr. Collins: I hope that, if any good can come out of something like this, that the 8 year old inquests can now be held quickly. Incidentally, are you opening any cross-border roads?

Mr. Brooke: We touched on that already [at the restricted security session].

Petrol Smuggling

Mr. Brooke: I would now like to move on to petrol smuggling and to bring you up to date on the matter. There was a meeting on 15 March between the two sides and there was no reconciliation of the two sides' estimates of the extent of petrol smuggling. Her Majesty's Customs and Excise have undertaken, under the terms of the Naples Convention, to assist the Irish Customs authorities in a petrol investigation. I believe that this investigation should provide the best estimate of the scale of the petrol smuggling problem.

I understand from a discussion with Her Majesty's Customs collector in Northern Ireland that the Customs and Excise have been, for the past eighteen months, assisting the Irish authorities with their investigation of large-scale smuggling of hydro-carbon oils across the border. The products concerned are marked gas oil (not for use in road vehicles and which has a low duty rate), DERV (for use in road vehicles and which has a high rate of duty), kerosene and petrol, all of which are purchased duty and tax paid in Northern Ireland.

Based on this work, Her Majesty's Customs and Excise, having taken account of recent inspections of trade records, observation of tanker movements, intelligence, supplies to known suspects and the outcome of operation "Sting" (mounted by your Customs in January 1990 which resulted in the detention of oils valued at Ir£40,000 and ten fuel tankers) estimate the level of the smuggling of hydro-carbon oils as at the end of January 1990, to be as follows:

- A. Marked gas oil: it has dropped very sharply since the introduction of the new marking arrangements in your jurisdiction.
- B. DERV and Kerosene: it continues at a substantial level. We understand that a prime suspect has purchased 0.72m. litres of DERV and 1.74m. litres of Kerosene in the five month period September 1989 to February 1990.
- C. Petrol: smuggling of petrol is not on the same scale as DERV or Kerosene. We understand that handling difficulties are likely to be a barrier in this regard.

Although the assessment for petrol does not provide a specific figure for the level of smuggling, it takes account of all information currently available to Her Majesty's Customs and Excise and their view is that the oil companies estimate of approximately 500,000 gallons per year is likely to be nearer the mark than the Irish Customs estimates of between 3 and 5.8m. gallons per annum.

I note that in the case of the Irish estimates, the figures are based on assumptions about the number, capacity and frequency of use of vehicles used to smuggle petrol. You have said that there are 37 tankers each of 13,500 litre capacity making one smuggling run each week - that would be 26m. litres or 5.8m. gallons per annum. Now here, I can tell you, we have a problem. We have asked you on several occasions for details of these vehicles (e.g. registration numbers, ownership) but we have not got them nor have we been given any information as to how it is known that vehicles sighted always carry petrol. Until we get something on that, there must remain considerable doubt about the accuracy of your present estimate.

However, what is happening now is that a joint investigation is being carried out by both Customs authorities into the extent of petrol smuggling. The problem is that we do not have sufficient hard data. I hope we can agree to accept the result of the joint investigation I have mentioned as being the most accurate assessment of the extent of this particular smuggling problem. I would stress that I wish to be helpful to you - but certainly as things stand at the moment I could not approach my Cabinet colleagues for their agreement to move forward with a marking scheme. The matter of approaching the Cabinet colleagues is pretty complicated since we are talking here about an issue which has no effect on our revenue.

I have been told that because of Easter and also the involvement of Customs staff in a forthcoming Court case, it will be the middle of May before the preliminary results of the investigation will be known and the Summer before they would have a definitive view of the extent of the problem. Thereafter, if the figures justified movement on the proposal, the oil companies would need a further three months to carry out rigorous testing of the marker.

I should also mention that it is clear now that legislation - and I stress that it would be primary legislation - may also be needed in the U.K. to give effect to the marking of petrol by the oil companies in Northern Ireland. Taking account of that fact and of the timetable I have set out, it seems to

me that this all points to us having to use the Finance Bill in 1991 to achieve the necessary legislation. Against that background, you may wish to delay inserting provisions in your Finance Bill until 1991 also but I do want to stress that we are being genuinely purposeful in this area.

Mr. Collins: I am thankful to you. You will be aware that it is an important issue for us. I will see how we can be helpful in relation to getting the information you request.

Mr. Brooke: I infer that the information on tankers is now being made available or will shortly be made available. I do want to draw your attention to that fact, namely, that we have made several requests to have the information on these tankers and we have not been given it.

Mr. Collins: It is sensible that we should seek to identify the real problem and then do something about it.

48-Hour Rule

Mr. Brooke: Could I say something on cross-border shopping. What I want to say here is that I have absolute confidence that if there is a Court decision against you that you will obey it.

Mr. Collins: I know that a former British Commissioner, Lord Coburn, ^{Lockfill} said that he could not understand how we would behave as we did

Mr. Brooke: I must say, with all seriousness and restraint, that if you were not to obey a Court decision I would be faced with enormous difficulties.

Mr. Collins: It is an extremely important issue for us. We will have to await the outcome of the Court of Justice ruling. There were 3.6m. shopping trips in 1986. You can see from such figures that we are talking about big money. What we will have to do is to wait for a decision of the Court and we will talk further about it then. [Note: There was then a fifteen minute discussion on the Communique which was finalised by Ministers at 9.35 p.m. The plenary session of the Conference then ended.]

Padraic Collins

Padraic Collins

24 April 1990

23 April 1990

APPENDIX

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

Dear Assistant Secretary

Stevens Inquiry

As you know, the discussion at the restricted session of the Conference on 19 April touched on the Stevens Inquiry. I enclose a note of that discussion, abstracted from my report on security issues. The position on Stevens could be summarised as follows:

- (1) The Chief Constable is still examining the report, which is long and detailed, and he will be submitting his recommendations to the Secretary of State in due course. (No indication was given of how long this will take.)
- (2) Mr. Stevens himself will prepare a summary of the report for publication by the end of May. On its publication, Mr. Annesley envisages that Stevens and he will hold a press conference and answer questions. (That is how Annesley personally sees it; he is discussing presentation at present with NIO officials.)
- (3) The Secretary of State is committed to making a statement on the report to the House of Commons and the British side confirmed this is the intention.
- (4) Irish Ministers stressed the importance they attached to being told as much as possible about what was happening in advance so that they could properly consider their response. They will be especially concerned with lessons for the future and what steps will be taken to prevent repetition.
- (5) In response to a question from Irish Ministers, Annesley dismissed a recent Sunday Times report to the effect that Stevens had concluded that collusion could not be stopped and was bound to continue as speculation and "ill-advised" journalism. What Stevens is likely to say (Annesley said he had not yet reached that part of the report) was that one can never be 100% certain that leaks of this kind will not occur again.

- (6) Stevens has taken the arrests and prosecutions - 58 in all - as far as he can at this stage. He has left a small team in Belfast to pick up any more that might emerge.

Yours sincerely



Noel Ryan
Assistant Secretary

ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE
JOINT STATEMENT

1. A meeting of the Anglo-Irish Intergovernmental Conference was held in London on 19 April 1990. The Irish Government was represented by the Joint Chairman, Mr. Gerard Collins T.D., Minister for Foreign Affairs, and by Mr. Ray Burke T.D., Minister for Justice and for Communications. The British Government was represented by the Joint Chairman, Mr. Peter Brooke M.P., Secretary of State for Northern Ireland, accompanied by Mr. John Cope M.P., Minister of State, Northern Ireland Office. The Chief Constable of the RUC and the Commissioner of the Garda Siochana were present for part of the discussion.
2. Ministers reaffirmed their belief that dialogue at all levels is essential to secure political progress and an end to violence. They had a further exchange of views on the current political situation and on possible ways forward.
3. Ministers condemned recent atrocities by paramilitary organisations and reaffirmed their total rejection of any attempt to promote political objectives by violence or threat of violence. They emphasised the futility of paramilitary actions and their determination to ensure, with the fullest cooperation from the public, that those guilty of serious crimes will be brought to justice. Together with the Commissioner and Chief Constable, Ministers reviewed security cooperation, expressed satisfaction with the progress being made and agreed that where improvement was possible they would secure it.
4. Ministers also had a constructive discussion of arrangements for dealing with fugitive offenders. They instructed officials to undertake a review of the situation and report back to a future Conference.
5. The Conference discussed the question of confidence in the security forces and system of justice. They noted that the Stevens report had recently been concluded and submitted to the

Chief Constable of the RUC; and they agreed to have a further discussion on this matter when the Chief Constable has provided a report to the Secretary of State.

6. Ministers considered further the question of actively developing cross-border economic cooperation with the assistance of the European Community.

7. Following the commitment in the Review to continue and expand cross-border cooperation Ministers also agreed to arrange for participation as appropriate of the responsible Ministers at future meetings of the Conference.

8. The British side also raised Irish restrictions on cross-border shopping in the light of the current case before the European Court.

CONFIDENTIAL

DATE 26/3/90 TIME 1900

INITIALS

PS

URGENT

CONFIDENTIAL

in copy
5/11
2/4
see by [unclear]
3.4.90

0280C

TO: HQ FR: BELFAST

DATE: 26.3.90

/////

FOR: ASST SEC GALLAGHER FR: JOINT SECRETARY

WITH REFERENCE TO MY 271C OF 22 MARCH AND PREVIOUS TELEXES THE BRITISH JOINT SECRETARY MR ALSTON APPROACHED ME AGAIN ON MY RETURN HERE TODAY CONCERNING THE QUESTION OF AN INFORMAL MINISTERIAL MEETING IN DUBLIN AND THE POSSIBILITY OF A COURTESY CALL BY MR BROOKE ON THE TAOISEACH. AS YOU KNOW, THE BRITISH SIDE HAVE BEEN PRESSING FOR SUCH A MEETING AND COURTESY CALL SINCE THE LAST MEETING OF OFFICIALS ON 7 MARCH WHEN WE INDICATED A NEGATIVE REACTION TO THEIR POLITICAL PROPOSALS.

WE HAVE INFORMED THEM THAT PREVIOUS DATES SUGGESTED FOR A MEETING AND COURTESY CALL IN MID MARCH WOULD NOT BE SUITABLE. THEY CAME BACK TO US ON 22 MARCH TO ASK WHETHER 5 APRIL (AFTERNOON) WOULD BE SUITABLE FROM OUR POINT OF VIEW.

MR ALSTON SAID IT WAS INDICATED TO MR BROOMFIELD (FCO) IN DUBLIN ON FRIDAY THAT THE TAOISEACH WOULD NOT BE AVAILABLE TO MEET THE SECRETARY OF STATE ON 5 APRIL.

IF 5 APRIL IS NOT AVAILABLE, THE BRITISH SIDE ARE MOST ANXIOUS TO HAVE A RESPONSE FROM US ON A SUITABLE DATE FOR AN INFORMAL MINISTERIAL MEETING AND COURTESY CALL ON THE TAOISEACH. THEY ARE ASSUMING THAT 6 APRIL WOULD NOT BE FEASIBLE BECAUSE IT COINCIDES WITH THE COMMENCEMENT OF THE FIANNA FAIL AND FHEIS BUT, IN THAT CASE, THEY

REQUEST A DATE AS SOON AS POSSIBLE THEREAFTER:

THIS TELEX SUPERSEDES OUR 279C OF THIS MORNING.

/////

1850

/////

cc [unclear]
Mr [unclear]; [unclear]
Mr [unclear] [unclear]
[unclear] (A)
[unclear]

ec
PBM
cc Meltz, PPR
re Mollins: de Beer
C. de B. A1

CODED MESSAGE
IMMEDIATE URGENT
CONFIDENTIAL
DATE: 28/3/90 TIME: 8.45 am
INITIALS: FOM

CONFIDENTIAL

0290C
TO: HQ FR: BELFAST
DATE: 27.3.90

/////

FOR: ASST. SEC. GALLAGHER FROM: JOINT SECRETARY

IN DISCUSSING THE BRITISH REQUEST FOR AN INFORMAL MINISTERIAL MEETING AND COURTESY CALL ON THE TAOISEACH MR ALSTON STRESSED TO ME TODAY THAT A DATE BEFORE 5 APRIL WAS ALSO OPEN FROM MR BROOKE'S POINT OF VIEW. I ASKED HOW THE BRITISH SIDE SAW MOLYNEAUX'S SPEECH TO THE ULSATER UNIONIST COUNCIL AT THE WEEKEND (IN WHICH MOLYNEAUX SAID THERE COULD BE NO AGREEMENT BETWEEN NATIONALISTS AND UNIONISTS UNTIL ARTICLES 2 AND 3 WERE CHANGED). MR ALSTON MAINTAINED THAT WHAT MOLYNEAUX SAID PUBLICLY WAS ONE THING AND WHAT HE MIGHT SAY PRIVATELY WAS ANOTHER. HE STRESSED THAT THE BRITISH SIDE WERE NOT TREATING MR MOLYNEAUX'S SPEECH AS THE 'DEATHKHELL' (NEWS LETTER) OF THE TALKS. AS MR BROOKE INDICATED TO THE PRESS YESTERDAY HE WOULD FORM NO OPINION UNTIL HE HAD HAD A FURTHER MEETING WITH THE UNIONISTS. IN THIS RESPECT, MR BROOKE WAS WAITING FOR A RESPONSE FROM US TO HIS REQUEST FOR A MINISTERIAL MEETING/COURTESY CALL ON THE TAOISEACH, SINCE THERE WOULD BE NO POINT IN MEETING UNIONISTS UNTIL HE HAD FORMED A PERSONAL JUDGEMENT OF OUR POSITION. MR ALSTON SAID THAT NO DATE, EVEN A TENTATIVE ONE, HAD BEEN PENCILLED IN FOR MR BROOKE'S NEXT MEETING WITH UNIONISTS.

/////

1680

/////

TO HQ FROM BELFAST
29 MARCH 1990

URGENT

*Mr. McCafferty (if possible to
3-4-90 (urgent matter)
2/4*

CODED MESSAGE	
IMMEDIATE	
CONFIDENTIAL	
DATE	29/3/90 1138
INITIALS	(fom)

FOR ASST. SEC. GALLAGHER FROM JOINT SECRETARY

THERE IS INCREASING UNHAPPINESS HERE ABOUT OUR INABILITY SO FAR TO RESPOND TO THE BRITISH SIDE'S REPEATED REQUESTS FOR AN INFORMAL MINISTERIAL MEETING AND A COURTESY CALL BY MR. BROOKE ON THE TAOISEACH. THE PARTICULAR DIFFICULTIES WHICH WE HAVE WITH THE SCHEDULE OF BOTH THE MINISTER AND THE TAOISEACH ARE, OF COURSE, APPRECIATED BUT IT IS FELT NONETHELESS THAT A REPLY SHOULD HAVE BEEN POSSIBLE BEFORE NOW. THE SECRETARY OF STATE HAS ENQUIRED ABOUT THE MATTER AND I UNDERSTAND IS CONSIDERING WRITING PERSONALLY TO THE MINISTER.

I WILL BE MEETING MY OPPOSITE NUMBER HERE THIS AFTERNOON. IF THERE IS ANYTHING FURTHER I CAN SAY (REF. OUR PHONE CONVERSATION LAST EVENING) PERHAPS YOU WOULD LET ME KNOW.

/////

3535

*cc psu
Mr Nally; PSS
Mr Mathew; Mr Broome
Counselor AT*

Mr. M. Capelby
3.4.90

CONFIDENTIAL

Secure Fax 007

29 MARCH 1990

c.c. Mr. Nally
P.S.S.
Counsellors A.I.
Box.

For: Asa/Sec Gallagher

Fr: Joint Secretary

Thank you for your helpful 'phone call concerning the British proposal for an informal Ministerial meeting and courtesy call on the Taoiseach by Mr Brooke. The issue came up again this afternoon at a meeting with our British opposite numbers. I said I was conscious that there was growing unhappiness and anxiety on the British side about the lack of a response from our side to date and that we hoped to be in a position to give them a response by next Monday or possibly sooner. I asked Mr Alston to draw his side's attention to the fact that they are requesting two meetings on the same date and that in the particularly busy circumstances of the EC Presidency and other business, including the forthcoming Fianna Fail Ard Fheis, it is extremely difficult to suggest a date and time which would be suitable from both the Taoiseach's and the Minister's point of view. Mr Alston undertook to underline this point but repeated the anxiety of his side to have a response. He spoke very much on the assumption that there could be agreement at political level and he said that in that event Mr Brooke would want to have a meeting with Unionists before the Conference of 19 April. (You will recall that in the British scenario Ministers would announce the date of the following Conference at the Conference of 19 April and give a steer to the parties in Northern Ireland that this represented a "natural gap" which could be used for political talks.)

As you know, the position that we have taken here is that our side has given a negative reaction at official level to the British proposals. For their part, the British side do not regard the views given at official level as definitive and continue to hold out the prospect of agreement at political level. I would add that while there has been no anticipatory finger-pointing in our direction by Mr Alston or other NIO officials at the most senior levels, middle-level NIO officials have made remarks to us which suggest that we can expect recriminations if we do not, so to speak, give Mr Brooke his head.

As previously reported, Mr Brooke does not regard recent Unionist signals, especially Mr Molyneaux's speech to the UUP Council last weekend, as a scuttling of political talks and continues to hold out the prospect of gaining the agreement of the parties to discussions on the basis of the proposals he has made to us. The British side remain insistently optimistic on this point.

Incidentally, I mentioned that we are aware that Mr Brooke is meeting privately with Mr Hume today and I asked if Mr Brooke had met privately with Unionist leaders or intended to do so. Mr Alston said he was not aware of any private meetings. (I would assume, nonetheless, that Mr Brooke naturally takes advantage of his presence at Westminster - where he is today - to have private contacts with both SDLP and Unionist MPs.)

cc PST; PSM
Mr Nally; PSE
Mr Althaus; de Broen
Cancellor A1
[Signature]

[Handwritten notes]
3/4
8/2

Immediate

(NOS)

Secure Fax: 008

(Response attached)
[Handwritten signature]

To: H.Q.
For: A/Sec. Gallagher

From: Belfast 3 4 90
From: Joint Secretary

I spoke with Mr. Alston today about Mr. Brooke's request for a meeting with the Minister and courtesy call on the Taoiseach. We had a further meeting after my message had been considered at an internal briefing session at the NIO.

I said that both visits had been agreed in principle but, as he knew, we had encountered serious difficulties in finding a date and time which would suit both the Taoiseach and the Minister, granted especially that both had extremely onerous travel commitments arising from the EC Presidency. I said that a meeting with the Minister only would be possible, but we had to respond with regret that it would not be possible to suggest a date on or near the proposed date of 5 April when Mr. Brooke might visit Dublin to meet the Minister and pay a courtesy call on the Taoiseach.

Mr. Alston said he would give me a response tomorrow as to what his side would now wish to propose but he wanted to give me the following general response following discussion by officials this afternoon:

- The British side would not wish me to hide from Dublin their very strong disappointment that we had not been able to give a positive reply. While the practical difficulties of arranging a meeting and courtesy call were appreciated, the fact was that it had "taken three weeks to get nowhere" since the Secretary of State had written to the Minister on 12 March. In that letter Mr Brooke had expressed his considered judgement that he was bound to take the opportunity which now existed to facilitate political progress since expectations had been encouraged

8/3

in large part by statements by both Governments, including the major statements by the Taoiseach in November and January; and Mr. Brooke had added his strong personal belief that there was a real prospect of (political) movement and that time was slipping past. Mr. Alston said that if the Anglo-Irish Agreement meant anything, it meant that the two Governments should work closely together in this area (i.e. prospects for political progress). We had known that Mr. Brooke had to speak to us before he could meet the parties again. The negative response I had given meant that this would not be possible before the Conference of 19 April (which the British side had hoped would mark the start of the "gap"); and the delay itself had meant that 60% of the window of opportunity was now gone. Surely time could have been found to consider so important a matter. Officials were wondering whether, "diary problems or no diary problems, the Taoiseach really wished to see Mr. Brooke".

is in
1800hr

In response to Mr. Alston, I drew attention again to the fact that the meeting and courtesy call had been agreed in principle, that a meeting with the Minister could have been, and could still be arranged notwithstanding his extremely heavy travel schedule, but that it had proved impossible, despite our very best efforts, to arrange a date and time which would accommodate Mr. Brooke's desire for an informal Ministerial meeting and a courtesy call on the Taoiseach. I could not accept that any other view should be taken of our response; and I made the point that a call on the Taoiseach had been agreed in principle although such agreement had not been, and could not have been, assumed.

Comment

Mr. Alston expressed his remarks in his usual courteous and quiet way but, as you will yourself see from their intemperate content, there is no doubt but that senior officials at the NIO are angry and upset and that they wish this to be known in Dublin.

- 3 -

8/4

The internal briefing this afternoon seems to have involved officials only and it remains to be seen what personal view Mr. Brooke will take. I would anticipate that he will seek to contact the Minister and would recommend that the Minister might take the initiative and telephone or send Mr Brooke a message referring to his letter of 12 March, regretting that it has not proved possible to agree the request made through the Secretariat for a meeting and courtesy call on the Taoiseach and indicating his own availability (8 April?) for a meeting if Mr. Brooke wishes to take up that option before the Conference of 19 April.

F A X

3/4/90

IMMEDIATE AND CONFIDENTIAL

To: Belfast From: H. Q.
For: Joint Secretary From: Gallagher

Subject: Secretary of State's request for meeting(s)

1. Thank you for your faxed message about the Secretary of State's request for a meeting with the Minister, and an accompanying courtesy call on the Taoiseach. As you are aware, and as you conveyed to the other side, the Minister was prepared to offer dates for a meeting but, due to the British insistence in having the meeting accompanied by a call on the Taoiseach (who was not available on the specific dates in question), the Minister's offer was not taken up by the British. Any recrimination about the delay in arranging a meeting cannot, therefore, be directed at us.
2. In addition to the complication created by the British request for in effect two meetings, you will have seen the Presidency calendars of both the Taoiseach and the Minister and will be able to point out forcefully to your opposite number that the inference to be taken from his remarks yesterday that we are using Presidency commitments to delay a meeting is totally unjustified.
3. I spoke to the Minister last evening about the Secretary of State's request. In order to avoid any further misunderstanding, and any wrongly-drawn and unjustified inferences on the part of officials, he would like to speak to the Secretary of State by phone on Thursday. We can finalise the precise timing of the call nearer the date.

cc PST ; PSC
 Mr. Wells : PSC 4/4/95
 Mr. Matthews ; Mr. Rangan 4/4
 009/2
 Cancellor
Secure Fax: 009

Immediate

(NOS)

To: H.Q.
For: A/Sec. Gallagher

From: Belfast
From: Joint Secretary

Further to my phone call. Thank you for your secure fax 008 in reply to mine concerning Mr. Brooke's request for a meeting with the Minister and a courtesy call on the Taoiseach.

Mr. Alston came to see me late this morning following a discussion with the Secretary of State. Mr. Collins and Mr. Dodds (British Deputy Joint Secretary) joined us for the meeting. Mr. Alston said that, having considered the position, the Secretary of State would like to pursue the possibility of a meeting with the Minister this week and asked whether Thursday afternoon, 5 April would be possible for the Minister.

I said I would enquire immediately whether this would be possible or whether we could propose another time in the near future. Grateful if you could let me have our response. The Secretary of State will have to alter some commitments if Thursday afternoon is agreed and has asked, therefore, for a reply today.

In speaking to Mr. Alston, I noted that - as we had conveyed earlier this morning - the Minister had wished to speak to Mr. Brooke by telephone on his arrival back in Dublin on Thursday morning in light of the fact that it had not been possible to arrange the dual meetings requested by the British side. I told Mr. Alston that, as he had asked, I had not concealed the reaction of NIO officials to the response which we had given yesterday and had indeed reported it fully, although drawing attention to the care and courtesy with which he personally had addressed the matter. I said we had found the content of the reaction intemperate and the inference that the Taoiseach might not have really wished to see Mr. Brooke wrongly drawn, unjustified and offensive, particularly as we had conveyed

009/3

- 2 -

agreement in principal to the request for a courtesy call on the Taoiseach. We had repeatedly drawn attention to the commitments of both the Taoiseach and the Minister, especially the very heavy commitments arising from the EC Presidency; we had made our best efforts to arrange a date and time for dual meetings in good faith; and we could not accept any inference by officials that we had been using diary problems to delay a meeting.

1

(NOS)

Taoiseach
To see please
11/14
Mr. McLaughlin
Mr. 4 55
Mr. Nelly
Mr. Plathun
Row

Confidential

Mr. Brooke's Courtesy Call on the Taoiseach and
Informal Meeting with the Minister
6 April, 1990

Courtesy Call on the Taoiseach

The British Joint Secretary, Mr. Alston, said Mr. Brooke had briefed his side with the following points:

- The Taoiseach had not closed the door on the possibility of agreement between the two Governments in regard to Mr. Brooke's efforts to arrange political talks.
- The Taoiseach had indicated clearly his doubts about the intentions and sincerity of the Unionists.
- He had expressed himself particularly strongly on the question of any gesture to Unionists in regard to the Secretariat.
- He had indicated that in coming to his final assessment of the Unionist position he would be influenced by what happened next Wednesday when he visited Northern Ireland.
- An answer one way or the other would be given at the Conference on 19 April (following which Mr. Brooke would have a round of talks with the political parties).

Informal Ministerial Meeting

Present on the British side with Mr. Brooke were:
Sir John Blesloch, Ambassador Fenn, Mr. Alston, Mr. Thomas and Mr. Leach (Private Secretary).

Present with the Minister for Foreign Affairs were Mr. Dorr, Mr. Gallagher and Mr. O'Donovan.

Mr. Brooke began with an expression of private appreciation of the evidence given by Gardai and Customs Officers at the Slab Murphys' libel trial. He said he was very pleased with the outcome. The Minister agreed.

Mr. Brooke gave notice that an indepth discussion would be needed at the Conference on 19 April of

- The political position;
- The McGimpsey judgement;
- The extradition judgements in Finucane, Clarke and Carron.

Extradition

Mr. Brooke indicated the British side would want to discuss the position on the political offence exception following recent Court Judgements and might put proposals to us.

McGimpsey

Mr. Brooke said his preoccupation was with the phrase "constitutional imperative" and what it meant in practical application. The Minister noted that this was a difficult question.

Political Developments

In regard to political developments Mr. Brooke spoke of the importance of clarity between the two Governments. When he met the Unionists on 16 March they did not say that they had no desire to speak to him further. In fact they said they wanted to keep lines open. The nature of what he would say to Unionists when he next met them had to be agreed between us. It would be pointless for him to say anything unless it was endorsed and sustained by us.

The Minister said we had to consider this very carefully. In our view, we could not trust the Unionists, they were not genuine, not sincere about talks and we had been thrown considerably by the statements of Molyneaux and Ross. Mr. Brooke said that Molyneaux had sent him his recent speech to the Ulster Unionist Council and had asked him to read it with extreme care (Mr. Brooke was suggesting that Molyneaux did not regard the speech as ending the Brooke initiative).

The Minister expressed doubt about Molyneaux's intentions but added that if we could be satisfied where we were going and that it would not weaken the Agreement, then we would look at Mr. Brooke's proposals in an overall context.

In this respect the Minister hoped, that the Taoiseach's visit to the North on Wednesday would be a successful day. It had been agreed to provide a copy of the Taoiseach's script (Mr. Alston told me the British side interpreted this to mean they would get the script on Tuesday). The Minister asked Mr. Brooke to thank the Chief Constable for the RUC arrangements for the Taoiseach's visit.

Returning to the question of what he could say to Unionists, Mr. Brooke repeated that he needed to know what we thought and what he could say. The Minister said we would think about this with a view to giving a definitive answer at the Conference on 19 April.

In regard to arrangements for the Conference, Mr. Brooke left open the possibility that it could start in the morning (which would mean his not attending Cabinet) and the Minister said he had no engagements which would cut short a meeting in the afternoon.

The Minister asked Mr. Brooke if he would flesh out his thoughts on the three Unionist preconditions. Mr. Brooke said

- First, the Unionists want a confirmation that both Governments would contemplate or consider a different Agreement. There should be no problem with a joint statement in this regard.
- Second, the Unionists wanted an assurance that a gap between Conferences would constitute an interval in which talks could take place. It would be understood that there could be informal meetings as in February (and today) and there would have to be agreement between the two Governments not to call a special conference in that period, although this would not be said to anyone else. Having decided when the Conference would meet again, it would meet whatever happened, if necessary in Lusaka!
- Third, the Unionists had been warned that their requirements on the Secretariat caused most difficulty. He would say that the Secretariat was in residence in Maryfield but he would acknowledge informally that the British Joint Secretary would be involved in servicing talks if they took place, since such discussions would put the NIO under pressure (here, Mr. Brooke compared the situation with our position under the EC Presidency). Since there would be no meeting of the Conference in the period, the Secretariat would be dealing with the ordinary business of the Agreement but not with Conference business. In the event of Unionists saying that the Agreement was in abeyance or that the Secretariat was not working there would be an instant rebuttal by both Governments, perhaps with the British Government statement preceding the Irish statement.

In response, the Minister said that our side would have to tease this out before the next Conference. Before the conclusion of the meeting Sir John Blelloch reminded Mr. Brooke that there would be three strands in the talks between the two Governments and the parties (inter-community in Northern Ireland, North-South, East-West) and the discussions in each would go on with some kind of relationship with the others. Mr. Dorr noted that the relationship would also have some sort of "simultaneity".

d
Declan O'Donovan
6 April, 1990

cc : PSM

PSS

Ken Parson

026/2

Very urgent
10-4-90
(Disurnal at 11.14)

SECURE FAX - 026

10 April 1990

(NOS)

FOR: H.Q.
FOR: Asst. Sec. Gallagher

FROM: Belfast
FROM: Joint Secretary

To confirm.

The British side have sounded us on whether we would consider switching the Conference scheduled for the afternoon of 19 April in Belfast, to London. It appears that Mr. Brooke and Mr. Cope will have a three-line whip for 8 p.m. that evening (Hong Kong Bill) which will mean that they would have to leave Belfast by 6 p.m. Bearing in mind the agreement last Friday that the agenda will take up considerable time and Minister Collins' indication that he has no engagements that evening, the British side wonder whether our Ministers could accommodate theirs by switching the venue.

I said on a personal basis that I was sure our Ministers would be anxious to accommodate Mr. Brooke and Mr. Cope but I noted that if they have a Cabinet that morning they will be unable to leave until lunchtime and that travel to the NIO in London will take at least an hour more than travel to Stormont. It was possible, therefore, that what might be gained on the swings would be lost on the roundabouts.

I have said we will get back as soon as possible.

cc
PSM
Mr. Muller - PPS
Mr. Maloney - Mr. P. Brown
Conseller AT

Note
As there is a cabinet in Dublin on Thursday it will be undesirable to agree to a change of venue.

BÉAL FEIRSTE

CONFIDENTIAL

12 April 1990

Mr. D. Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

Tracybank
Mr Nally is on leave
until lunchtime
tomorrow. You may
wish to see this
ahead of tomorrow
morning's meeting.

M. Knowlton
24/4
BELFAST
Mr M. C. [unclear]
24.4.90
ESAC; AG
Mr Nally; RPP
Mr Alston; Mr Tavenor
Connelly R1
Box

18.4.90

Dear Assistant Secretary

Conference of 19 April

The British Joint Secretary, Mr. Alston, attended a briefing session in London yesterday and saw me today to "set the scene", as he put it, for next week's Conference for which I attach a revised draft agenda.

He said the British side saw the Conference as a major one. There were important individual agenda items but the Conference was important also in a broad sense. Mr. Alston said there is now on his side "a considerable sense of unease about the totality of the relationship" between the two Governments. This was not just a "marking of the score card" although his side had reviewed the state of progress on a number of issues and were unhappy with their findings. The wider political reality was that both within Northern Ireland and and at Westminster, Ministers were coming under increasing pressure about the absence of progress on a range of issues. There were matters which were outside the control of our Ministers but there were others on which it was within their power to "make progress". Mr. Alston referred in particular to the views expressed at the recent conference of the Alliance Party in Northern Ireland. He also said that David Owen had told Ministers he had now "crossed a watershed" in his assessment of the Agreement. In summary, a substantial Conference was needed which would do more than "simply review events".

The present position on extradition following the Supreme Court judgements in Finucane/Clarke and Carron was seriously worrying. Ministers were concerned that progress had been "so slow" across a range of issues in security co-operation. Our language on economic co-operation was positive but we had not been able to translate that language into action. Mr. Alston referred here to a meeting of officials in Brussels on 6 April concerning our joint submission to the Commission and described

it as "disappointing". He hoped that we will be in a position to let them have before the Conference our paper on the implications of 1992 for the whole island of Ireland which is to be published shortly.

Above all, political progress was central. Mr. Alston said the British side hoped that the way the Taoiseach's visit had gone yesterday - they saw it as a great success - will have influenced our position on Mr. Brooke's efforts to secure political progress. The British side's view was that the development of the political process was an imperative and that doing nothing was simply not an option. In relation to our judgement of the Unionist position, Mr. Alston said we should not underestimate the difficulty that Unionist leaders have in breaking away from their attitude to the Agreement; they needed help.

Following on the meeting between the Minister and Mr. Brooke last week, the British side would like to have the McGimpsey judgement as a full item (previously we had taken it that the judgement would be discussed under the heading of political developments).

The Chief Constable was prepared to make a substantial presentation on the question of accompaniment of the UDR in the restricted session and might also say something about the Stevens Report in that session. As you know, the Chief Constable received the Stevens Report recently and is now considering it. Mr. Alston cautioned that the Chief Constable would probably not be in a position to say very much. It was not expected that he would have submitted a report to Ministers by 19 April.

In regard to petrol smuggling, the Secretary of State was personally anxious that progress should be made on the issue and he hoped to be able to be "helpful" in discussion at the Conference. It appears that Mr. Brooke will indicate preparedness to bring in necessary legislation on our side and will suggest a joint study of what is required by the Customs authorities. Legislation will take a year to accomplish. However, the British side suggest that we may be able to amend our Finance Bill, as we wish to do, in anticipation of the legislative change on the British side. h.c.

In regard to the 48-Hour Rule for cross-border shopping which the British side have put on the agenda, Mr. Alston did not anticipate any very substantial discussion. He expected that Mr. Brooke will express the hope that, if the European Court upholds the decision of the Advocate-General against the Rule, we will not seek alternative ways of accomplishing the same purpose.

Comment

Mr. Alston expressed himself in his usual polite and careful way. It is nonetheless obvious from the content of his message and from comments made to us by other officials that the NIO

has worked itself into a state about what they see as lack of progress from their point of view in the Conference. The combined effect of the McGimpsey judgement, the extradition judgements in Finucane/Clarke and Carron, the murders of the UDR soldiers on Monday, the apparent ability of the IRA to strike at will which was shown in that attack and by several major attacks recently on RUC stations at Castlederg, Sion Mills and elsewhere (if a 1000lb bomb placed at Musgrave Street RUC station in Belfast on Monday had gone off there would have been devastation) has put the British Government under pressure and they are turning to us to help them out.

It is recognised of course that our courts are independent, but there is a strong feeling that the recent judgements have had a powerful impact on political opinion here and at Westminster. As you know from previous reports, Mr. Brooke may seek a public restatement by both Governments of Article 1 of the Agreement in the Joint Communique after the Conference. He may also broach some proposals on the question of extradition.

In regard to matters where the British side believe the Government have it within their power to "make progress", the greatest anxiety is to have positive responses to a number of requests in the security co-operation area, most notably those on night overflights and surveillance at a number of points along the border (Carrickarnon, Kilnasaggart and Aughnacloy).

In response to all of this, we have strongly urged the British side to look at matters in perspective. We have taken them over the extradition and security co-operation issues in particular, drawing to their attention the major progress that has been made in these areas. We have referred them to the Taoiseach's remarks to the Press here yesterday on extradition; we have pointed to the misunderstandings expressed sometimes on their side about extradition decisions; and we have drawn particular attention to the fact that our Government kept its promise to ratify the Convention on the Suppression of Terrorism, that we did so without reservation, and that recent court decisions arose from warrants issued before the 1987 legislation implementing the Convention. We have pointed out that, in contrast, we have had serious doubts about the real efforts of their side to deliver on a number of issues that were identified in 1985 as important to us, notably the question of accompaniment of the UDR.

While we have not sought to minimise the combined impact of recent events on political opinion here and at Westminster, we have urged the British side to look at issues calmly and on their individual merits; we have pointed out that the Alliance Party's support for the Agreement was always conditional, as John Alderdice has himself said, and that David Owen has been hostile from the beginning.

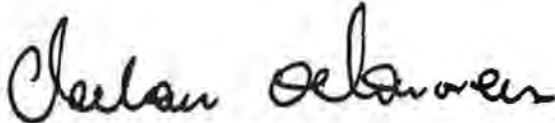
I have noted that the questions of accompaniment and the Stevens Report are political or "confidence" issues in our eyes and we might have reservations about dealing with the matter

substantively in the restricted session which was set up to deal with security co-operation issues and is composed accordingly. It appears from conversations here that the British side see the restricted session increasingly as the session for "the Chief Constable's business".

Mr. Ryan is reporting in detail to the Department of Justice on the security co-operation issues. In that area, we have taken NIO officials over the issues, pointing out the progress that has been made and asking them to consider the possibility that not all their requests would represent "progress" if conceded.

The major issue will be political progress and, as I indicated in my letter of 5 April, Mr. Brooke will attach the greatest importance to a positive signal from our side that he can "go to the end of the road" in his talks with the political parties.

Yours sincerely



Declan O'Donovan
Joint Secretary

REVISED DRAFT AGENDA FOR CONFERENCE OF 19 APRIL

Tete-a-tete

Restricted Security
Session

Plenary

1 Political Developments

2 McGimpsey Judgement

3 Recent Extradition Judgements (Finucane,
Clarke and Carron)

4 Economic/Social Matters

(i) Follow-up to Review commitment on widened cross-border economic cooperation. The Secretariat will report on a possible programme for participation of other Ministers in discussion of social/economic areas in the Conference)

(ii) Take note of discussion at Brussels on 6 April on a joint submission for a cross-border programme under the E.C. Structural Funds.

(iii) Proposed Irish paper on implications of 1992 for the whole island of Ireland.

5 Confidence Issues

(i) Accompaniment

(ii) Stevens Report

(iii) Inquests

- 6 Cross-Border Roads)Ministers may wish to
)raise these issues in
)plenary in addition to
- 7 Petrol Smuggling)discussion, if any, at
)the restricted security
)session.
- 8 48 Hour Rule for Cross-Border Shopping
- 9 Any Other Business

No 3

(S)

ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE

JOINT STATEMENT

1. A meeting of the Anglo-Irish Intergovernmental Conference was held in London on 19 April 1990. The Irish Government was represented by the Joint Chairman, Mr Gerard Collins TD, Minister for Foreign Affairs, and by Mr Ray Burke TD, Minister for Justice and for Communications. The British Government was represented by the Joint Chairman, Mr Peter Brooke MP, Secretary of State for Northern Ireland, accompanied by Mr John Cope MP, Minister of State, Northern Ireland Office. The Chief Constable of the RUC and the Commissioner of the Garda Síochána were present for part of the discussion.
2. Ministers reaffirmed their belief that dialogue at all levels is essential to secure political progress and an end to violence. They had a further exchange of views on the current political situation and on possible ways forward.
3. Ministers condemned recent atrocities by paramilitary organisations and reaffirmed their total rejection of any attempt to promote political objectives by violence or threat of violence. They emphasised the futility of paramilitary actions and their determination to ensure, with the fullest cooperation from the public, that those guilty of serious crimes will be brought to justice. Together with the Commissioner and Chief Constable, Ministers reviewed security cooperation, expressed satisfaction with the progress being made and agreed that where improvement was possible they would secure it.
4. Ministers also had a constructive discussion of arrangements for dealing with fugitive offenders. They instructed officials to undertake a review of the situation and report back to a future Conference.
5. The Conference discussed the question of confidence in the security forces and system of justice. They noted that the Stevens report had recently been concluded and submitted to the Chief Constable of the RUC; and they agreed to have a further discussion on this matter when the Chief Constable has provided a report to the Secretary of State.
6. Ministers considered further the question of actively developing cross-border economic cooperation with the assistance of the European Community.

7. Following the commitment in the Review to continue and expand cross-border cooperation Ministers also agreed to arrange for participation as appropriate of the responsible Ministers at future meetings of the Conference.

6. The British side also raised Irish restrictions on cross-border shopping in the light of the current case before the European Court.

Confidential - Immediate

45/2

Secure Fax - 045

26 April 1990

TO: Anglo-Irish Division
FOR: Anne Anderson

FROM: Belfast
FROM: Joint Secretary

1. Further to our conversations about the question of our Ministerial meeting with the SDLP and the British side's meeting with the Unionist parties, Mr. Alston came back to me this evening with a personal message for our Minister from the Secretary of State.

2. Mr. Brooke is very concerned at the prospect of a meeting between our Ministers and the SDLP next Tuesday. He stresses that it was his understanding with our Minister that the meeting with the SDLP would be held no sooner than a day before the British side's meeting with unionists (Mr. Brooke would, indeed, prefer that our meeting with the SDLP should take place after the meeting with unionists). The reason for the delay in giving us specific information is that the principle of a meeting has not yet been agreed by unionists and, until it is, a date and time cannot be set. The best estimate that can be given is, as I informed you earlier, that the meeting will take place at the end of next week or the beginning of the following week. Mr. Brooke very much hopes we will not go ahead with a meeting on Tuesday and asks that we defer arrangements for a meeting with the SDLP until he is in a position to tell us when he is meeting unionists. He has said he is quite prepared to telephone our Minister to discuss the matter with him personally.

3. I undertook to convey Mr. Brooke's personal message but I have repeated a number of points to Mr. Alston:

- we were told late on Tuesday evening that a meeting with unionists was expected in about a week and any

45/3

arrangements with the SDLP would have been made in the light of that information;

- there was, in any event, a need to re-schedule a meeting with the SDLP which had been arranged for earlier this week but had been cancelled, (as Mr. Gallagher is aware, Mr. Brooke passed us a message before he knew of the cancellation expressing the fear that anything said by the SDLP could "blow the political talks out of the water");
- we are under very strong pressure from the SDLP for a briefing in light of the speculation surrounding last week's Conference; and
- could the British side ease their problem by bringing forward their meeting with the unionist parties?

In regard to the last point, Mr. Alston said that in the Secretary of State's judgement a meeting will not be possible by Tuesday/Wednesday next.

4. I have little doubt that Mr. Brooke will seek to contact our Minister personally if our answer is unsatisfactory from his point of view. In considering his message, I think, perhaps, the essential point is that an understanding was reached between Ministers last week that our meeting with the SDLP and the British meeting with unionists would take place at about the same time. While I recognise the difficulty and inconvenience involved, I would recommend, therefore, that our Ministerial meeting with the SDLP be postponed. If you agree with this response, I would propose to emphasise to Mr. Alston that the difficulty on our side must be recognised, given especially the schedules of the Taoiseach and the Minister for Foreign Affairs, and that the earliest possible indication of arrangements for the meeting with unionists is essential to the understanding reached between Ministers last week.

45/4

- 3 -

5. You will have seen the reported remarks of the Secretary of State on political talks when he was door-stepped on Tuesday in Co. Down (transcript of RTE interview attached). The remarks gave rise to suggestions on RTE that Mr. Brooke would speak to unionists on behalf of the Irish Government. In this connection, I asked on Tuesday that the British side avoid any public claims that they are speaking for the Irish Government and I drew their attention to the Taoiseach's response to such a question at a press conference in London last Friday. As you know, the Taoiseach is reported in Saturday's Irish Times as saying that the (Irish) Government speaks for itself but he (Mr. Brooke) could certainly convey the impression to the parties in Northern Ireland that the Irish Government and himself are both very anxious for political progress and will facilitate it.

45/5

Eamonn Malley: Has the Irish Government given you an undertaking, you being Secretary of State, that it will in fact support you in whatever announcements you might in fact make?

SofS: We did in the Conference last week - we obviously had a substantial opportunity of discussing political development and I will be armed with a product of that conversation that I will be talking to them (Unionists) about.

Jim Dougal, RTE: The product of that conversation is that they (the Irish Government) will support you.

SofS: The product of that conversation is that we will have a position on which I will be responding to their (Unionist) pre-conditions and when they ask me questions about the Irish Government I hope I will be in a position to answer them.

Jim Dougal, RTE: Your not giving much away.

24-4-90

Removes by W. Broome.

PSS,

No 10 *No 5* *ast*
No 21
by H.C. [unclear]
4-5-90
by H.C. [unclear]
21

Meeting to brief SDLP on Intergovernmental Conference

1. As you are aware, there was agreement at last week's Conference that Mr. Brooke would brief the Unionists and the Taoiseach would brief the SDLP at around the same time. This was based on our understanding that Brooke would meet the Unionists very shortly - he indicated that he hoped to meet them before the end of the month.
2. We were informed through the Secretariat earlier this week that Brooke expected to meet the Unionists around the middle of next week. On that basis, and on checking with the Taoiseach's office and the Minister's office as to their availability, we indicated to Hume's office that Tuesday next might be a suitable date. Hume immediately confirmed that he would be available - along with Mallon, McGrady and Hendron - to come to Dublin on Tuesday morning.
3. When we conveyed these tentative arrangements through the Secretariat, the British reacted very strongly (fax attached). Their meeting with Unionists has apparently not yet been scheduled: they are waiting for the Unionists to come back to them with a definite date (possibly late next week or the following week) and they want us to postpone making any arrangements with the SDLP until such time as they have reached an arrangement with the Unionists.
4. Subject to diary considerations, it should not be too difficult to postpone the meeting with the SDLP for a day or two. However, I feel we should be very hesitant to accept the scenario suggested by the British for the following reasons:
 - The SDLP is of course extremely and understandably anxious to be briefed on the outcome of the Conference. They look to us - as representatives of the nationalist interest - to keep them informed.

- Any significant delay in briefing them could give rise to suspicion or mistrust of us on the part of the SDLP. This serves nobody's interest (including the British).
 - To delay making any arrangement with the SDLP until such time as the Unionists choose to reply to Brooke gives a wrong signal - it suggests that Unionist sensitivities are the priority and SDLP acquiescence can be taken for granted. This is hardly the atmosphere in which we would want discussions to begin.
 - The implication of the British approach is that the SDLP cannot be trusted to observe the confidentiality of information. This is unfair and not borne out by experience during negotiation of the Anglo-Irish Agreement.
4. I would recommend therefore that we take a fairly strong line with the British and indicate that we want to reach a firm arrangement now with the SDLP for a meeting next week.

AA.
Anne Anderson
27 April 1990.

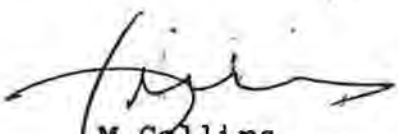
Note;

Seen by M. Collins 21/5/90
Taoiseach
To see please
215
30/4

I met Seamus Mallon in Warrenpoint on Friday 27 April.

I found him to be a particularly morose and dejected mood brought on, it would appear, by a number of factors including the killing in Kilkeel that morning; illness in the family (his sister-in-law is dying); and the heavy costs of running his constituency operation - his Westminster allowances do not adequately cover these costs and he has recently had to meet two months salary for each of his three constituency staff out of his own resources which are already stretched.

In the course of our general discussion he expressed deep suspicion about the outcome of the Anglo-Irish Conference on 19 April - 'I am sure that you looked after your own interests, but what about the SDLP's?'. His suspicion was not only focussed on the Government but also on John Hume about whom he continues to be openly distrustful. He had been told by Hume that the Taoiseach intended to personally brief the SDLP shortly. He clearly felt that some deal has been arrived at which will sell the SDLP short and he didn't seem to be in much of a mood for general reassurances. He wondered, for example, whether the British had agreed to go easy on us on extradition in return for our agreeing to give them the green light on the political talks. I reassured him that this was not the case and that it was only because of practical considerations to do with diaries and the Dublin Summit that the SDLP had not been briefed earlier.


M Collins
30 April 1990

cc. PSM, Mr Nally, PSS, A/Sec Gallagher,
Counsellors AI

Mr. McLaughlin
15.5.90
AN RÚNAÍOCHT ANGLA-EIREANNACH

BÉAL FEIRSTE

10 May 1990

1415
Stevenson
ANGLO-IRISH SECRETARIAT

BELFAST

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

NOS
PSW
de Melh: RHP
the author: the Flanagan
Gaughan 1/1
JW

Meeting with NIO officials (London)

Dear Assistant Secretary

I saw Brian Blackwell, the Assistant Secretary in charge of coordination of the business of the Intergovernmental Conference in the NIO (London), by arrangement, on Friday, 4 May 1990. He gave me access, on a strictly confidential basis, to an internal NIO document entitled "A Case Study of Catholic Alienation and Government Policy in Catholic West Belfast". The document was over 40 pages long and Blackwell allowed me to take detailed notes. I provide a summary under (I will send a more comprehensive report, based on my detailed notes, next week).

You will recall that Mr. Blackwell mentioned such a study to me at a meeting in January last (see my report of 1 February 1990) and the issue was raised by Mr. Adrian O'Neill with Prof. John Darby (see his report of 21 February 1990). Darby denied that there was a study of alienation in West Belfast proposed to him. Blackwell confirmed to me that, in fact, such a proposal had been made to Darby but that, interestingly, since the police and the Army would not cooperate with an academic study, it was decided to abandon that proposal and to go for a less academic document. What Blackwell had hoped for was a major report to be carried out by the Policy Studies Institute in London but this proposal was also abandoned because of the reluctance of the police and Army to devote the time necessary for interviews and research.

General

The study is based on consultations with the various sections and departments in the NIO. The following are the main points of interest.

Perception of Government

The paper concludes that there is a sizeable minority of those living in Northern Ireland who do not, and will never, regard British rule as legitimate. When the Catholic community's perception of itself as a minority is combined with its experience of the discrimination of the Stormont regime, the result is a strong distrust of the system of government in Northern Ireland. The people of West Belfast do not believe

that the British Government is impartial and security policy is seen as oppressive and specifically designed to harass the Catholic community.

Paramilitaries

The paper concludes that the paramilitaries seek to perform a quasi-governmental role, stretching from providing an informal local police force to dealing with relevant parts of the Government machine on behalf of local communities.

Security

One of the interesting conclusions under this heading is serious doubt about the efficacy of house searches. The paper expresses concern about a view which it detects among soldiers, namely, that they enjoy house searches and that they see it as taking the initiative and striking back at the terrorists. It suggests that consideration should be given to the worth of the policy of searching a whole row of houses on the grounds of an intelligence tip-off that one house may have an arms cache. (As you know, we have complained about the practice of the British Army in searching 20/30 houses when the tip-off relates to one house only.) The paper seems to be tending towards the conclusion that present policy on house searches is counter-productive.

Confidence

The paper concludes that security policy ought to be linked to the issue of confidence but states that there are difficulties in allying the two. It recognises that the most effective anti-terrorist measures in narrow security terms may not be acceptable in terms of the political and confidence loss that accrues. Significantly, it states that this is one of the reasons that internment failed in 1971 and "is not on the security agenda at present".

Racketeering

The paper concludes that the economic activity generated by racketeering is crucial to the well-being of West Belfast. The paramilitaries provide a range of transport and social services which are needed by the people of Catholic West Belfast and which will need to continue to exist, in some form, even if paramilitary influence is removed.

Sinn Fein

Sinn Fein representatives, the paper concludes, are among the most conscientious of councillors. It adds that the relationship of Ministers with Sinn Fein may come under increasing scrutiny in the coming months if the Republican Movement continues to show what the paper describes as "the signs of political flexibility they have shown recently" - the paper seems to be toying, but only toying, with the idea that Ministers should not forever rule out meetings with Sinn Fein Councillors.

The Anglo-Irish Agreement

The Anglo-Irish Agreement is not perceived to have made any significant improvement in the conditions of the people of West Belfast.

Conservative Party in Northern Ireland

The paper concludes that the emergence of the Tories in Northern Ireland is going to make little difference to political life there. In relation to West Belfast, the paper states that, for the foreseeable future, politics in the area will continue to be based on a contest between constitutional nationalism and paramilitary republicanism.

Belfast City Council

The paper concludes that Belfast City Council is dominated by bickering, inflammatory motions and other sectarian paraphernalia. The paper examines, without deciding on the issue, the possibility of splitting up the City Council into smaller, more homogeneous areas which would be easier to control and, possibly, less liable to discriminate (it suggests that the precedent of the dismantling of the Greater London Council in the mid-1980s might be followed). Putting the arguments against such a proposal, the paper concludes that the difficulties with it are:

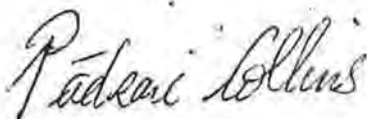
- the problem of deciding the boundaries of control without doing it according to tribal allegiance;
- it might create a structure in which Sinn Fein would be able to tighten their control on the area.

The Future

All in all, the paper concludes, there is little immediate prospect of great political change in West Belfast. Political progress in Northern Ireland as a whole, whatever form it might take, would have little short-term effect on Catholic West Belfast.

In a general conclusion, the paper states that the British Government needs to recognise that the immediate and medium term objectives of security policy are not always easily reconcilable with other policy and accepts that there is a need to look seriously at ways of overcoming what it calls "this dichotomy".

Yours sincerely



Padraic Collins

by ~~Casphy~~ ~~McKenna~~
30.5.90 20/5
CONFIDENTIAL

SEEN BY
Taoiseach

To see please.
It would be desirable
to have the approval made
before the L.O. on 1st June.
I that Secretary of State
should know of it.
29/5


NO 5

Conversation with Archbishop Eames

1. Arising out of press reports yesterday that John Taylor was seeking (through a written PQ, for answer on 1st June) to have the status of the Adelaide Hospital raised at the Anglo-Irish Conference, the Taoiseach asked me to make contact with Archbishop Eames about his wish to invite Taylor to come and see him. Specifically, the Taoiseach said he would welcome the advice of the Archbishop as to whether he should extend a private invitation (through Dr. Eames) to Taylor, or whether this should be done publicly.
2. Dr. Eames, in response, said he had always been concerned in case the Adelaide became "a political football". He had been encouraged some time ago by the very positive and sympathetic reception he and Archbishop Caird had received from the Taoiseach. Subsequently, however, the Board of the Adelaide had become rather restless and the whole issue had been aired publicly at the General Synod of the Church of Ireland. This had led to coverage in the Belfast Newsletter, which was undoubtedly seen by Taylor.
3. The Archbishop said he had also told the NIO (John McConnell), that he wished to avoid public controversy over what was a very sensitive issue. Even if it were technically possible to have the matter raised in the Anglo-Irish Conference, therefore, he would prefer if the option were not pursued.
4. Dr. Eames seemed to be disappointed in the approach of the Chairman and Board of the Adelaide and said that they had missed an opportunity to move matters forward. The Board seemed to be divided, with the consultants on it having their own agenda and some of the others "following a herd instinct". There was also a "Young Turks" element on the

Board, with the Archdeacon of Dublin being particularly insensitive in his approach.

5. Dr. Eames went on to say that, if the matter were carefully handled, it could have a very helpful impact North and South. It was not just a matter of safeguarding the Protestant ethos but, very importantly, about maintaining the nurses training school. They were not seeking a "controlling interest" in the new Tallaght hospital but they did feel that they were entitled to "special treatment". He added, with regret, that he felt the positive attitude of the Taoiseach had not been reflected in the approach of the Department of Health.
6. As to the question of an invitation to Taylor (who had been at University with the Archbishop), he said that we should be aware that Taylor was an "opportunist". It was well known that Taylor liked to jump on every available publicity bandwagon. Taylor had "great ambitions" at the moment (for the Unionist leadership) and was not even being subtle about them. If the Taoiseach were to issue a public invitation to him, and, "knowing the nature of the beast", he would make political capital out of it and throw it back in our teeth, arguing that it was a subtle attempt to get him into dialogue with Dublin. His strong advice was, therefore, that the invitation be conveyed privately.
7. The Taoiseach confirmed that he would wish Dr. Eames to go ahead and extend an invitation privately to Taylor. The Archbishop said he would do this as quickly as possible and revert back to us.


Dermot Gallagher,
29 May, 1990.

cc: PST; PSM; Mr. Nally; PSS

Written Parliamentary Question
for answer in the House of Commons
on Friday 1st June

To ask the Secretary of State for Northern Ireland, whether he will make representations at a meeting of the Anglo-Irish Ministerial Conference to have the present Protestant Medical Ethics at Adelaide Hospital, Dublin, retained in the proposed new hospital to replace it.

- Mr. John D. Taylor (Strangford)

(NOS)

Mr. Gallagher
1-6-90
116

SECRET

29 May 1990

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

cc PS of
Mr. Wells ; P.S.S.; Mr. Lohan
Mr. McNeill ; Mr. Keenan
Mr. Anderson, Mr. Collins

Dear Assistant Secretary

I enclose a draft note on the informal meeting between the Co-Chairmen of the Anglo-Irish Intergovernmental Conference held in Dublin on 28 May 1990.

Yours sincerely

Padraic Collins

Padraic Collins

INFORMAL MEETING BETWEEN THE CO-CHAIRMEN OF THE
ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE

IVEAGH HOUSE, DUBLIN 28th MAY, 1990.

An informal meeting of the Intergovernmental Conference took place at Iveagh House on 28th May 1990. The Irish side was represented by Mr Gerard Collins T.D., Minister for Foreign Affairs. He was accompanied by Mr Noel Dorr, Mr Dermot Gallagher, Ms Anne Anderson and, from the Secretariat, Mr Declan O'Donovan and Mr Padraic Collins. The British side was represented by Secretary of State Brooke. He was accompanied by Mr Ian Burns, Ambassador Fenn and, from the Secretariat, Mr Robert Alston. The meeting was preceded by a courtesy call by Secretary Brooke on the Taoiseach - at which the Minister for Foreign Affairs was also present - which lasted from 5.15 pm to 5.40 pm. Following the Secretary of State's arrival at Iveagh House, there was a tete-a-tete with the Minister for Foreign Affairs between 5.50 pm and 6.00 pm. The meeting proper began at 6.00 pm and ended at 8.45 pm. The purpose of the meeting was to discuss recent developments in relation to political progress in Northern Ireland.

Mr Brooke: [Following some preliminary remarks] On the subject of meetings being long or short, Lord Hailsham has a story about a dinner in Oxford at which the speaker had gone on at very tiresome length. Lord Hailsham, referring to another speaker who had the habit of going on, said "Old Thomas has a story about Mesopotamia and you do not know until you are twenty minutes into it, whether you are going to get the short version or the long version....."

Mr Collins: Firstly, Peter, thanks very much for the detailed briefing which we received from Ian Burns on Friday. It was very important to have received it. We have had the opportunity of reflecting on it over the weekend. We look forward to this evening's discussion following on that. I wonder how you wish us to take it? Do you wish to say something to begin with?

Mr Brooke: Yes. I am happy to say what I said at my brief meeting with you and what I said to the Taoiseach and yourself together. Perhaps the important point - in terms of the conversations with the political parties in Northern Ireland - is that there are two main trends. I have been making clear, firstly, that, in these conversations, we do not need to engage in a zero sum game, in other words, one party taking a step forward does not mean that the

other parties have to take a step backwards. What we want to achieve is to give everybody the opportunity of moving forward. We were never in doubt about the willingness of the SDLP to make progress. I have to say, however, that they had a great reluctance to put anything on paper. There were moments when that was very frustrating. The other point or trend, I think, was that many doubted whether the Unionists were willing to make progress. I wished to test that scepticism. As you know, my first meeting with the Unionists - on 11 May - lasted two and a half hours and the second meeting lasted about four hours. I have had a sense - and this is not simply in the aftermath of my conversations with the Unionists - that the Unionists really did wish to move forward. I think it is fair to say that they are no longer putting obstacles in the way. There is a forward looking spirit there now. Incidentally, I did not say this earlier, but I would like to say it now, that is, that this forward looking attitude applies to both leaders and not just to Mr Paisley. There were doubts as you know, about Mr Molyneaux's commitment to making progress. For myself, I would like to say that we believed that we did know where everybody was. What I wanted to be clear on during these conversations was what the bottom lines were and to assure people that there was no hidden agenda. To do otherwise would have been counterproductive. As to where we were and are and how we got there, I would like to say that we have conducted these conversations in the spirit of the Anglo-Irish Agreement. It remains wholly intact both in terms of the nature of the agreement with Unionists and between the two Governments. The Agreement is the bedrock and that was clear at all times. Finally, I should like to say how grateful I am for the tact and finesse that has been evident on your side in handling this matter. It has been extremely helpful. I appreciated it, especially at a delicate time. Any lack of finesse could have stopped everything on the track. I think that is enough scene setting for the moment.....

Mr Collins: Thank you. There are three distinct areas which I would like to mention: the first is the issue of the Unionist preconditions and how they might be met; the second is the timing and format of talks, particularly the North/South dimension; and the third is the substance of negotiations once they get underway. On preconditions, the first precondition (the willingness of both Governments to contemplate an alternative to the Agreement) has been met.

Mr Brooke: Yes. I do need to say, however, at this stage - and Ian Burns may have done this on Friday but I would like to leave no doubt about the matter -

Dr Paisley acknowledged that my letter to him met that precondition. As you know, my letter could be seen as being on behalf of the British Government but, in fact, I was careful to use the "we" in the collective sense. Dr. Paisley drew attention to the fact that you had not said the same thing at that time. It was not, I hasten to add, a point of substance. He was satisfied with my letter. I just mention it in case it comes up again.....

Mr Collins If they are satisfied, we don't need to do anything further. I think their concerns here have been met in a sensitive manner by both Governments. The second problem in relation to preconditions relates to the gap between Conferences. I don't think that should present a major problem for us. I note that you have provided us with some language on this. We have had, of course, several gaps between conference meetings but, if there is to be a gap, lets create it and give a date. I note that Mr Burns gave us the following text on Friday to be used at the time of the announcement for a gap: "the date has been set to assist the ordinary planning and conduct of conference business.... the two Governments have also had in mind the opportunity that the interval between the meetings may provide for political progress within Northern Ireland". If we are to create a gap I wonder about the necessity of commenting on it. The reason for it would be obvious to everybody and I wonder what the reasons are for spelling it out.

Mr Brooke: The reason is that the Unionists wanted some reference to the purpose of a gap. What we have tried to do is get words that everybody would be happy with. It is, I suppose, within public knowledge what the gap would be for.

Mr. Collins: I am concerned that the last three words "within Northern Ireland " are narrowing it a bit too much. I am not certain about what we need to say here and I am not objecting - I am simply trying to tease out the reasons for making a comment.

Mr. Burns: I tend to agree. Perhaps it is a text we could use if it were necessary.

Mr. Gallagher: If you set the second date, then people will draw the logical conclusion that it is a gap for political talks.

Mr. Brooke: I feel that there may be a problem if we did not say anything at all. We are likely to be asked questions about the purpose of the gap ...

Mr. Collins: I can go along with the general idea if you feel that it is necessary. However, I have difficulty with the expression "within Northern Ireland".

Mr. Burns: The reason for having a text is that Ministers will be asked questions as soon as the gap is announced.

Mr. Collins: You are reading my thoughts exactly.

Mr. Burns: There is, therefore, an advantage to having a form of words ...

Mr. Dorr: Will it be a statement or an answer to a question?

Mr. Gallagher: It would be best as an answer to a question. It is not the kind of language that would be suitable as part of a statement.

Mr. Burns: I agree. It would seem odd in a Conference Communique. It is not quite the language of Conference Communiques.

Mr. Collins: It could be said at a press conference.

Mr. Burns: Yes. The Communique would say no more than that the Secretary of State and Minister Collins had agreed to hold the next meeting on an agreed date.

Mr. Collins: On the duration of the gap, our text following our meeting on 19 April referred to two months and I feel that is what we should stay with.

Mr. Brooke: The position I have taken in my conversations is that there would be a gap of not less than two months. I talked about "around two months". We had agreed when we talked before that we would not worry if there was a give or take of a few days.

Mr. Collins: That is probably not a serious problem for us once we name a date. We would not fight with you about a week or ten days but I would not want the gap to extend to three months.

Mr. Brooke: We have had a three month gap before due to your election in 1987. There was a gap covering the months May to July, I think ...

Mr. Gallagher: But there is a difference between an accidental long gap and a natural gap.

Mr. Collins: We can get around that problem, I hope. I think that the most difficult of the Unionist preconditions is the one relating to the Secretariat. I can tell you that, when we met the SDLP, that was a matter of the most serious concern and they were anxious that there should be no change in the staffing of, or level of authority, of the Secretariat.

Mr. Brooke: The SDLP did not quite use those words at our meeting with them. Nevertheless, they explained the importance they attached to it.

Mr. Collins: I can tell you that at our meeting with the SDLP it was a major issue. We need to tease this out somewhat.

Mr. Brooke: Are you talking about your meeting with the SDLP in early May?

Mr. Collins: Yes. It was the same day as your meeting with the Unionists.

Mr. Brooke: May 11th?

Mr. Collins: Yes. I have a difficulty in relation to the form of words that you have suggested on the Secretariat

[The British had put forward the following at official level on Friday 25 May "as the Conference will not be meeting between x and y the Secretariat at Maryfield will accordingly not be required to discharge its normal role of servicing Conference meetings provided for in Article 3 of the Agreement"]. I am somewhat concerned about the form of words and specifically about the expression that the "Secretariat at Maryfield will accordingly not be required to discharge its normal role". When I read that at the weekend I took careful note of it. I felt that it could be misinterpreted or misrepresented easily. If the Secretariat is not carrying out its normal role, so to speak, it has no role. I would like to suggest some alternative wording to you on that. [The following text was then suggested by the Irish side "As the Conference will not be meeting between x and y, the Secretariat established under Article 3 of the Agreement will not service meetings of the Conference during that period."]

Mr. Brooke: It might be helpful if we go through the process. With hindsight, we can say that we have advanced a great deal. It was clear from the beginning that the Secretariat would be the most difficult issue to deal with. It was clear to Unionists all along that that would be the most difficult issue. When they came to the last meeting with me they had legal advice about Article 3 - I make no comment on the quality or soundness of the legal advice - that the role of the Secretariat was to service the Conference. Their preoccupation was to get some reference to the Conference. I made clear that any idea of a suspension of the Secretariat was totally unacceptable to both Governments. I said that if the Secretariat hadn't been there we would need to have it in existence if only because of the frequency with which we have made use of it. Apart from that, to have agreed to the Unionist suggestion would have meant a defogation of the Anglo-Irish Agreement. I made clear that I was not prepared to do that nor, indeed, was I prepared to try and persuade you on that point. To have agreed to that would have meant a change in the Anglo-Irish Agreement. I suppose it is perfectly true, as Jim Molyneaux said to us, that the form of words we have suggested is tautologous. It is, I suppose, self-evident that if the Conference is not meeting the Secretariat would not be servicing Conference meetings. However, the problem for Unionists was that, since they recognise that the Secretariat would continue, they needed a phrase about the removal of a particular part of the Secretariat's business. While the reality of the position of the Secretariat is accepted, I would say to you - and I say this in the spirit of our discussions so far - that, if it were possible, it would be helpful if some of the meetings [extradition and security] could take place elsewhere than in Maryfield. That would be helpful, though I am not insisting on it ...

Mr. Collins: Yes. We are prepared to be, and it is in our interest to be, helpful to the Unionists as far as we can ...

Mr. Brooke: We are constructing a bridge (for the Unionists) and it is not so much a question about the existence of the bridge as a problem of engineering its existence. The spirit of the brige is good but the engineering will not bear too much strain.

Mr. Collins: I can understand the problem. However, when I read the formula of words you have suggested I noted that if one were to read them in conjunction with Article 3 of the Anglo-Irish Agreement, it could be interpreted as suspension of the Secretariat.

Mr. Brooke: The Unionists know that the Secretariat will remain. They are aware that at no stage can they say anything hinting at suspension without running the risk of being contradicted.

Mr. Burns: I should say that the text was drafted with some care. Grammatically it refers only to Conference meetings. It was drafted to refer only to Conference meetings e.g. the agenda, minutes etc. It is clear that the Conference as an institution continues to exist. The two Co-Chairmen continue to exercise their role. The text is meant to distinguish between Conference meetings and the other work of the Secretariat.

Mr. Gallagher: But there is a problem with the language used ...

Mr. Collins: Perhaps we can leave it for the moment.

Mr. Dorr: There have in fact been some meetings outside the Secretariat.

Mr. Collins: If there is a genuine desire to say something on this we can probably find the language. It is simply that I have had my doubts on reading the text you have put forward.

Mr. Burns: There is a difference between the perception and the practice in relation to what happens at Maryfield. The public at large assumes that everything takes place at Maryfield.

Mr. Collins: That is just as well from the security point of view ...

Mr. Gallagher: The most difficult problem is the use of the word "normal".

Mr. O'Donovan: The text could give the impression that servicing Conference meetings is the only role of the Secretariat.

Mr. Dorr: Why did you need the reference to Maryfield?

Mr. Brooke: We anticipated a problem of substance there. The fact that we made sure in our paragraph to refer to Maryfield was to protect Unionists from the question as to why the Secretariat is at Maryfield.

Mr. Collins: I think the word "normal" is causing hiccups.

Mr. Brooke: I don't know if a redraft would be acceptable to Unionists. The problem is that we have "parleyed" our words with the Unionists and we have got them past Molyneaux. I don't know if a change in this particular phrase would be the ultimate horror ...

Mr. Collins: The use of the expression that the Secretariat would not be carrying out its "normal" duties tends to give the impression that it would have nothing to do. That creates a problem for us and I think a serious problem for the SDLP.

Mr. Brooke: But there is no doubt on substance. One of the things I made clear to the Unionists - and I have been assiduous to avoid any possibility of misunderstanding on this matter - was the position of the Secretariat. I should say that we have tested each proposition we have put forward in these talks again and again. The Unionists accepted that the Secretariat would remain at Maryfield. It is fair to say, I think, that what they are doing, in fact, is turning a blind eye to the reality. They accept that the Secretariat remains at Maryfield. I don't think they have any desire to go out in public and run the risk of contradiction.

Mr. Gallagher: Our concern is that if you say that the Secretariat will not be carrying out its "normal" duties it can be presented in public as being redundant. That will leave the Unionists - to continue the metaphor they have been using - to say that they have scored three goals to nil. As you know, they have been talking in recent weeks about having scored two goals to nil. The implication is of course that they would have scored three goals to nil against the Nationalists.

Mr. Brooke: But the Unionists also know what they agreed with me. It is not in their interests to run the risk of contradiction here.

Mr. Collins: I would like to have a little clarification on this issue. It is a point of great importance to us and to the SDLP. Is it clear that there will be no change in the staffing and functioning of the Secretariat?

Mr. Brooke: I can only answer for myself. Obviously, I can't answer for you. So far as I am concerned, they remain at Maryfield. It also transpired in discussions with the Unionists that there was no great desire on their part

about the removal of the Heads of the Secretariat to service talks, for example. So far as they and we are concerned the Heads of the Secretariat remain at Maryfield ...

Mr. Collins: Is it clear that there will be no decrease in the staffing?

Mr. Brooke: I gave no ground on that. [At this stage, following British insistence on a reference to Maryfield, the text was amended to read as follows: "As the Conference will not be meeting between x and y, the Secretariat at Maryfield established under Article 3 of the Agreement will not service meetings of the conference during that period". The British did not commit themselves to this text - in fact Mr Brooke had serious doubts about whether he could sell anything other than his original text to the Unionists - but it remains on the table and the British will, presumably, consider it further and come back to us]

Mr. Collins: The other point relates to the liaison group. There has been quite a bit of slippage on that issue since our meeting on 19 April when we agreed to establish an official liaison group to cover the three sets of talks and agreed that we would use it for our input into the internal talks.

Mr. Brooke: I suppose the one bit of slippage is the fact that the Heads of the Secretariat would have provided a thread between the three sets of talks. The difference in what we are now proposing is that the liaison group would be a private rather than a public link between the internal talks and the other two sets of talks. But in a sense, that is linked to the timing of the various sets of talks. There is no problem about a liaison group in relation to North/South or East/West talks. That is absolutely straightforward.

Mr. Collins: I wonder how it can work to cover the three sets of talks.

Mr. Brooke: In the end all are of equal importance ...

Mr. Collins: But the nature of the liaison group has now changed. It would be servicing only two sets of talks that is the North/South-East/West talks and would be an "intergovernmental" and private liaison group. I don't see how it could cover the three sets of talks. The two Heads of the Secretariat would be servicing the North/South and the East/West talks. I just can't see how it is going to cover the three sets of talks and how it relates to the internal talks.

Mr. Brooke: I envisage the two Heads of Secretariat would be in contact in terms of progress on the first set of talks, that is, internal Northern Ireland talks in which you would not be directly involved. That will be a vehicle by which you would be kept informed of progress on developments in relation to the internal talks. In the other two sets of talks you would have a direct involvement ...

Mr. Burns: The Unionists understand that each Government will bring its own officials to meetings. They accept that you will bring your Head of the Secretariat ...

Mr. Gallagher: I see a problem with what you propose. The SDLP would want to be members of such a liaison group. The public perception of a liaison group is that it would bring the three threads together. That was the mechanism that broke the log-jam between Ministers in London on 19 and 20 April. My worry now is that what you are proposing is a hidden liaison group. It is private to the two Governments and not a public one ...

Mr. Brooke: That last point is accurate. I suppose you could say that it is a secondary facet of what I think is the slippage from the document of April 19. At my meeting with the Unionists on May 11, I did make the point about the desirability of the three sets of discussions starting simultaneously. However, I struck a Unionist bottom line there. If I were to have sought simultaneity and to have insisted on it we would not have reached where we have now reached. The Unionists made the point that they have a problem in this area. They made the logical observation that until they have got some kind of assurance that they have authority from their electorate - and to have such authority they would need to have some idea about where they were going in the internal talks - they can't talk about a new agreement or about North/South matters. I couldn't deliver the Unionists on any other basis. They accept, that, of course, in the end, there have to be talks about all three dimensions.

Mr Collins: Suppose we get agreement between the two Unionists and the SDLP on internal Northern Ireland affairs - if that agreement is only on devolution, the SDLP won't wear it.

Mr Brooke: Did you really mean what you just said?

Mr Collins: I mean they will not go along with devolution on its own.

Mr Brooke: Oh! I see "with devloution on its own". That's OK.

Mr Collins: The SDLP won't go along with it without being clear on everything else. How soon after the start of internal talks will the other talks begin?

Mr Brooke: I genuinely couldn't tell you.....

Mr Collins: If there is delay we will be blown out of the water in terms of parliamentary questions etc.

Mr Brooke: There is an interest on everybody's part in seeing that any movement beyond now has the thumbprint of Unionists on it. There is no point in proceeding otherwise. It would be pointless if the Unionists disown it. There is an interest in eyerybody's part in Unionists participating and, equally importantly, there is an interest in the part of Unionists in participating. They, more than anyone else, want to get into the conversations on a replacement Agreement. They know well the SDLP view on an internal solution and on the importance of a solution embracing the island as a whole.

Mr Collins: I can see that you have your difficulties. What I want to make clear is that we want to see action and we have no interest in pouring cold water on it.

Mr Brooke: There is the further consideration that, if the Unionists participate, and if these talks don't succeed, then they are in a weaker position because they've had an opportunity to argue their corner and they can't go around saying they weren't given a chance to air their views. They are, therefore, concerned not to fail because, if they do, they are in a much weaker position.

Mr Burns: Yes, it would be clear to everyone that they would have lost an opportunity of putting forward their views.

Mr Collins: I am trying to see the difficulties and to ease them. When we talked at the Conference meeting on April 19th we envisaged the three sets of talks beginning in unison. If the delay in beginning North/South talks were

to be a matter of a couple of days after internal talks, that would not be a problem. But the question is when will North/South talks take place?

Mr Brooke: I can't answer that. I can make it clear at the outset that there are three sets of talks, but I cannot tell you the precise moment when North/South talks might begin. I would like to say this, however - I put it to Molyneaux that, if we started down the road that we envisage, of ^{three} these sets of talks, was it the case that he would decline to come to a meeting and he said no. I tested the structure with your Government. We put it to the Unionists clearly as to whether there were circumstances in which they would not come to a meeting. Paisley said that he was perfectly prepared to talk to Dublin - that he was not afraid and that he had no problem with that. What I can't tell you is the precise moment when that might happen.

Mr Collins: I'm not trying to be difficult and I understand that you have got to bring the Unionists with you.

Mr Brooke: What I am saying is that there is a stated willingness on the Unionists part to come to a North/South meeting.

Mr Fenn: Could I contribute the word "contingency". In the end each set of talks is contingent on the other and they therefore have to end together that is, simultaneously. Am I right Secretary of State?

Mr Brooke: Yes. There is no other way that the talks could end. They have to end simultaneously.

Mr Fenn: Yes. It is contingent ...

Mr Gallagher: There is the additional point that "substantial progress" is left to your judgement. That could be seen as taking place after bilateral talks or after the meeting to clear the heads of an agenda....

Mr Brooke: Again, so that there cannot be the faintest possibility of anybody being misled, I would like to point out the following, namely, that once we decide to have a Conference and to begin a gap, the political parties would sit down with my officials, but not with me, in advance of that to discuss agenda matters. What they do not envisage is that there would be substantial negotiations until the gap begins.

Mr Gallagher: Yes. I see that.

Mr Brooke: I can see the practical point the Unionists make namely, that until they have some idea of the framework in Northern Ireland how can they talk to you. Everything is contingent on everybody being content that they know where they are going.

Mr Gallagher: But the SDLP will not move very far unless they have some idea of when North/South talks will begin.

Mr Brooke: Right. That may well, of course, be the moment when we will reach an impasse. I have to allow for two possibilities, namely, that I have trouble with the SDLP or that I have trouble with the Unionists. It seems to me, however, that it will be easier for the Unionists to respond to an SDLP request for the beginning of North/South talks than to respond to a request from me. What I am seeking is a proposition that everybody accepts and that nobody - least of all yourselves - reject. Patently, if I reach that, then we are, at that point, in the business of talking to the South.....

Mr Collins: But suppose that there is no North/South meeting after four weeks. We are then half way through the period of the gap. We would not have been involved in an exercise in which we are talking about an agreement that would transcend the present Anglo-Irish Agreement. We couldn't live with that....

Mr Brooke: But, Gerry, I have engaged in this process all along on the basis of there being no tight deadlines.

Mr Collins: I wonder if there isn't some way to square the circle.

Mr Burns: I'm not sure that I can square the circle but perhaps I can provide a triangle. The first part to the triangle is the agenda-setting exercise which we have mentioned before. I understand that the OUP/DUP are writing papers on that and producing ideas. One OUP contact mentioned to me over the weekend that one of the issues they would want to raise in that connection would be Articles 2 and 3. We would have to say in relation to that issue that there is only one Government, namely, the Irish Government, they can talk to about that. What I am saying is that the agenda clearing exercise

and the papers may provide more clues as to the pace of the talks. The second side of the triangle might be some kind of statement by the Secretary of State at the outset in terms of a speech etc. He could set out the package at that juncture. Could that not, Secretary of State, include a statement on how you see the process? The Secretary of State could put his view on record on the certainty of North/South talks but not on the timing. The third part of the triangle is Ambassador Fenn's point about "contingency". It is a fact of life that the talks cannot end unless they end simultaneously.

Mr Collins: Thank you. I am trying to see the obstacles that this might cause for the SDLP as well. It has been left to your judgement as to when substantial progress has in fact been made. We might be able to work something on that in relation to the timing issue.

Mr Brooke: I am not sure, but I am clearly the most relevant person. I take your concern about timing. I would like to deal with it as we dealt with problems we have encountered in the last few months, that is, on the basis of flexibility. The point is that, unless there is enough flexibility to get everybody to the table, there is no point in going to the table at all, since there will not be enough flexibility to make any progress at the table.

Mr Dorr: But if you take the SDLP's insistence on a North/South dimension, the fact that Paisley is willing to talk to the South and then the third element that the talks must end simultaneously, is it not obvious that you will get nowhere unless you set some kind of time-limit? Time is very short.

Mr Brooke: It is short if everything has to be done in two months. What is crucial is that we set a date for the Conference to meet after the gap and that we meet. I would be nervous if we had a two month deadline on anything else.

Mr Collins: It is not so much that. The point is to get the North/South talks started. Could we not have some sort of a formal session involving the two Governments and the Northern Ireland political parties?

Mr Brooke: I am a realist. I don't think I can deliver the Unionists for that. Once the gap is agreed and announced, we are likely to have bilateral meetings with the Northern Ireland parties, then a plenary meeting and then,

perhaps, we would go back to bilateral meetings or to inter-party talks. It might be a mixture of both. What I can't deliver on is a plenary involving yourselves and the Unionists. But I do understand that you have a problem.

Mr Collins: A vehicle to get everybody involved is needed. If we are parents of the Agreement, and if we are talking about transcending the Agreement, then it is essential that we be involved. You could have a formal session which would be directed at working towards replacing the Agreement - even if it were only a photocall. The problem I see is that you could have a situation in which it is very likely that during the entire natural gap the Irish Government would not be in the picture at all...

Mr Brooke: In the context, it will be perfectly clear to everybody that you must be involved - everybody would know that there is no way the process could conclude without your involvement.

Mr Dorr: But, apart altogether from the Irish Government, there is the SDLP insistence on the North/South dimension. Paisely says he is willing to talk to the South. That being the case, why is it so difficult to pin it down?

Mr Brooke: I'm not saying it can't be done. What I am saying is that if you impose a timetable I can't tell you that I can deliver on that....

Mr Gallagher: But Peter Robinson has talked about simultaneous negotiations. Molyneaux has accepted that there is a British/Irish dimension. Perhaps I could make a suggestion that we be involved in what I might call stage four. Stage one would be the agenda exercise that we have spoken about; stage two would be a round of bilateral meetings; stage three would be a meeting involving yourself and all the parties in Northern Ireland. Is it not possible that, following the latter meeting, you could then perhaps say that there had been substantial progress and that Dublin would be involved at that fourth stage. The position you have outlined to us represents very considerable slippage from the views of Ministers recorded at the Conference on 19 April. I think it would solve our problem if the two governments could have a shared understanding that substantial progress would be taken as having occurred on the basis that I have outlined.

Mr Brooke: It may be that precisely that will happen anyway given the SDLP position. What I want to stress is that I want it to happen "organically". I want it to happen naturally in the discussions between the parties. I do not wish to predetermine it. If I engage in predeterminating anything, it just won't happen.

Mr Collins: I can see that you can't force Unionists to Dublin. Nevertheless, we must find some way of squaring the circle. You can see the problem that we will have. We are parents of the Agreement and we are talking of transcending it and yet we would not be involved in these talks. That will create serious problems for me in the Dail.

Mr Brooke : Can I try out on you what I would propose to say at the outset of talks as I mentioned earlier [the Secretary of State then read the following text: "It is because Northern Ireland parties all look, as I do, to address each of the three relationships that the talks I have described will necessarily involve discussions between the Northern Ireland parties, discussions involving the Northern Ireland parties and the Government of the Republic of Ireland, and discussions between the two Governments. These discussions may not necessarily start at the same time. But it will be necessary to get all three sets of discussions underway at an early date; and thereafter to ensure that they proceed in parallel and in unison and that they conclude simultaneously so that an agreement can be reached on those three relationships which is satisfactory to all (and which will be endorsed by the electorate)."]

Mr Collins: I am looking at the text. Is there any way you could get the idea of simultaneous in there?

Mr Fenn: But it does state that the talks would be concluded simultaneously.

Mr Gallagher: How do you propose to use this text - a public statement?

Mr Brooke: Yes, I suppose so. I don't know exactly as yet.

Mr Dorr: I do wonder how the talks can proceed in parallel and in unison if they do not start at the same time. What do we say to a commentator or journalist if they ask that question.

Mr Collins: When would such a statement be made?

Mr Burns: It would come between stages one and two.

Mr Collins: The time is now coming up when a public statement will have to be made. We have been very careful so far. However, when we are at the starting line something will have to be said.

Mr Brooke: Somebody will have to fire a pistol to get the horses started.

Mr Collins: That is the stage at which it will have to be said.

Mr Dorr: It would be useful if we could look at it and get in something along the following lines "though not all discussions will begin at the same time, they will begin at an early stage"

Mr Brooke: You will note that we have made a reference to endorsement by the electorate of the agreement reached. We have put it in brackets. That is to take account of Mr Paisley's sensitivity and also the point that John Hume has about referenda.

Mr Dorr: It is a very radical idea... I also wonder about the inclusion of the words "in parallel and in unison".

Mr Brooke: Well, the word "unison" was put in to take account of your sensitivity.....

Mr Burns: The point about endorsement by the electorate is probably not essential to this statement.

Mr Collins: What concerns me is whether or not this draft is good enough to make up for paragraphs three and five of the document we agreed on 19 April.

Mr Dorr: Are you thinking of making a statement, a "grounding" statement?...

Mr Brooke: Yes. One reason for my desire for a plenary session is that I think it would be important to say, at that stage, that certain things are

happening. If everybody has disagreed at that stage then I would have to say that there was an impediment. But you are right, I will need to make a "grounding" statement. There is a moment when you actually have to say what it is you are about.

Mr Collins: Yes. At that stage, you are up to the starting line you spoke about. Up to that point, you will have been dealing with each party alone. But then to make sure that nothing goes wrong you would have to say something. You would say that you must talk to the public at large.

Mr Brooke: Yes. I think I would like to make the point however that, while I don't know where the journalists got the reference in their speculation last week about you participating in the talks, it seems to me that it was likely to be Unionists sensitising their electorate to your taking part in the talks. It was a Unionist brief.

Mr Collins: Yes. We felt here that it was very much a Unionist brief.

Mr Burns: The strength of your position at the moment is that whether Unionists think North/South talks are a good idea or not, they have to happen. That point is irrespective of any piece of paper. That is the strength of your position.

Mr Collins: But something will be said in public?

Mr Brooke: Well, I would do the same as I did in the case of the statement on the Stevens Report. I announced in that context that I would make a statement to the House of Commons and I was not deflected from that. I made the statement. I think the moment for a statement is not now but there will come a stage when would we have to say something in public.

Mr Gallagher: It would have been impossible to get where we are and to get the agreement at the Conference on 19 April without the relationship of trust between the two Co-Chairmen. We have been very fair in relation to the Unionists' preconditions. We have not got very far in relation to the SDLP's preconditions, that is, not very far in relation to the North/South dimension. I feel that we need some private understanding between Ministers in relation to what stage North/South talks will begin. I have already

suggested that they might begin at what I call stage four. [There was then some inconclusive discussion as to where a public statement might be made.]]

Mr Brooke: I understand the problem. Dermot (Gallagher) is right when he talked about the trust and the relationship between the two co-chairmen. What we have done so far is to devise vehicles to which everybody could subscribe. The logic is that these must be North/South talks.

Mr Gallagher: The logic is that you won't get pass the first meeting, I think, unless you have something on the North/South dimension.

Mr Brooke: Well, we could get the public statement made early on, but, other than that, I don't want to be tied down.

Mr Collins: I realise that the Unionists have to be bought....

Mr Gallagher: I am worried that, at stage three, the SDLP would say we are not going any further without a meeting with Dublin. It would be a pity if that happened in a negative way and what we are suggesting is that you anticipate that and have it stagemanaged.

Mr Brooke: But there is a natural let out at every stage. Looking at the stages, as we said earlier, it is likely that we would have bilateral meetings as the second stage, following the meeting between officials on preparing agendas etc. The fact is that if I do not have an indication at that stage that we can get somewhere - if one party is unwilling - then I will not invite the other parties to meetings. It may well be that Unionists will say something that sinks the process at that stage. If we have a new incompatible situation at that point we will say that the moment is not right yet. I will take your point away and give you a considered decision. I know that you have been generous in your response to my difficulties. I know also that if I get into inflexibility I will get nowhere. I can make a firm prediction now that we will fail if I get into inflexibility.

Mr Dorr: Will the SDLP play the game if there is no date on North/South talks?

Mr Brooke: It may well be that it will be their position that they will not proceed without a North/South meeting. That may be a road-block.

Mr Dorr: But Mr Paisley has indicated that he has no problem talking to Dublin.

Mr Brooke: No that is not quite the case. What he has indicated is that he would talk to Dublin but that he needs a degree of authority from his electorate before he does so.

Mr Collins: I can see that point. That only serves to give more and more support to my earlier suggestion of a formal meeting between North and South and then you do your shuttle diplomacy. In any event, that is only a suggestion. I'll have to go back and talk to my own people on the point.

Mr Burns: It is worth saying that the SDLP have a growing awareness of the position of Unionists and Unionists have a growing awareness of the position of the SDLP. It is now understood that accommodation is not a piece of verbiage. They understand that it involves issues of substance. I think the SDLP are very aware of the practical realities for the Unionists. I am not sure that the SDLP (let them speak for themselves, however) would wish to prevent talks starting simply because there is no date for North/South talks. There is a consciousness among the parties that they have to work with each other. But it is difficult to put a precise time frame on a North/South dialogue at this point. There is also an internal tension in all of this, as I mentioned earlier. If Unionists say to us that they want to talk about Articles 2 and 3, we will say to them "you must go and talk to somebody else (that is the Irish Government) about that". There is also the point that that North/South relationship is important to us. If, after the round of bilateral meetings, both agree to compromise, then we will have probably reached an agreed position. You may judge, at that stage, that you can't proceed. If all don't all agree, then one side will be absent and the game is not worth playing.

Mr Collins: We have a difficulty here and I can see your difficulty. I will, as I said, have to refer the matter to my own people but I come around again to the idea of a formal occasion with all the players present. Can you consider that?

Mr Brooke: All the players including yourself?

Mr Collins: Yes. Since we are the parents of the Agreement and we are talking about transcending it, we would have to be there.

Mr Brooke: I want to be wholly practical about this. I just don't know if it can be done. I would bet money against it. I can't give you any guarantee on it.

Mr Dorr: But you have to find some way out of the position that Unionists won't come to a North/South discussion until they have a certain authority and the SDLP won't come until there is a North/South dimension.

Mr Gallagher:

Perhaps a compromise position could be found. Could I try a variation of my earlier suggestion in relation to the stage at which Irish involvement would happen? Perhaps, instead of my previous suggestion that Irish involvement would occur at stage four, we could have a new stage - stage 5 - devoted to Irish involvement. The stages would then be as follows: stage one, the period before the gap and the meeting between the parties and the officials; stage two, the bilateral meetings after the gap; stage three, a second round of bilaterals; stage four, a multilateral meeting; stage five, Irish involvement.

Mr Brooke: It has all been bilateral meetings so far. It would be important that there be a public statement by me with all the parties present when we get to the multilateral stage. We need it so that everybody knows where they are.

Mr Gallagher:

Could you not do that at the beginning?

Mr Collins: We can't start the gap without a public statement on our part. The Taoiseach and I would be pilloried in the Dail. The Taoiseach already has had PQs and is under pressure from leaders of the other political parties who have up to now been asked not to do anything. However, the leader of the Labour Party, Mr Spring, now wants to be briefed on it. The Workers Party is also pressing.

Mr Brooke: The Workers Party asked to see me.

Mr Burns: They were told to go see somebody else. It is clear that Opposition parties will need to be briefed in both jurisdictions. We will have to hold the line for now.

Mr Gallagher:

But it is all too vague unless there is a private understanding between Ministers.

Mr Collins: If I'm asked what the Irish involvement is in this, what do I say?

Mr Brooke: You could say that "I would hope that we get all three sets of talks started early or I will want to get all three sets started early...."

Mr Dorr: [Suggesting amendments to the British draft text on the three sets of relationships] We need something more than is in your text. I am endeavouring to reflect the imperative in your text that it will be "necessary" to get all three sets of relationships under way at an early stage. Can you not give something on a formal start of talks with Dublin?

Mr Brooke: The critical factor is getting the Unionists to the table. I am hopeful, and I am confident, that they will come to the table but I would have a problem with deadlines. I would like to give everybody plenty of time and to have the feeling that they are not being pushed.

Mr Burns: [Responding to a drafting suggestion by Mr Dorr] We could agree with the suggestion that "if real progress is to be made it will be necessary to get all three sets of discussions underway at an early date".

Mr Brooke: It has the great merit that nobody is being told that they have to finish the race.

Mr Collins: You can't force progress.....

Mr Brooke: I would like to maintain the conditional idea. I have approached this all along on the basis of one step at a time. The advantage of the conditional is that it preserves that idea while drawing everybody's attention to the winning post. [The following text, amended by the Irish side, was then

put on the table "It is because the Northern Ireland parties all look, as I do, to address each of the three relationships that the talks I have described will necessarily involve discussions between the Northern Ireland parties, discussions involving the the Northern Ireland parties and the Government of the Republic of Ireland, and discussions between the two the Governments. These discussions may not necessarily start at the same time. But if real progress is to be made, it will be necessary to get all three sets of discussions underway at an early date; and if an agreement satisfactory to all is to be reached on those three relationships, these discussions will need to proceed in parallel, (in unison), and to conclude simultaneously." The idea was that this text would form part of the public statement by the Secretary of State at an early stage in the talks.]

Mr Collins: Dermot (addressing Mr Gallagher), you still look unhappy.

Mr Gallagher:

I am still worried that there will be no North/South meeting during the gap. We ought to have a private understanding between Ministers that there would be an opening of North/South talks during the gap.

Mr Brooke: The reason I take a different position is that if the SDLP take that position we may have a blockage during the first two weeks or it may be that we can solve it....

Mr Gallagher: The SDLP will want a date for North/South talks...We need some private understanding about that.

Mr Burns: It may be that we will achieve a date. That may be what we will end up with, but the Secretary of State cannot guarantee it.

Mr Collins: Perhaps you can't guarantee it, but we still need some kind of understanding on it..... even a private understanding...

Mr Gallagher:

The next stage after the multilateral session would be Irish involvement - we need a private understanding on that.

Mr Collins: Whats your timetable?

Mr Brooke: Likely timetable is that week one would be devoted to bilaterals between the political parties; week two would be devoted to a plenary session; weeks three and four would be devoted to further bilaterals; week five would probably involve inter-party talks which could take two to three weeks.

Mr Dorr: I am still a little puzzled. I am, perhaps, being boring on this. Perhaps you have answered this question already. Are the SDLP not going to say at a very early stage that they will not proceed unless there is a North/South meeting? How do you handle that?

Mr Brooke: What you are doing is accelerating my timetable.

Mr Dorr: But it seems to be inevitable that in week one, if everybody is to state their position and know where they are, the SDLP will state that position, according to your own logic.

Mr. Brooke: That may be. What I want to do is to create a mood in which we can find a solution to such problems. That was the way we solved the Unionist preconditions. That seemed a difficult bridge to cross but we have managed to cross it. The same is true of Maryfield. We have managed to cross that bridge. It is true that the SDLP have one position and that the Unionists have another. If the SDLP say that they will not make progress without a meeting with the Government of the Republic and Unionists say the opposite, we are then in a potentially irreconcilable position. What I want is that a solution to the problem should emerge "naturally" from discussions between the two sides. It will be clear that if we are to finish the course there has got to be a means of solving the problem. My point is that, if people are serious, a means will be found.

Mr. Collins: Can I bring you back to your timetable. You begin with the ground clearing exercise or the discussion on the agenda ...

Mr. Brooke: The agenda exercise would be before the gap. It may be that we would need the endorsement of the parties for that. The idea is that once a gap was announced - in week one - I would have discussions with the political parties.

Mr Collins: What would be the purpose of that....

Mr Brooke: They may want to say something to me. They would have spent some time with officials but they would probably want to say something to me.

Mr. Burns: There would be papers as well from the political parties.

Mr. Collins: What would happen then is that you would have a plenary in week two.

Mr. Brooke: It would be a discussion of where we had got to and where we were going. I would be quite happy at that stage to say the words of the text that we have agreed.

Mr. Collins: It would be a progress report and "path-finder" kind of discussion?

Mr. Brooke: Yes. Path-finder is a good word.

Mr. Collins: After that, say during the next two weeks, you would then have further bilaterals and then you would think of an inter-party discussion in week five.

Mr. Burns: It is possible that people will play for time. It is possible that the parties will engage in that exercise. It will be clear at the various stages that we can either come to a conclusion or not. We will be clear, at each stage, that either we are really in business or people will want to spin it out.

Mr. Dorr: Leaving aside the Irish dimension completely, I am still not clear on how you can get as far as week five without answering the SDLP position on a North/South discussion. Leave Dublin aside completely for the moment - it seems to me you need something concrete because the SDLP will ask for it.

Mr. Brooke: Yes. It may well be that that takes us to a fence we can't get over. Unionists may say that they do not want a North/South discussion that early.

Mr. Gallagher: But our view and the proposals we are making is an effort to avoid that negative way of dealing with the problem.

Mr. Dorr: We are saying that you need to plan for that situation now. We need a mechanism to handle it.

Mr. Brooke: I will take that head on if it arises. I cannot solve this problem until it is clear to the parties that they have a head-on clash. The timing of a North/South discussion cannot be decided until it is clear to the parties from negotiating with each other that there is a problem to be solved. It is not something that can be done at one remove.

Mr. Dorr: But the Unionists broadly accept that there have to be discussions with the South. We are really only talking about a mechanism for such discussions.

Mr. Brooke: I have not reached that point yet. It is quite simply something I cannot do on a bilateral basis ...

Mr. Burns: The position is that, before final agreement, all, including the Unionists, expect that they will be talking to the South. I don't know if the SDLP insistence on North/South talks is an irreconcilable problem. What you are saying to us is not something the SDLP have said to us in precisely those terms. It is, however, clear that Unionists will not accept North/South discussions taking place on day one. It may be that we cannot reconcile those positions or maybe we can. It is something, however, that none of us at this table controls.

Mr. Dorr: No. I am not asking for it to happen on day one. What we are asking for is to provide some date ...

Mr. Collins: I don't necessarily want a date. However, I will be questioned in the Dail on what is happening in relation to these talks. I can get away with not being specific for one or two weeks. The Taoiseach will be questioned in the Dail and the same applies. We won't be able to hold out for more than a couple of weeks.

Mr. Fenn: I wonder, Minister, if it is a formula you need or you simply need to have the confidence that North/South talks will take place ...

Mr. Collins: I have the confidence, Nick. What I need is some formal occasion in which the Irish Government would be involved. That would give us some time... Is there any way you could give us something formal and definite on North/South discussions?

Mr. Dorr: The problem is clear in that one side - the SDLP - won't get into substantive discussion without something definite on North/South talks. Could you not have a formal session on North/South talks and then an adjournment ...

Mr. Collins: Yes. That would give us a bit of fresh air and we could then wait a little.

Mr. Brooke: I am probably being boring on this. If I agreed, what would happen if Unionists won't come to that meeting? I want to be fair. Six months ago we were saying there was not likely to be talks. We are now saying something different. I think there is a lesson to be learnt from that.

Mr. Burns: The obstacle is the Unionist willingness to attend the type of formal meeting that you propose. They will think it a PR exercise.

Mr. Collins: Perhaps not if they knew exactly what was going to happen.

Mr. Burns: Is there anything the Irish Government could do to make it more attractive for Unionists to attend such a meeting? Is there anything you could say that would be helpful? I don't know what that might be - I simply ask the question.

Mr. Gallagher: What is attractive to Unionists is to be part of a negotiating process to transcend the Agreement.

Mr. Dorr: We have discussed three possibilities as follows:

- (i) You could have a formal opening of North/South talks and an adjournment.
- (ii) One would decide on a date, or an interval, after the first 3/4 weeks, following on which you would have Dublin involvement.

(iii) Oryou can plan for and care of the eventuality that there would not be agreement between the parties on North/South discussions. That is what we are trying to plan for.

Mr. Collins: To address Mr. Burns' point about attractions to Unionists, perhaps we could offer them a Unionist secretariat in Dublin.

Mr. Dorr: We need something built into the talks about a date.

Mr. Gallagher: The secret may lie in having an understanding with all the parties. The Secretary of State could make his statement on the three sets of negotiations and you might then say to the parties that I understand it to mean 'x' date." That would be reasonable and logical. The Unionists accept that there must be North/South talks. Peter Robinson and Ken Maginnis have said it in the past.

Mr. Brooke: If we know that a kind of impasse is likely to occur it might be useful to have a form of words. I am, however, nervous about a date. I know from my experience of the EC, that, on many occasions, we would not have got agreement if we have set deadlines.

Mr Dorr: You could always stop the clock....

Mr Brooke: I've never approved of that as a straightforward approach....

Mr. Gallagher: What we need is a global approach ...

Mr. Brooke: I can see the point in practical terms. However, I do not want to be put in a straight-jacket.

Mr. Burns: Let's see. Somebody will ask Minister Collins at a fairly early stage about the timetable and what it all means. It seems to me that you could say something along the lines that "while you are not willing to forecast, you would be personally disappointed if all three sets of negotiations did not get underway at an early stage." You would not, however, hook yourself on to a precise date.

Mr. Dorr: I am still focussing on why Unionists don't want to talk to Dublin. You say that they need to have some kind of authority before they talk substance. Could you not have a meeting with them and agree on the basis that it would be opening talks formally with Dublin. It would be formal only and you would make clear that you would talk substance at a later stage. It would establish the principle of talks with Dublin.

Mr. Gallagher: It would also underline the essential fact in the process which is that one is talking about an agreement that would transcend the Anglo-Irish Agreement.

Mr. Brooke: If I was to say that talks are contingent on your involvement, I would be concerned about how Unionists would react. What I want to do is to first discuss Northern Ireland issues and then the North South relationships. Given the SDLP position, it will be readily apparent to Unionists that you are involved. I would hope that, given that position, we could then move, more naturally, to conversations with yourselves.

Mr. Gallagher: If they agreed to meet us, they could put what they like on the record. They could say that internal issues had not been discussed with us.

Mr. Brooke: It may well be that, given the SDLP position, we will have to proceed in that way. What I am giving you is my best judgement which, as Edmund Burke said, is all the elected owe to the electorate ...

Mr. Collins: I will have to report back to my Government colleagues. Time is terribly important here.

Mr. Brooke: Yes. But what I am concerned about is to have a right basis for everybody to agree and proceed. I am not under enormous pressure of time in that sense. I would prefer to resolve what differences there are on a genuine basis rather than be rushed.

Mr Collins: We will certainly try to resolve the difficulties.

Mr. Fenn: Perhaps we are close to agreement, on the basis of the amendment suggested by Mr. Dorr, to the text which would form part of a public statement by the Secretary of State.

Mr. Burns: We can delete the word "unison" and the point about endorsement by the electorate in our earlier text.

Mr. Collins: We will have to reflect very carefully on the issues and see if we can take it forward. We will endeavour to see each other again as early as possible.

Mr. Dorr: We would need to have some statement on the lines of the text we have just discussed so that we can take account of the fact that North/South talks will take place. We have to endeavour to take account of the SDLP position.

Mr. Brooke: Yes. The SDLP will want them as soon as possible. Given the Unionist position, the only way to reconcile the parties, is to "parley" an agreement between them. It is more likely to emerge that way. Rather than trying to impose a date for North/South, it is more likely that you will get agreement on the issue if the SDLP is vicariously acting as a proxy for yourselves. If the SDLP take that position, then Unionists will have to accept it if progress is to be made.

Mr Dorr: Is there no mechanism you could agree with us on North/South talks?

Mr Brooke: I have to say that I have no confidence that we could impose it. It is my judgement that it is more likely to emerge as a result of recognition by both sides that progress cannot be made without it.

Mr Gallagher: Did the electoral endorsement issue arise from Paisley or Robinson?

Mr Brooke: It would be Paisley. Paisley's endorsement is vital to the success of the process.

Mr Burns: It is useful to note that Paisley has moved. Initially, when we talked about the Secretariat, he thumped the table and said that the removal of the Secretariat was a bottom line. Subsequently, he moved on that issue. The point is that he has come to that recognition himself. It was not something that was imposed by us. That, I'm afraid, is the way that particular brand of politician makes progress.


Mr Collins: On substance, our fundamental concern is that the talks will embrace the three sets of relationships in a fundamental and meaningful way.

What do we say to the people outside? [Minister Collins was referring to the press]

Mr Brooke: What served us well after our meeting with the Unionists was the truth. I can say that we've had four meetings. I still have to have a meeting with the Alliance Party so that the process remains to be completed. I could then go on to say something along the lines that we will be further contact.

Mr Gallagher: Are you having another meeting with the Unionists?

Mr Brooke: Well, as you know, the Unionists said, following the last meeting, that that particular round was now finished as far as they were concerned. [Following a brief discussion with the Press Officers and agreement on a joint Press briefing, the meeting ended.]


P. Collins

Counsellor

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No. 5

ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE

February 1990 → MARCH 1990.

Conference to analyse decision, Collins says

From Sean MacConnell, in Strasbourg

THE Minister for Foreign Affairs, Mr Collins, has indicated that the next meeting of the Anglo-Irish Conference may consider the background to Tuesday's Supreme Court decision on extradition, including the prison regime in Northern Ireland.

Mr Collins said it was now up to the British and Irish Governments to sit across the table from each other and identify the reasons for the Supreme Court's decision, and to see if there were changes to be made to remove the basis for the judgment.

The Supreme Court had found that there was evidence of ill-treatment of escapees who were recaptured, that prison officers had perjured themselves, that there had been no official inquiry into the escape, that officers who had perjured themselves were still on duty and that there had been no prosecutions and that none was likely, he said.

The Minister told reporters in Strasbourg yesterday that there was now a need for careful analysis of the judgement by both sides and if there was a case to be addressed, there was sufficient maturity and goodwill to address it in the proper fashion.

"I think when the judgment of

the Supreme Court is examined carefully and studied, as it must be, at that stage we will have a much clearer picture of the basis of that judgement."

Asked if he personally believed that Mr Dermot Finucane and Mr James Pius Clarke would have risked assault and injury if extradited, Mr Collins said "I accept, as I must do, the decision of the Supreme Court on this matter. That is their job and their responsibility. The question of a personal opinion does not arise."

Mr Collins said the unanimous judgment of the Court had given considerable weight to the findings of the Northern Ireland High Court in the Hutton judgment in the Pettigrew case in 1988.

Stressing the impartiality and freedom of the Supreme Court, Mr Collins said the government fully respected the Court, which had made it clear in each case it decided in the light of the facts and circumstances, and that no conclusion should therefore be drawn for future cases.

He strenuously denied the claim by the Rev Ian Paisley that Anglo-Irish relations were at their lowest level ever because of the judgment. Mr Paisley said in Strasbourg last night that he was seeking a public declaration from the Northern Secretary, Mr Peter Brooke, declaring that the Northern Ireland administration was a legitimate one, and not illegitimate, which he said was the basic thrust of the Supreme Court decision.

Mr Collins added that the Irish Government had never in any way condemned the British courts. "But what we have questioned is the way evidence was



Mr Collins



Mr Paisley

presented to the court. We have commented on the quality of evidence, and rightly so."

He said the British Government itself had recognised this area of the presentation of evidence to court as a matter of great concern, because it had suspended some West Midlands police officers and people who had been convicted on their evidence had been released.

"I must remind you again of the Guildford Four case," Mr Collins told British journalists. "I recognise and appreciate the

capacity of the British system to recognise a miscarriage of justice, even if it was 15 years down the road," he said.

Asked if the Government would press at the next conference meeting for the British Government to take steps to ensure that prisoners in the North were not ill-treated, Mr Collins replied that we could rest assured that it would be on the agenda and that all aspects of the matter would be up for discussion.

He reacted angrily when asked if he was embarrassed by the

decision and said he could not be embarrassed by a decision of the Supreme Court, which was taken irrespective of political or diplomatic implications. The court had a constitutional obligation to be totally impartial, detached, and free on all issues it had to decide.

Mr Paisley said the Supreme Court decision and the McGimpsey case stated clearly that the British Government administration in the North was illegitimate, and anyone who took action to remove that administration was acting on the basis of the Constitution.

"Basically, it says that Northern Ireland is an illegitimate state," he said.

Mr Paisley said the Anglo-Irish Agreement was "dead a long time ago, and now stinks". The Supreme Court decision was part of "the stench from a carcass of the Anglo-Irish Agreement."

He accused all Government Ministers, from Mr Haughey down, of working to overthrow British rule in the North, and he said Mr Collins was attempting to get rid of the UDR, which was protecting Roman Catholics.

He added that Mrs Thatcher had sold the Anglo-Irish Agreement to the House of Commons on the basis that real extradition would be delivered by Dr FitzGerald, but that she was now learning her lesson in a hard school.

He also said he wanted good neighbourly relations with the Republic only if it decided it did not want to annex the North. It was time the Republic came out of the dark ages and tore down the "Berlin Wall of its own making."

5

Brooke upset by Irish criticism

Nikki Knewstub

THE FIRST full meeting of the Anglo-Irish Conference this year ended yesterday after what the Northern Ireland Secretary termed "brisk exchanges" between himself and the Irish Foreign Minister, Gerry Collins.

Peter Brooke said after the meeting in London that it was "unfortunate that one or two things have been said outside the framework of the Conference". Mr Collins appeared on the BBC's Panorama last month, which discussed the role of the Ulster Defence Regiment in advance of the Stevens report, which is expected soon. Mr Collins was also critical on Irish television yesterday.

Mr Brooke said he would not comment on the armed forces of another country. It would be disadvantageous if both sides resorted to magaphone diplomacy.

He said the Conference had talked about the ramifications

of the Stevens report, set up after the leaking of files on suspected terrorists. So far 50 people have been charged.

The conference discussed the progress of a joint working group established to make recommendations about the Royal Ulster Constabulary's monitoring of army patrols. Dublin and Belfast disagree over the percentage of patrols to be monitored.

The Panorama programme exacerbated worries about the regiment and Dublin is sceptical that the job can be done by increasing the role of the RUC.

Mr Collins said the Irish wanted to be certain that suggestions of movement by the Unionists were genuine. The Unionists have agreed to begin talks if they win major concessions.

Mr Brooke, who has had two meetings with Mr Collins since the last full Conference, denied that any gap in meetings was because of Unionist offers. Another meeting is planned for next month.

(5)

Brooke in surprise Anglo-Irish talks

Mr Peter Brooke, Secretary of State for Northern Ireland, yesterday held an unexpected session of informal talks with Mr Gerard Collins, the Irish Foreign Minister, at a hotel near Limerick in the Irish Republic. Afterwards Mr Brooke repeated his pledge that talks could eventually be held with Sinn Fein, though terrorists would have to abide by a cease-fire first. Then, there would be a "totally new situation".

Last week's Anglo-Irish conference was cancelled because Mr Collins and Mr Ray Burke, the Irish Justice Minister, were required in the Dail to secure passage of the budget.

Government sources said topics under discussion at yesterday's talks included EC funding, cross-border economic and security co-operation, the shootings by the Army outside a Belfast betting shop three weeks ago, and the recent moves towards dialogue in Ulster. Irish sources said Mr Collins also raised the detention of the Birmingham six and Dublin's determination that their case be reviewed.

Sinn Fein talks, page 6

Brooke flies to Ireland for surprise meeting

By Chris Ryder
Irish Correspondent

MR PETER BROOKE, Northern Ireland Secretary, flew to Shannon Airport yesterday for a surprise meeting with Mr Gerry Collins, the Irish Foreign Minister.

The encounter at Adare Manor, near the airport, lasted for 2½ hours over a working lunch during which the twists and turns of the political situation in Northern Ireland were among the subjects discussed.

The two men were due to meet in London last Wednesday but the meeting had to be cancelled because of political difficulties in Dublin. The Irish ministers were needed in Parliament to ensure that their minority government was not defeated during crucial votes on the budget which could have precipitated a general election.

Because the Irish hold the presidency of the European Community, Mr Collins has a pressing international schedule, so fitting in an early meeting proved to be difficult.

So Mr Brooke flew to the Irish Republic for discussions about the way Anglo-Irish relations should develop in tandem with his moves to create political dialogue in Northern Ireland leading to devolution.

They also discussed the move to a single market from 1992 and the case of the Birmingham Six which Mr Brooke said he would raise again with the Home Secretary.

After the meeting both ministers reaffirmed their commitment to the Anglo-Irish Agreement but said they had discussed the implications of recent statements by various Unionist politicians and Mr Charles Haughey, the Irish Prime Minister.

Asked if he would respond to the weekend speech by Mr Gerry Adams, Sinn Fein president, who said that talks between the British Government and his party were now "inevitable", Mr Brooke said that if violence ended, there would be "a totally new situation".

5

Brooke excuses Dail pairing row

From Ella Shanahan,
London Editor

THE British Government does not blame Irish Ministers for calling off Wednesday's meeting of the Anglo-Irish Inter-governmental Conference because the Opposition refused to pair the two ministers concerned, the Secretary of State for Northern Ireland, Mr Brooke, wishes to assure them.

In the House of Commons yesterday, he told the Rev William McCrea (DUP) he fully understood their predicament, as one who had served in the whips' office at Westminster.

"I once brought the present Foreign Minister (Mr Douglas Hurd) back from Nepal for a vote we won by 260 votes to nil. He later said, in one of his books (Mr Hurd is a novelist), that it was by a majority of 17, which does prove that truth is stranger than fiction," Mr Brooke said.

Pressed by Mr McCrea about the next meeting of the conference, and whether the Irish Government intended to raise the Colin Wallace affair, Mr Brooke said he had made enquiries as to whether Dublin wished to raise the matter and was told through the Maryfield Secretariat they had not raised it so far.

When Mr Christopher Gill (Cons) asked Mr Brooke about

political developments and asked him if he would agree on the importance of peoples and nations regaining their own institutions and on the desirability of bringing government closer to the people, Mr Brooke referred him to a cartoon in *The Irish Times* last January 12th.

Half the cartoon, Mr Brooke said, showed a crowd in Eastern Europe shouting up to one of their leaders on a balcony: "Reform, elections, government by the people, negotiate." The Northern Ireland version, where he appeared on the balcony, had him shouting at the silent unresponsive crowd: "Reform, elections, government by the people, negotiate."

"The people said nothing. I am looking forward to a replay," he smiled and sat down.

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END of file