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Title:	Dáil Question by John F O'Connell TD to Taoiseach Jack Lynch regarding the effect of Ireland's membership of the European Economic Community on the border with Northern Ireland, with a detailed note for the Taoiseach on the matter.
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*Taoiseach**Draft reply for approval**2/5**Seen and approved by Taoiseach*

QUESTION NO. 3.

DÁIL QUESTION addressed to the Taoiseach
by Deputy O'Connell for answer on
Tuesday, 2nd May, 1972.

QUESTION:

To ask the Taoiseach if he has received an assurance from the European Economic Community that the territorial boundaries of the applicant countries at the time of the signing of the Treaty of Accession, particularly the border between this country and Northern Ireland, will not be binding in any context of future entry into the EEC; and, if not, if he will seek an assurance in this regard.

DRAFT REPLY:

The Treaty of Accession of Ireland and the other applicant countries to the EEC contains no indication of the territory of the States party to it, nor does it contain any provision or implication in regard to the recognition or guarantee of territorial boundaries. The question does not therefore arise of an assurance in the terms referred to by the Deputy.

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Seol aon-fhreagra chun:—
 (A'—) ny reply to:—)

AN RÚNAÍ
 (The Secretary)

faoin uimhir seo:—
 (quoting:—)

COM 63/3^{II}

| Bealtaine 1972

An Rúnaí
 Roinn an Taoisigh

With reference to Mr. Ó Foghlú's minute (S. 18650 H) of 27 April, the following reply is suggested to Dáil Question (Provisional No. 67) put down by Deputy O'Connell for answer on Tuesday, 2 May.

The Treaty of Accession of Ireland and the other applicant countries to the EEC contains no indication of the territory of the States party to it, nor does it contain any provision or implication in regard to the recognition or guarantee of territorial boundaries. The question does not therefore arise of an assurance in the terms referred to by the Deputy.

A note for the Taoiseach is also enclosed.



Rúnaí



AN ROINN SHÓCÁI EACTRAÇA
 Department of Foreign Affairs

baile áta cliaç, 2.
 Dublin, 2.

NOTE FOR THE TAOISEACH

1. The Treaty of Accession of Ireland and the other applicant countries to the EEC contains no indication of the territory of the States party to it. Nor does it contain any reciprocal recognition or guarantee of territorial boundaries.
2. In the implementing legislation enacted by the EEC there is a regulation which defines the customs territory of the whole Community. It does so by listing the territories of the existing member States. This regulation has been adapted for use when the Community is enlarged by adding to the list the territory of each of the applicant countries. The "territory of Ireland" and the "territory of the United Kingdom of Great Britain and Northern Ireland" have been so listed.
3. In the title of the Treaty of Accession the States becoming parties to it are named. The names include "Ireland" and "United Kingdom of Great Britain and Northern Ireland". They are the official names of the States concerned. These official names are, of course, the appropriate names to be used in any international Treaty. The use of these names does not involve acceptance by the other countries becoming parties to the Treaty of any implication as to the territory of this State.
4. The legal fact is that no implication can arise from the Treaty of Accession as to the territory of Ireland or the territory of the United Kingdom, because, in view of the respective names used in the title of the Treaty of Accession and in the regulation referred to in paragraph 2 above, there would be two equally valid conflicting interpretations.
5. This country is party to many international agreements of a multilateral character to which Britain is also a party. The two countries participate in these agreements under the same titles as in the EEC Treaty of Accession. This has never given rise to any

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suggestion by either country or any other participating country that the recognition of the territorial claims of Ireland or Britain was involved. Such recognition is not involved in any of these agreements; neither is it in the EEC Treaty of Accession.

6. Some opponents of membership have asserted that we should have sought to "protect" the national claim to reunification by the inclusion in the Treaty of Accession of a formula similar to the formula which the Federal Republic of Germany negotiated in the EEC Treaty. There are a number of provisions in the EEC Treaty and its Annexes which have some relevance to the division of Germany. None of these provisions can be regarded as implying a claim by the Federal Republic to jurisdiction over the whole of Germany nor in any way as reserving the position of the Federal Republic in regard to the reunification of Germany or to the international recognition of East Germany.

7. The provisions concerning Germany relate to economic problems arising from the fact that East Germany, at the time of coming into force of the EEC Treaty, was outside the Community and was likely to continue to be outside. In our case, of course, the position is that the enlargement of the EEC, as provided for in the Treaty of Accession, will result in both North and South being in the Community.

8. It should be mentioned that in the negotiations on fisheries, Britain sought and obtained the inclusion of the coast line of County Down among the areas to which the exceptional exclusive fishery limit of 12 miles for the first 10 years should apply. Article 101 of the Act annexed to the Accession Treaty sets out the areas to which the exclusive fishery limits are to apply and "County Down" is listed under the heading United Kingdom. It could possibly be argued that this involved an acknowledgement that County Down is part of the United Kingdom. In reply it could

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he said that this is an area in which the United Kingdom has exercised de facto administration and has controlled and protected the fisheries. As a practical matter the request for an exception in this area was made by the United Kingdom negotiators and was not of course opposed by us. In the Treaty it has therefore been listed under the United Kingdom but this does not imply any more than the de facto responsibility of the United Kingdom for the area.