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21st September, 1979

SECRET

Dear David,

At our meeting yesterday, we agreed that each Department represented might set down on paper points which might be made to the British side at the preliminary meeting at official level preparatory to the Ministerial meeting on 5th October next, so that the Cabinet Committee at their meeting next Tuesday could approve the general lines of the Irish position at the preliminary meeting. It was clear yesterday that your Department and the other represented on our Committee had been more productive in your thinking on what we might say, at the preliminary meeting, despite all the difficulties. I don't think I have anything new to add and, in general, I do not propose to duplicate the suggestions put forward by the two Departments. However, it may be useful if I mention a few things which I think are important.

Firstly, it seems desirable that we give the British in advance of the meeting, a strong hint of our limited conception of its purpose and content. Secondly, I think we should attempt at the meeting, to restrict the range of security matters to be considered at the Ministerial meeting to those contained in the British Embassy's Aide-Mémoire, matters very closely related to these and any suggestions of which, I would expect, we would have given the British advance notice before the preliminary meeting. Thus, it would appear helpful, from our point of view, to agree that extradition would be a "red herring" which it would not be useful to pursue at the Ministerial meeting. Thirdly, we should tell them that while we accept that the meeting will be dominated by security matters, we envisage that your Minister will also make some points related to political movement in Northern Ireland and that we may refer very briefly to economic co-operation, possibly by suggesting a date for the next meeting of the Anglo-Irish Steering Group. Fourthly, we should put strongly to them our views on the press handling, in advance of the Ministerial meeting. We could suggest to them that we believe they will find the response of our Ministers to be encouraging but that this prospect could be prejudiced if there were to be unhelpful briefing of the press on their side, from any source including the British Army. We could say that we presume that the firm agreement with Mrs. Thatcher at Downing Street that the various matters discussed would be kept confidential would be maintained. Finally, we could give them notice that we envisage that the outcome of the Ministerial meeting would be the subject of "selective confidentiality" whereby there might be agreement to disclose the matters on which there had not been agreement but to keep confidential at least some of the measures which had been agreed.

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Mr Thagartha
Ref. No.



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DEPARTMENT OF THE TAOISEACH

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Perhaps I may avail of this opportunity to mention some other matters. Firstly, following the meeting of the Cabinet Committee I had communicated on the telephone to the Secretary of the Department of Defence, the matters on which his Department and the Army authorities would be involved in further discussion. I said that the Ministers were anxious to have supporting evidence in relation to our contentions about the adverse effects of lack of intensive patrolling by the British authorities of the Northern side of the Border in the South Armagh area and that while this would be primarily a matter for the Department of Justice and the Gardai, any evidence that the Army authorities could provide would be welcome. I also mentioned that Ministers had decided to canvass any further suggestions that the Irish side might put forward as to measures which might be taken by the British security authorities in Northern Ireland. I was informed yesterday evening by Mr. Liam Fletcher of the Department of Defence that they had nothing to put forward under either of the two headings.

I think I referred at a previous meeting to some apprehension I had, arising from the impression I took away from the meeting in Downing Street of the very dominant position of Mrs. Thatcher on the British side, that if Mr. Atkins brought back from the Ministerial meeting, an Irish response which she deemed inadequate, there would be the danger of an insufficiently considered adverse response on her part, possibly arising from an assessment that the failure, as she would see it, was attributable to the lack of forcefulness of her Secretary of State. My idea was that possibly we should prepare a written memorandum which would be enclosed with a letter to Mrs. Thatcher from the Taoiseach, for delivery on the day of the Ministerial meeting. The memorandum would set out the salient points of our overall security effort and of security co-operation, the positive aspects of our response to the case put to us at Downing Street and potent arguments for our rejection of the particular proposals which we believed would be counter-productive in terms of the effectiveness of security. One might hope that if she read a well argued case, the danger of an unfortunate reaction on her part, possibly including a request for a further meeting the Taoiseach solely devoted to these security matters, might be avoided. I have since discussed this idea with Dermot Nally and he agrees that there are good arguments in favour. Both of us are, of course, conscious that careful consideration would have to be given to the precise timing of the delivery of any such letter and memorandum to Downing Street on the day of the meeting.

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We would be glad if you would give this matter some further consideration in your Department. We could consider it if and when we meet next Monday and if there were agreement that we should proceed on these lines, preparation of the letter and memorandum could go ahead in the period before the Ministerial meeting.

I might also avail of this opportunity to give you notice of some matters that I propose to raise again with the Taoiseach before the meeting of the Cabinet Committee on Tuesday next. At their last meeting, the Committee were prepared to contemplate the possibility of direct contact between the British Army and the Gardai in a limited number of emergency situations. As I mentioned at a previous meeting and as I repeated in a submission to the Taoiseach which apparently he did not read before the last meeting of the Cabinet Committee, it seems to me that it is difficult to discern that not extending this limited facility to direct Army-to-Army contact in similar situations. Indeed, the Taoiseach indicated at Downing Street that the Irish side might be prepared to consider this. I had in mind the type of situation, however rare in practice, where a British helicopter conducting surveillance over a narrow corridor on our side of the Border, within the limited quota they might be given, if the Government agrees, sees an I.R.A. group escaping or preparing a terrorist offence and also sees an Irish Army unit within striking distance but unaccompanied by the Gardai. I think that in emergency situations of this type, there is a strong practical case for direct Army-to-Army communication, despite the various difficulties to which it gives rise. The very presence or approach of an Irish Army unit may deter the commission of an offence and in many cases, the citizen's power of arrest might be adequate to apprehend fugitive offenders. There would also be the option of implementing Section 15 of the Criminal Law Act, 1976, subject to legal advice. On communications - and having had an opportunity since our last meeting to read the paper dated 10th September prepared by Hugh Swift - it seems unlikely that any provision for direct contact by the British Army in emergency situations with either the Gardai or the Army will require some arrangement for preliminary radio contact of a routine nature, in order that each side would be aware of the other's position and activity. In this connection, I think we might examine whether the question raised in the paper mentioned as to whether there is anything against the institution of a common waveband which the security forces on both sides could use and which would enable each, without direct communication, to be aware of the other's position and activity.

As we will be rejecting the British proposal for the direct participation of R.U.C. officers in the questioning of suspects, I think we should consider ways in which the existing arrangements for their assistance in questioning by the Garda could be made more effective. I recognise that this gets us involved in rather detailed operational matters. However, given the importance



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attached by the British Prime Minister to the conversion of intelligence into evidence, I think it would be very helpful to our case if we could suggest further specific improvements of the existing arrangements that might be expected to make them more effective. I have in mind, as mentioned at our last meeting, such things as technical arrangements whereby the questioning could be overheard by R.U.C. officers in the next room, with some arrangement whereby he could alert the Garda officer or officers conducting the questioning that the suspect had given an opening by which he might be "tripped up". Such arrangements may already exist. If they do, I think we should know this and if they do not, consideration should, I think, be given to them.

I appreciate that it will not be possible to give any definitive indication in respect of changes in our domestic law which have been the subject of correspondence between the Taoiseach and the Minister for Justice by the time of the Ministerial meeting on 5th October. It may be desirable, however, for presentational reasons and given that the Taoiseach has already referred, at least obliquely, in radio and television interviews to the fact that certain changes are being contemplated, to indicate in very general terms to the British what the changes being considered are, while clearly underlining that no final decision had been taken that such changes should be made. We would also need, of course, to stress that we had been contemplating such changes well before the events of 27th August, arising out of our domestic experience.

I also propose to put it to the Taoiseach that unless we are satisfied that we can perform the same function to a fully adequate standard, whether through obtaining helicopters on lease from the British or otherwise, we should agree to give them a limited monthly quota of incident-related overflights, broadly subject to conditions of the type set out in the draft paper prepared by Michael Collins. This appeared to be the second priority of the British side at the meeting in Downing Street and while there are grave risks involved, I think that on balance it may be ^{preferable} possible to go some distance to meet them on this matter. If, of course, we could provide a fully comparable service, which would apparently involve a considerable improvement in the existing communications systems from the British Army to our security force through the various links in the chain, this would be all to the good.

I would envisage that the Cabinet Committee, at their meeting next Tuesday, will consider these matters, as well as any others arising from the further directions they gave at that meeting. They would also clear our position for the meeting at official level and, if they had time, might also make some general assessment of the like British reaction to our response, as raised in the paper prepared by the Department of Foreign Affairs for their last meeting.

Yours sincerely,

Walter P. Kiernan

Mr. D. Neligan,
Assistant Secretary,
Department of Foreign Affairs.