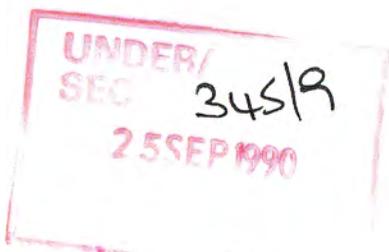


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*Mr Humphreys 28/9*

FROM: E C HALLETT, SIL  
26 September 1990

cc: PS/Secretary of State (L&B) - B  
PS/Minister of State (L&B) - B  
PS/Sir K Bloomfield - B  
Mr Chilcot - B  
Mr Ledlie - B  
Mr Fell  
Mr Alston - B  
Mr Thomas - B  
Mr Hamilton - B  
Mr Wood (L&B) - B  
Mr Dodds - B  
Mr Blackwell  
Mr Hill - B  
Mr J McConnell - B  
Dr Donnelly - B  
Mrs Miller  
HMA Dublin  
Mr Archer, FCO - B  
Mr Gowan, Cabinet Office



PS/PUS (L&B) - B

INTERGOVERNMENTAL CONFERENCE, IC(90)4, DUBLIN 14 SEPTEMBER : DRAFT  
INTERNAL RECORD

I attach the final version of the internal record of the plenary session of the Intergovernmental Conference on 14 September. This takes account of the Secretary of State's comments (Mr Pope's minute of 20 September, not to all) on the draft circulated with my minute of 18 September.

(Signed)

E C HALLETT  
SIL DIVISION  
26 SEPTEMBER 1990  
EXT OAB 6506

AW/SIL/15985

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INTERGOVERNMENTAL CONFERENCE, IC (90) 4, HELD AT IVEAGH HOUSE,  
DUBLIN ON 14 SEPTEMBER : INTERNAL RECORD

PRESENT:

British Side:

Ministers:

Mr Brooke  
Mr Cope

Officials:

Sir J Blelloch  
Sir N Fenn  
Sir K Bloomfield  
Chief Constable  
Mr Ledlie  
Mr Chilcot  
Mr Thomas

Secretariat:

Mr Alston  
Mr Dodds  
Mr Hallett

Irish Side:

Ministers:

Mr Collins  
Mr Burke

Officials:

Mr Dorr  
Mr Matthews  
Garda Commissioner  
Mr Gallagher  
Mr Murphy

Secretariat:

Mr O'Donovan  
Mr Ryan  
Mr Nason

INTRODUCTION

The Conference began at 4pm with British and Irish Ministers holding a private discussion, which concluded around 5.20pm. This was followed by the restricted security session. These discussions are being recorded separately. The plenary session commenced at 6.50pm.

2. At the opening of the plenary session, Mr Brooke said that, in order to assist the Chief Constable, who needed to return to

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Belfast for an evening engagement, it had been agreed that confidence issues, petrol smuggling, and cross-border roads should be taken first.

**STEVENS**

3. Mr Collins reaffirmed the importance which the Irish Government attached to this issue. There had been a useful exchange at the last Conference. Perhaps the Chief Constable could bring the meeting up to date with subsequent progress. Mr Collins said that he hoped it would still be possible to have the meeting of officials on this subject which had been agreed at the April Conference to facilitate discussion at the next Conference meeting.

4. Mr Brooke then invited the Chief Constable to bring the meeting up to date on progress. The Chief Constable said at the last Conference meeting he had explained the structure which had been set up to consider the Stevens recommendations. This was now working effectively. Steady progress was being made on all the recommendations, more than 60% of which had now been implemented. Within Northern Ireland, the DPP had started a number of prosecutions and because of the sub-judice principle, publicity was therefore to be avoided. The need for many of the matters recommended by Stevens had already been recognised. Some, however, required more personnel that was currently available. The recommendations on preserving the confidentiality of documents

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had already been implemented and the issue of such documents was now kept on a tight rein. He was satisfied that there would be no recurrence of the problem on any significant scale. Stevens had done a good job and had obtained the support of all branches of the security forces, contrary to the predictions of many, who had been convinced that he would fail.

5. Mr Brooke said that the issue would return for consideration at future Conferences. Mr Collins said that he still wanted a meeting of officials so as to enable the Irish Government to be in a better position to judge what progress was being made. Mr Brooke asked to be reminded what this meeting was intended to achieve. Mr Collins invited Mr Gallagher to outline the Irish Government's understanding on this point. Mr Gallagher said that the intention was to go through the recommendations in some detail so as to have a clear idea which were being implemented and in what timescale so that a balanced assessment could be prepared for Ministers to facilitate their discussions at future Conferences. Mr Ledlie was then asked to outline the British Government's position. He said that we had not yet taken a definite view on the format for handling this issue in the Conference framework. There was a whole range of recommendations in the report which, it should be remembered, was a report to the Chief Constable. Some of the recommendations concerned the Army and these were being addressed with the relevant Whitehall departments. The most useful framework would be a discussion at a future Conference meeting towards the end of the year, after which

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there would be no problem in responding to any specific points the Irish wished to put to us. Mr Brooke said that he was quite prepared to have "more than one bite at the cherry" on this issue. Mr Collins rejoined that so far the Irish were being "teased with the cherry". Mr Brooke concluded that our preferred approach was for the Chief Constable to give a presentation at a forthcoming Conference and that we would be willing to respond to any questions put by the Irish side. Mr Collins agreed to this approach.

**ACCOMPANIMENT**

6. Mr Collins welcomed the fact that there had been a meeting of officials on accompaniment since the last Conference and that the first statistical report, covering the rate of accompaniment in the period April to September, would be presented in the Autumn. He looked forward very much to seeing and studying this. He hoped we would agree that the report should be sufficiently comprehensive to enable the Conference to have a clear picture of all aspects of the problem, particularly in relation to the level of accompaniment in sensitive nationalist areas, thus ensuring that it would enable the Conference to address fundamentally this crucial issue which had been on its agenda for nearly 5 years. Mr Brooke said that the basis on which the statistics would be handed over had been agreed in April. The Conference would come back to this issue in the Autumn and, thereafter, on a regular basis. He hoped that the Irish side would acknowledge the progress which had been made on this subject. Mr Collins agreed.

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PETROL SMUGGLING

7. Mr Brooke said that this had been discussed in the restricted security session on the basis of a report from the Garda Commissioner and the Chief Constable. Mr Collins said that we had received a comprehensive report which he would like to consider and come back to. He expressed appreciation of the Chief Constable's success in cutting down the level of smuggling and hoped this could be matched by efforts on the Irish side.

CROSS-BORDER ROADS

8. Mr Brooke said that this matter had been discussed in the restricted security session. Mr Cope expressed thanks for Garda support on this matter. Mr Collins said that he was happy that the situation was being reviewed and looked forward to the report on the outcome.

9. Mr Brooke said that that concluded the security section of the discussion. The Chief Constable, the Garda Commissioner and Mr Ledlie then withdrew.

POLITICAL DEVELOPMENT

10. Mr Collins said that Mr Brooke's Ballymena speech had struck the right notes. It had been useful to send a clear message at the beginning of September that we should now resume

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where we left off before the holiday. It was important that the right balance was struck in any public pronouncements and that attempts to reassure unionists should not overshadow the equally critical need to reassure nationalists. From that perspective, he would have preferred a stronger emphasis on the "Irish dimension" but he appreciated the difficulty of accommodating all the various concerns. The generally positive reaction to the speech was very satisfactory and the Irish Government, in its own comments, had tried to be as supportive as possible. He would be interested to hear Mr Brooke's assessment as to where matters now stood with the political parties following the summer break. The Irish Government had of course been following the public exchanges between the Official Unionists and the DUP.

11. Mr Collins noted that Mr Brooke had described Molyneaux's comments as "rolling the pitch", and it was indeed to be hoped that he was merely seeking tactical advantage rather than trying to back away from the process. Over the summer period a good deal of information about the negotiations had found its way into the public domain. This may have had some advantage in terms of preparing public opinion, north and south, for the possible outcome of this stage of the talks. One had to be conscious however that it might also hinder the parties' room for manoeuvre since any compromises now made would be more easily measured by the public. He did not underestimate the difficulty of the task that lay ahead. The question before us now was how we could best move forward. We should try and build on what had so far been

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achieved. In terms of texts, for example, rather than starting again with a blank sheet he would see merit in taking the Hume text, "giving it any label you like", as a working basis and trying to address the problem areas which Unionists had identified with it. It was probably not productive to rehearse in detail the various outstanding areas of difficulty. He was still inclined to believe that most of the problems could be overcome by skilful drafting. The major issue was the attempt to attach "conditionality" to the opening of North/South talks. He need hardly reiterate his views on this. We had moved a very long way since 19 April, but the Irish bottom line was that they must have a guarantee of north/south talks opening within an acceptable timeframe. It was important to emphasise - and the Irish Government's analysis was fully shared by the SDLP - that it was essential to the achievement of progress that relationships between the two traditions on this island were addressed in an open and honest way. In the Irish Government's view, therefore, North/South discussions were a key ingredient in the achievement of progress and to require substantial progress in advance of the opening of these talks simply did not make sense from a nationalist perspective. To do so would be establishing an unrealistic objective for the internal talks with all the potential for frustration and friction which that implied.

12. Mr Collins continued that as a matter of urgency we needed to think of ways round the "substantial progress" obstacle. There might be some scope for "lateral thinking" in this regard. At the

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same time, he was convinced that we needed to stand back from the immediate textual problems and see where we were on some of the larger issues. He was conscious, for example, that there had been a difference of assessment between the two sides as to the likely impact of failure of the process on the Provisional IRA and whether the impact would vary depending on the timing of any breakdown. The two sides also differed in their assessment of the current thinking and positions of the Northern Ireland political parties and their electorates. There was also the fundamental question, given the differing starting points of the parties, of what scope there was for progress being made at the substantive talks. Mr Chilcot's recent discussions in Dublin had confirmed the feeling on both sides that it would be helpful to identify a number of issues of particular importance and that officials should be mandated to carry out a joint analysis of these. For his part he would see value in such work being undertaken and suggested that officials be invited to undertake this task and to report back with their conclusions. He would hope that, on the basis of this work, Ministers would be in a position to have a thorough discussion in the near future.

13. Mr Brooke said that the progress earlier in the year had been worthwhile. There was no doubt that the climate in terms of exchanges between the parties was significantly better. As he had said in his Ballymena speech, while we had made progress, the opportunity would not last indefinitely. The shadow of the next general election would soon begin to "envelope the field of

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"play". He agreed about the importance of the North/South dialogue. He could not see, however, how this could be achieved other than through the sort of structure which was envisaged in the current process. It was difficult to generate "certainty" about when it would occur, but the internal logic of the process indicated that it must happen within the gap and at an early stage. He had understood the Irish position throughout. The question of the Irish entry into the talks (avoiding "conditionality") was the most central issue and the proposal for lateral thinking was certainly worth exploring. He had no difficulty with this idea. He was concerned, however, that discussion by officials as foreshadowed in his 17 August letter and in the Chilcot visit, should concentrate on the critical issues and not "range over the whole landscape". He was concerned about the timing. Between the end of May and the end of July too much had been contingent on other developments. He was concerned not to postpone the serious exchange between the two Governments until the next Conference. As it happened, Mr Molyneaux's temporary absence gave us a margin of time. He hoped to see Mr Alderdice next week. He had already seen Mr Hume and would hope to see him again with the other SDLP MPs before the end of September. He also hoped to meet the Unionists in early October. He was aware that DFA officials would not be able to look at the question until they returned from the United States on 25 September. Thereafter, there was a window of opportunity for a meeting with Mr Collins in the first week in October. If it was possible to know where we stood after that, there was scope for a

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Further meeting with the Unionists before the next Conference. The two key issues were "conditionality" and the assessment of the damage caused by failure of the process. Mr Brooke was not sure that further official discussion of the latter would take us very far forward, but he agreed that it was desirable to ensure full understanding of each side's position and assessments. He hoped, however, that the agenda for such discussions would not be too complicated. Mr Collins agreed that official discussions should not get bogged down and should be kept to the basic obstacles. They should meet on or around 25 September. He would be then available to meet the Secretary of State on 4 or 5 October. Mr Brooke confirmed that he too would do his best to be available.

EXTRADITION

14. Mr Brooke said that the interim report from Working Group II had been agreed in essence though not in all the details. The report reflected the difference which existed before the Working Group II discussion. The Irish Government considered that the 1987 Act should be tested in the courts before any further action was taken. The British concern was that the uncertainties in the 1987 Act would cause cases to go against us. He had told the House of Commons in the Summer that progress was being made and had emphasised that the two Governments were working together. He remained of the view, however, that if we continued to operate on the existing Act and if cases went against us, this would lead to a first class crisis. Mr Collins noted what Mr Brooke had said.

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The two Attorneys General would be meeting on 30 October and we should await the outcome of their deliberations. In the meantime he hoped that the British Government would continue to make use of the Criminal Law Jurisdiction Act wherever possible. Mr Brooke replied that he noted that 12 out of 16 cases under this Act had been successful. We were happy to use it wherever appropriate but would have to judge each case on its merits. Mr Burke said that the outcome of the Ellis case answered a number of the British concerns, notably on the question of conspiracy to cause explosions. Mr Brooke replied that he recognised the importance of the High Court ruling, but we still had to cross the hurdle of the Supreme Court. Mr Collins concluded that the Conference should note the interim report and that work would continue. Mr Brooke stressed that there should be no misunderstanding between us. Every opinion in Dublin outside the main Government party appeared to support the British view that amendments to the 1987 Act were necessary. Mr Collins replied that one should never place reliance on Irish opposition parties. It should not be forgotten that it was a Fine Gael Government which had initiated the current legislation in 1986.

CROSS-BORDER SHOPPING

15. Mr Brooke opened the discussion by saying that he would allow a short interval for Mr Collins to "get his face straight". Mr Collins said that the question was moving towards resolution. It had been discussed at the July ECOFIN Council where the Irish

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proposal had been well received by the Commission and by member states who recognised that the Irish cross-border situation needed to be specifically addressed. In particular, the Irish welcomed the positive approach shown by the British delegation at the July meeting. The matter would be taken forward at the November meeting of ECOFIN. Mr Brooke replied that Mr Collins had made it sound as though ECOFIN had already given the Irish Government a derogation. Mr Collins said that the Irish Government were relying on the Italian Presidency to sort the matter out and we should see what progress was made in November. Mr Brooke pointed out that the pressure from border traders in the North was mounting and he had received correspondence recently asking when the Irish Government were going to implement the European Court's ruling. Their patience had been remarkable given the length of time which had elapsed since the ruling. The issue was bad for business between us. Mr Collins noted the British concern and said that the Irish side would do their best to clear the matter up as quickly as possible.

DATE AND AGENDA OF NEXT MEETING

16. Mr Brooke said that there had already been some discussion of the date of the next Conference. The two sides were thinking in terms of 25 October in London with a start around 5pm and involving a dinner instead of a lunch. The Chief Constable would be available. Mr Collins agreed.

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17. With regard to the Agenda, Mr Brooke said that the Energy Ministers should come to the dinner and their availability would need to be established through the Secretariat. Mr Needham was also responsible for tourism and transport and could deal with any updating of these issues which was needed. It was important to have a means of varifying progress on such issues between Conference meetings. Mr Collins suggested that this should be done through the Secretariat. Mr Brooke agreed but said that it was necessary to have a disciplined procedure for doing so.

ANY OTHER BUSINESS

(i) Glor Na nGael

18. Mr Collins said that he had received approaches from various people in West Belfast expressing concern about the withdrawal of funding. The public perception of this issue was important. The Irish Government had checked the position regarding Glor Na nGael as far as they were able to do so and were satisfied that they were a soundly based group who did not support terrorism. He hoped the decision could be reviewed. The Irish Government were concerned both with the substance of the decision and the absence of prior consultation. The provisions of the Agreement and the Article 11 Review provided for matters relating to the identities of the two traditions to be the subject for consultation through the Conference. Mr Brooke said that the policy was that introduced by Mr Hurd in 1985, prior to the

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Anglo-Irish Agreement. It was not feasible to consult on such matters. The policy related to the provision of public money which might be of benefit to paramilitaries. It was not one where we stated the reasons for a decision. We accepted, however, that some organisations would feel unfairly treated and we were therefore willing to accept representations, especially where new information was available. Of the 26 cases of previous withdrawal of funding, 4 had been successfully reconsidered. We had already had representations from the Group. He had responded to the letter from Glor Na nGael asking a series of questions which would enable the decision to be reconsidered, though he offered no commitment at this stage. Mr Collins asked about the reason for the RUC authorisation of the Flag Day. Mr Brooke confirmed that this was based on regulations governing such occasions.

(ii). GAA at Crossmaglen

19. Mr Collins asked for an update on the current position. Mr Cope said that the security forces were prepared to consider new entrances and could see the advantages of this for the GAA Club. The snag was that the land in question was owned by Handicapped Committee and while the alternative right of way had its attractions and, in principle, we would certainly be prepared to consider it, the Irish would understand that there would be presentational difficulties if the land had to be requisitioned from such an organisation. If the Irish could assure us that the Handicapped Committee would be prepared to part with their land

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voluntarily and would acquiesce in its use by the Army, we would be seriously interested. The Irish would have to understand, however, that the Army would still like to retain the existing emergency exit as a standby or for occasional use. Mr Collins expressed thanks for the progress which had been made in considering this matter. He understood the need for an emergency exit and the difficulties which compulsory purchase would give rise to. The Irish side would investigate to see what scope there was for movement of this point and would try to get agreement from the Handicapped Committee. The Irish side's understanding was that due to the provision of alternative facilities elsewhere by the authorities, the site was now redundant as far as the Handicapped Committee was concerned. The Irish side would follow up and come back to the question at a future meeting.

iii) Birmingham Six

20. Mr Collins said that this was the first meeting since the Home Secretary had decided to refer the Birmingham Six case to the Court of Appeal. This decision had been warmly welcomed by the Irish Government and people generally. He would like to express particular appreciation for the speed with which the Home Secretary had responded to the report from the Devon & Cornwall Police. Thankfully, we now seemed well on the way to resolving the three cases from the 1970s which had so complicated the relationships between the two countries. The Irish Government had been subject to much criticism, including from the Irish News, for

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not launching an international campaign on the Birmingham Six. While it would have been easy to bow to such pressure, he had to say that he had confidence in recent times in the British Government's determination to set the position right. The Irish side were conscious that the decisions in the Guildford and Maguire cases took considerable courage and he shared the general satisfaction with the conduct of Sir John May's enquiry into these cases. He hoped that the Birmingham Six process would now move ahead very quickly with a view to an early and satisfactory outcome. In the meantime, any further improvement in the men's conditions - he accepted that there already had been significant improvement over the past twelve months - would be warmly welcomed by the Irish Government. Mr Brooke replied that, while the matter was not strictly Conference business, he would take note of Mr Collins' remarks.

iv) Irish Paper on 1992

21. Mr Collins said that he was aware of the British side's interest in this matter but the issue was now very much "on the back burner". He would let the British side know if there were any change in this position and if the paper were about to materialise. Mr Brooke responded that he had plenty of other things to read in the meantime.

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v) International Fund

22. Mr Brooke said that there had been real progress in ensuring growing recognition of the genuine benefits produced by the Fund. In the context of our joint efforts in support of the Fund it would be sensible for the Conference agenda to note its achievements. The Fund was very much a child of the Conference and it was important to show that the two sides continued to be jointly committed to it. Mr Collins fully agreed. In his recent discussions with US Congressmen and at the Ancient Order of Hibernians National Convention he had been very supportive of the Fund's recent achievements and had done his best to counter unfavourable opinions, in particular, he had successfully prevented the adoption of an unhelpful resolution at the AOH National Convention. He could not defend all the Fund's past decisions but was fully satisfied with the present approach.

23. After agreeing the text of the Joint Communique, the meeting concluded with tributes to Mr Noel Ryan, who would be leaving the Secretariat shortly to take up a position with the Irish Law Society, and to Sir John Blelloch who would be retiring as PUS in October.

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