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CABINET: MINISTERIAL GROUP ON MARITIME AFFAIRS: 19 FEBRUARY 1980

EXTENSION OF THE UNITED KINGDOM TERRITORIAL SEA: MISC 19(80)1.

Introduction

The Department of Trade propose that the United Kingdom should decide to extend its territorial waters from 3 to 12 miles and take an early opportunity to announce that legislation to implement this decision will be introduced in the next Session of Parliament. Otherwise, if there were a pollution disaster in the 3 to 12 mile zone, the Government would face strong domestic criticism that it had not taken steps to acquire powers to prevent or mitigate possible off-shore oil pollution.

The FCO and MOD fear that a unilateral step by the United Kingdom (albeit one that has already been taken by many other countries) will prejudice our negotiating position on other sensitive issues, at the long-standing UN Conference on the Law of the Sea (UNLOSC) which is nearing a successful conclusion. In particular they claim that progress towards the acceptance of an agreement on "transit passage" through straits - particularly important to the USA - might be hindered, and lead to the loss of United States' support for our negotiating position on other UNLOSC matters.

Northern Ireland Interests

The background to the Northern Ireland position (c.f. paragraph 10 of MISC 19(80)1) is that the Government of Ireland Act, 1920, which gave separate subordinate Parliaments to Northern and Southern Ireland, defined Northern Ireland only in terms of its Parliamentary constituencies. The attitude of the United Kingdom is that the

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territorial waters adjacent to Northern Ireland are part of the territorial waters of the United Kingdom; this was confirmed by a ruling of the High Court in Northern Ireland in 1975. But many Irishmen would be quick to point out that the Irish Constitution shows that territorial waters of Northern Ireland belong to the Republic. There has never been any agreed definition of the boundaries between Northern Ireland's and the Republic's waters, but it has not been in the interests of either country to press the matter. The Republic's territorial waters at present extend to 3 miles. In the North the salmon fisheries of Lough Foyle are under the control of a jointly appointed independent Commission and both Governments have agreed that fishermen from either part of Ireland can fish anywhere in the 12 mile band around the whole of Ireland (thus avoiding the need for demarcation) but on the East coast the lack of agreement on the jurisdiction over Carlingford Lough has led to disputes over Royal Navy operations and over the payment of various dues.

Whilst a unilateral extension might draw public attention in Ireland to the issue of Northern waters rather more readily than extension in the context of a successfully concluded UNLOSC, it would appear from the Republic's point of view that in terms of the control of possible pollution, they would gain from an extension. The risk that the Department of Trade proposal will have any effect on the political situation in Northern Ireland is slight.

Recommendation

Northern Ireland would benefit as much as any other region of the United Kingdom from the powers which the Department of Trade wishes to acquire and, there is no reason why the Minister should not

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support the Department of Trade proposal in paragraph 16A i, or at the least the 'half-way house' option in 16A ii. Evidently Northern Ireland interests will be far from decisive on this major point of decision, but it is recommended that the Minister take the opportunity to mention the following points:

i there is sensitivity in the Republic about the question of Northern Ireland territorial waters, and unilateral action on our part, together with the relevant legislative intentions, should be explained to the Irish Government before an announcement is made

ii it would be useful if without attracting undue attention, the legislation could be framed in/a ^{such} way as made it clear that the territorial waters adjacent to Northern Ireland were part of the United Kingdom's territorial waters but did not set out specific boundary lines with the waters of the Republic.

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15 February 1980

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