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HCS/12/30

cc. PS/SOS (B&L)
PS/Dr Boyson (B&L)
PS/Mr Scott (B&L)
Mr Stephens
Mr Brennan
Mr Gilliland
Mr Merifield
Mr Spence
Mr M Elliott
Mr Bell
Mr Ehrman

PUS (B&L)

INTERGOVERNMENTAL CONFERENCE: FIRST MEETING

1. I would like to offer some impressions of the first meeting of the IC, relating both to procedure and to substance.
2. First, the provisions of Article 3 as to joint chairmen are perhaps more sensible in terms of status than of practicality. One can see why, in the wider context of the Agreement, the permanent Ministerial members had to be accorded equivalent status; but the chairmanship of a meeting is not one of those tasks which can most conveniently be undertaken on a joint basis. It was natural for the Secretary of State, at the first meeting held and on his home ground, to take the posture of the host welcoming the visitor and in a sense as the natural chairman of the meeting. But it struck me that Mr Barry was at pains to make it clear, without making an issue of it, that he was chairman too. I wonder if it might not be more sensible, since agendas will be agreed in advance, if in practice the respective Ministers chair alternate meetings?
3. The tone of the meeting was, I thought, reasonably good, but our underlying perceptions on some crucial issues seem to be very far apart. I have in mind in particular the following issues:

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(a) European Convention on the Suppression of Terrorism

I would be fearful of continuing procrastination on this front unless we keep up a steady, unrelenting pressure. We know, of course, that the Irish interpret the intention to accede "as soon as possible" to mean as soon as they are satisfied that adequate progress is being made under the Conference's wider programme of work. Now they tell us that accession may well, in any event, have to be preceded by enabling legislation in the Dail. At one point yesterday the Irish gave the impression that such legislation would proceed once the complicated legal and drafting issues were resolved. I was not left with a feeling of great confidence about this. I believe we must continue to press most strongly that any necessary legislation is introduced as soon as possible in the purely practical sense, enabling actual accession as soon as possible in the wider political sense, as evidence of movement and good faith in this crucial area.

(b) Practical Co-Operation on Cross-Border Terrorism

I am worried about the ingredients of the human chemistry here. Sir John Hermon's somewhat didactic style and Commissioner Wren's laconic and rather defensive approach do not represent an ideal mix. It is clear to me that perceptions are poles apart and I do rather question the ability of these two very different characters, with different starting points, to produce even an agreed threat assessment. This is hardly surprising: after all, not so many years have passed since we ourselves had to introduce the late Sir Maurice Oldfield to knock the heads of our own security forces together, largely because of personality differences and conflicting role perceptions on the part of the then RUC and Army commanders. Commissioner Wren did not respond with much warmth either to the idea that his force might draw on Northern Ireland resources (eg, on ballistics, where he presented the existing position as quite satisfactory to him) or on an exchange of liaison officers between the two Headquarters. I thought he came across as essentially a rather proud, honest, stubborn and committed but somewhat narrow professional policeman, wanting to keep intruders off his patch. This just will not do, if the idea of a

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real joint approach to cross-border security is to have any force. There is also, I think, reason for some real concern about the Chief Constable's position with his own force and Police Authority. The pursuit by the Conference of all the matters relating to or involving, the RUC under the Agreement is not in all cases easily reconcilable with the Chief Constable's re-affirmed operational integrity. It is, I fear, not going to help the Chief Constable, as he moves forward on issues like a Code of Conduct or processions and parades, to be seen to be doing so under the shadow and (as his critics would be quick to say) under the influence of the Conference. We must be very careful about Sir John's credibility with the RUC itself. In a force which is still, unfortunately, predominantly Protestant, it seems inevitable that, in the short term at least, members will find themselves more often in confrontation with Protestant extremists (as at Maryfield yesterday). We must not underestimate the tensions and risks inherent in that situation.

- (c) At some stage, we will, it seems to me, have to hold a line of principle about Court Appointments. If we abandon the merit principle in appointments to the Bench, it may crumble everywhere. I have seen, and sympathize with, the strong terms in which Lord Lowry has now written about his fears. It should be emphasized that, whereas under the old Stormont system the local Minister of Home Affairs appointed County Court Judges and Magistrates, the appointment of Judges of the High Court has always been the responsibility of the Lord Chancellor. I would be astonished to think that successive Lord Chancellors, under both Conservative and Labour Governments, have been deliberately passing over well qualified Roman Catholic candidates for the High Court Bench. I hope that in the further study of legal matters to be carried forward on our side by Mr Brennan, full advantage can be taken of the knowledge of the Director of the Northern Ireland Court Service, Mr John Steele. One interesting thought occurred to me as a consequence of exchanges on legal subjects yesterday. The ultimate Irish position would be to have more Roman Catholic Judges; to have Diplock

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Courts while they continue manned by a bench of three judges including a Roman Catholic (or in the event of mixed courts an Irish) judge; and supergrass trials abolished. Would it, I wonder, be practical to provide that more than one judge may be designated by the Lord Chief Justice to try a case either if it is based solely upon the uncorroborated evidence of an informer, or if it involves the simultaneous trial of multiple defendants?

4. It was irritating to find that, in the matter of the Newry/Dundalk Road, the Irish perception was again quite different from ours, as set out before the meeting in the brief and submissions to our own Ministers. I am pursuing urgently how this gulf in perception can have arisen, and it may well be necessary for Mr Needham to talk in the near future directly to Mr Kavanagh. I have no doubt myself that in current financial circumstances this work ought not to rate a very high priority; but we would have to be careful, particularly after the earlier disagreements on Kinsale Gas, not to lay ourselves open to a charge of having reneged on an earlier commitment. Apart from the individual issue, the handling of this agenda item raises procedural points. First, we should try in future, on any specific issues of this kind, to ensure through the Secretariat that a matter comes to the Conference itself on - as far as possible - an agreed factual basis. Secondly, when a matter affecting a particular Northern Ireland Department is on the agenda, its Minister and/or Permanent Secretary should be present for that item; it is simply not possible, if none of those present have been directly involved, to accept or contest a version of events given by a minute of an earlier meeting made by the Irish side and apparently not (as in this case) in conformity with our impression of what had been agreed.
5. Finally, it would I think be important, in view of the Irish pressure for an early next meeting and possibly for meetings with more regularity than once a month, to get an up-to-date reassessment of the security implications of Conferences held at particular venues. The costs and burden of the security arrangements in place yesterday must have been pretty staggering, and Mr McCusker (who now seems to have signed on as a foot soldier in Dr Paisley's army) was able to score points about

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the nature of arrangements for government which can only be conducted behind barriers of barbed wire and masses of policemen and vehicles.

KPB

K P BLOOMFIELD
12 December 1985

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