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C O N F I D E N T I A L

C D KYLE
28 JUNE 1994

CDK/17243/94/HC

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ASBT 59316.
SEC 28 JUN 1994
GENT SEC

- cc PS/Sir J Wheeler (B&L) B
- PS/Michael Ancram (B&L) B
- PS/Mr Smith (DED,&L) B
- PS/PUS (B&L) B
- PS/Mr Fell B
- Mr Legge B
- Mr Thomas B
- Mr Williams B
- Mr Steele B
- Mr Shannon B
- Mr Bell B
- Mr Watkins B
- Mr Lyon B
- Mr Radcliffe (DOE) B
- Mr Wood (B&L) B
- Mr Daniell B
- Mr Maxwell B
- Mr Perry B
- Mr Marsh B
- Mr Dodds B
- Mr Canavan B
- Dr Power B
- Mr Maccabe B
- Mr Brooker B
- Mrs Brown B
- Mrs Collins B
- Mr Bramley B
- Mr Rodell B
- Mr Maitland B
- Mr Whysall B
- HMA, Dublin B
- Mr Archer, RID B
- Miss Neville-Jones, Cab Office B
- Mr David Gould, Cab Office B
- Mr Jonathan Powell, Washington B
- Chief Constable, RUCHQ B

Mrs Kead

PS/SECRETARY OF STATE (L&B) - B

INTERNAL RECORD OF THE PLENARY SESSION HELD IN DUBLIN ON 17 JUNE 1994 - IC(94)4

Attached is the final version of the Internal Record of the Plenary Session of the Intergovernmental Conference held in Dublin on 17 June.

[Signed]

C D KYLE

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IC(94)4

INTERNAL PLENARY RECORD OF THE
INTERGOVERNMENTAL CONFERENCE
HELD IN DUBLIN ON 17 JUNE 1994

PRESENT

British Side

Sir Patrick Mayhew
Sir John Wheeler
Michael Ancram
Mr Tim Smith

Officials

PUS
Mr Fell
Mr Thomas
Mr Legge
Ambassador Blatherwick
Mr Williams
Mr Bell
Mr Archer
Mr Smyth
Mr Kyle
DCC Masterson

In Attendance

Mr Radcliffe DOE(NI)
Mr Stephens
Chief Superintendent Sillery

Irish Side

Mr Spring
Mrs Geoghegan-Quinn
Mr Cowen

Officials

Mr Dorr
Mr Dalton
Mr S O hUiginn
Mr O'Donovan
Mr C O hUiginn
Mr Mellett
Mr Donoghue
Mr Finlay
Mr Hennessey
Mr Waters
Mr Bassett
Garda Commissioner

In Attendance

Mr Lumsden

There had been a political discussion between the Secretary of the State and the Tanaiste, supported by officials, the previous evening in Iveagh House; this has been recorded separately. The Restricted Session of the Conference on 17 June commenced at 0915 hours and concluded at 1030 hours. A short political discussion, following on from the previous night's exchanges, took place at the start of the Plenary Session at 1030 and the main discussion of the Plenary Session started at 1045. Mr Tim Smith and Mr Cowen who had been on an outside programme returned to join the Plenary Session at 1130 hours.

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RELATIONS BETWEEN THE COMMUNITY AND SECURITY FORCES

2. The Tanaiste recalled that in recent weeks a number of reports had been published on matters relevant to relations between the security forces and the community. These included David Hewitt's Report on the military complaints procedures, the latest annual Report from the ICPC, John Rowe's annual review of the Emergency Provisions Act and Sir Louis Blom-Cooper's Report as the Commissioner for the Holding Centres. He went on to mention the publication of the first in a new series of Community Attitudes surveys, and also the useful discussions which had taken place between officials following the Irish side's monitoring survey on relations with the security forces in North and West Belfast. The Tanaiste noted that there was to be a Stocktake meeting to discuss confidence issues later in the month; accordingly he did not wish to go into all these reports in detail. The Irish side might, however, wish to revert to a number of them at a future Conference following the discussions at official level.

3. The Tanaiste raised a number of points in connection with the Report by David Hewitt, the Independent Assessor of Military Complaints Procedures. He reminded the Conference that the Irish side had previously drawn attention to the need for effective and credible machinery for dealing with complaints against the security forces; he believed that Mr Hewitt's Report bore out the widespread view in the nationalist community that the present arrangements lacked credibility. The Tanaiste continued that this was in line with their findings during the Irish side's study in North and West Belfast. Mr Hewitt's Report had summarised the problems with the current procedures, namely: undue delay in giving answers, unsatisfactory results, and unconvincing replies. He said that Mr Hewitt's findings that delays were common place, with less than half the complaints being dealt with within the guideline period, seemed to bear out the Irish side's own experience of cases raised through the Secretariat; it also appeared that there was no evidence of any sanctions for failure to deliver. Mr Hewitt had indicated that it was unsatisfactory that in 1993 only 16 complaints were

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held. In his Report Mr Hewitt had referred to the widespread dissatisfaction with the present system, saying that in some 50% of the cases, where the complaint was denied, it seemed that the complaint was in fact well founded, and even where a complaint was upheld it was rare for any serious disciplinary action to follow.

4. The Tanaiste noted that Mr Hewitt had urged the Army to encourage greater use of the Patrol Identification Card; again the Irish side's own survey in Belfast had drawn attention to difficulties in this point, including the reluctance by some soldiers to provide the cards when requested.

5. The Tanaiste emphasised that confidence and security were complementary values and he felt that Mr Hewitt clearly recognised, as the Irish side did, that reducing the number of disgruntled complainants strengthened confidence and therefore helped security. He hoped that there would be a positive response to the Report.

6. The Secretary of State welcomed Mr Hewitt's Report saying it was a document which required detailed and careful consideration; he looked forward to receiving advice and guidance from the GOC on the recommendations put forward by the Assessor. He recalled that he had taken the initiative to appoint an Independent Assessor of Military Complaints Procedures, and Mr Hewitt had clearly demonstrated his independence. Mr Hewitt had also asserted that the Army complaints system in Northern Ireland was one of the most sophisticated in the world. The Secretary of State noted the recommendations made by Mr Hewitt under the three general headings of undue delay, unsatisfactory results and investigations, and unsatisfactory replies. He agreed that it was important that any misconduct by the Army should not play into the hands of the paramilitaries. On the other hand it should not be overlooked that there were some encouraging aspects in the Report. He referred to the figures quoted by Mr Hewitt which showed that there might be more than four million encounters between soldiers and the public in a year, and yet in 1993 there were only 210 formal complaints and 396 informal complaints. The Report had also

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referred to the conditions and stress under which soldiers had to operate. He noted that a Confidence Issues Stocktake Meeting was to take place at official level later in the month, and that the Irish side might wish to revert to the subject at a future IGC. The Tanaiste said that it was clear that there were some areas to be worked on and if progress could be made he believed this would be helpful to all concerned.

7. The Tanaiste said other issues arising from the reports could be discussed at official level but he referred to one point on which a number of the reviewers seemed to agree, namely the desirability of recording interviews in RUC Holding Centres. The Tanaiste said he knew that the British side were not ready to accept this proposal but he asked that it be reflected upon; he believed that its introduction would be helpful to the police. Sir John Wheeler replied that he was grateful to those people who had looked at the situation and he noted that Sir Louis Blom-Cooper had made proposals for the safeguarding of video or tape recording of interviews. He reminded the Conference that the British side kept the matter under constant review, mindful of the advice from the Chief Constable about the collection of information from the Holding Centres. There was a concern that the recordings of interviews could present a danger to those who may have co-operated with the RUC; there was a fine balance to be drawn. He said that for the time being the British Government's view was to stay with the Chief Constable's advice, although they continued to keep the matter under consideration. Sir John Wheeler added that in his view the administration of the criminal justice system in Northern Ireland was of the highest standard.

8. The Secretary of State recalled that one of the major difficulties in mounting prosecutions was the acquisition and accumulation of information and intelligence; he was anxious not to restrict the flow which currently existed. Mrs Geoghegan-Quinn commented that the Irish Government had set up a committee to look at the recording of interviews of those held in

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adai custody; the committee had found in favour of such an arrangement and she hoped that it might be possible for the Irish side to share their experiences with the British. The Secretary of State said that he was grateful for this offer. He emphasised that in his Report Sir Louis Blom-Cooper had pointed out that there was nothing to suggest that those held in the Holding Centres were not being treated properly. He also remarked that Sir Louis Blom-Cooper had been seen as a diligent reviewer, he was held in very high standing and he had shown himself to be independent in his work.

LETHAL FORCE

9. The Tanaiste expressed disappointment that the Interdepartmental Working Group had taken the view that there should be no change in the law dealing with lethal force. He referred to the views expressed by Lord Chief Justice Hutton in the Clegg case when he had called for some sort of intermediate manslaughter offence. He had also noted that in the recent EPA renewal debate the British side had suggested that an intermediate offence would lead to complaints that members of the security forces were being dealt with unduly leniently. The Tanaiste said that in reality the absence of a suitable range of offences meant that in many lethal force cases no prosecutions had been taken, whilst in others the prosecutions had been unsuccessful. It was this perceived lack of accountability which remained most damaging to public confidence.

10. The Secretary of State said that the issues were finely balanced and he noted that they had been discussed at the last meeting of the IGC. He was aware that the Irish side had very recently handed over a paper as their response to the conclusions of the Working Group. He had noted the remarks made by the Lord Chief Justice in his recent judgement when he upheld the conviction of Private Clegg for murder. The Lord Chief Justice had suggested that if it was established that there was no malign motive, but that a soldier had reacted wrongly to a situation which confronted him, then it should be open to charge him with another offence. The Secretary of State explained his view that any change to the law to

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Now for an offence peculiar to the security forces would cause problems in that it would breach the principle that members of the security forces should be treated no differently than any other citizen. It would be unfair to single out members of the security forces for special attention and a suspicion could develop that there was one law for the security forces, and one for the rest of the population. His view was that it would be better to hold to the principle that there was the same law for everyone. He commented that he could understand that there were sensitivities among judges, especially because of the standard of proof required.

11. The Tanaiste pointed out that a wide range of respectable organisations and individuals, including SACHR and the Lord Chief Justice had all suggested that a change in the law was required. The Lord Chief Justice was reflecting a view that charges should more clearly reflect the nature of the offence. The Irish believed that experience had shown that this was an area which needed to be developed; there were clearly differences in responsibility when comparing the security forces with ordinary civilian members of the community. The Secretary of State enquired if that difference meant that there should be a special case of liability for members of the security forces. He pointed out that Private Clegg's conviction had been upheld and he recalled that in an earlier case Private Thain had been found guilty of murder. Mr Sean O hUiginn pointed out that there had been only 4 convictions out of 350 fatal shootings by members of the security forces; he believed that these figures spoke for themselves. He reminded the Conference that the DPP, who was responsible for mounting prosecutions, was independent, and that Mr O hUiginn's remark implied that more must have been guilty; there had been 4 convictions out of 33 members of the security forces charged. He added that the British side would consider the Irish side's latest paper on the issue.

12. The Tanaiste also referred to the desirability of clear controls on the use of lethal force and new arrangements for the investigation of incidents involving the use of lethal force. He

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ould be interested to hear of the Interdepartmental Working Group's progress in these areas, and it would be helpful for British and Irish officials to have further discussions on this work.

CROSS BORDER CO-OPERATION ON TRANSPORT

13. The Tanaiste welcomed Mr Tim Smith and Mr Cowen to the IGC to discuss the topic cross-border co-operation in transport, and in particular public transport. He reminded the Conference that they had before them a Joint Paper prepared by the Department of Environment for Northern Ireland and the Department of Transport, Energy and Communication in the Republic. He expressed his pleasure in seeing the high degree of co-operation which existed between the two Departments, between Northern Ireland Railways and Iarnrod Eireann and between Ulsterbus and Bus Eireann.

14. Mr Cowen confirmed that there was a high degree of co-operation between the railway companies North and South. Work on upgrading the North/South rail-link was moving ahead on time and there were plans to improve the railway stations. The British side was to look at improving the rail link between Belfast and Londonderry. He believed there was a lot of support for the Belfast-Dublin link and that current success could be built upon. There had also been improvements in cross-border bus services and there were joint arrangements on certain routes. In relation to road haulage there was also good North/South co-operation. In general, therefore, he was able to report that the various transport agencies North and South were working closely together.

15. Mr Smith commented that historically there had been an artificially low level of trade between Belfast and Dublin. This suggested that there was a strong case for investing in transport, and recent railway figures revealed good justification for the investment. It was hoped that the improved rail link between Belfast and Dublin would lead to new business; he also noted that work was progressing on time. It was planned to make the stations more consistent with the quality expected from an upgraded rail

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15. He said he was very keen on developing the cross harbour rail connection in Belfast to provide the missing link on the Londonderry route, which would allow through trains from Dublin to Londonderry in a time of 3 hours. He also noted the good level of co-operation on cross border bus matters.

16. Mr O'Donovan agreed that the NIR line from Bleach Green to Antrim needed to be upgraded to allow for improved links to Londonderry. He understood that the DOE(NI) firmly supported this upgrading but that money was not available; he said that the Irish Government strongly supported the case for improving this particular link. Mr Smith was optimistic about getting the funds released for this work. The Tanaiste repeated that he was glad to hear of the high level of co-operation along with the news that increased numbers of people using the Belfast/Dublin rail link.

PROGRAMME OF FUTURE ECONOMIC AND SOCIAL TOPICS FOR IGC

17. The Tanaiste said that the Conference had before it a joint paper proposing a programme of economic and social topics for discussion at future IGCs. These items had become a very significant part of the Conference especially since the 1989 Review and he emphasised that he had a strong personal commitment to the co-operation in this field. He took the view that there was constant scope for expanding North/South co-operation in the economic and social areas and he believed it was important for members of the the public to see the level of co-operation that existed, and could be built upon. He suggested that the Conference agree the paper and inform the relevant Ministers to take forward the programme of work.

18. The Secretary of State endorsed the Tanaiste's view and said he would like to add his personal emphasis to this non-controversial area of work, where there were very positive advantages to be had from developing co-operation on the island. The more progress that could be made in developing co-operation in these areas, the greater

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the chances of diminishing suspicions in other fields of contact.

ANY OTHER BUSINESS

19. The Secretary of State expressed his thanks to the Tanaiste for the arrangements for the meeting the previous evening and for the Conference. He also passed on his encouragement to the Irish soccer team as the only team from "these islands" in the World Cup competition.

DATE OF NEXT CONFERENCE

20. There was some discussion as to the date of the next Conference and how it might be influenced by the date of the Summit between the Prime Minister and the Taoiseach. It was noted that if a political discussion was required, before the two heads of Government met, this could be arranged separately. Such an approach seemed to suggest that an IGC should not be necessary before the end of July; the Secretary of State added that one might not be necessary before September. In concluding the discussion it was agreed that the matter would be kept under review and that the options would be left open.

COMMUNIQUE

21. A copy of the agreed Communique issued after the IGC is attached at Annex.

POLITICAL MATTERS

4. The Conference received a further report on the preparation of a joint framework document which would facilitate a comprehensive political settlement to be agreed with the main constitutional parties. Ministers noted the considerable progress made in a number

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JOINT STATEMENT
ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE
DUBLIN 17 JUNE 1994

A meeting of the Anglo-Irish Intergovernmental Conference was held in Dublin on 17 June 1994. The British Government was represented by the Joint Chairman the Rt Hon Sir Patrick Mayhew MP, Secretary of State for Northern Ireland, accompanied by the Rt Hon Sir John Wheeler MP, Minister of State, and Michael Ancram MP, Minister of State, and Mr Tim Smith MP, Parliamentary Under Secretary of State, Northern Ireland Office. The Irish Government was represented by the Joint Chairman, Mr Dick Spring TD, Tanaiste and Minister for Foreign Affairs, accompanied by Mrs Maire Geoghegan-Quinn TD, Minister for Justice, and Mr Brian Cowen TD, Minister for Transport, Energy and Communications. The Deputy Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana were present for discussion of security matters.

SECURITY SITUATION

2. The Conference extended sympathy to the families of those who died in the recent helicopter accident at the Mull of Kintyre. Both sides expressed their determination that the response to the campaigns of terror will be maintained and enhanced.

3. The Conference condemned recent sectarian shootings and other terrorist attacks. Ministers expressed sympathy to all those who have suffered as a result of the campaigns of violence. They considered with the police chiefs ways of preventing paramilitary attacks and bringing those responsible to justice.

POLITICAL MATTERS

4. The Conference received a further report on the preparation of a joint framework document which would facilitate a comprehensive political settlement to be agreed with the main constitutional parties. Ministers noted the considerable progress made in a number

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areas and gave directions for further work to be addressed. Ministers reviewed recent political development and agreed to maintain close contact.

CONFIDENCE IN THE SECURITY FORCES

5. The Conference considered a number of matters affecting relations between the community and the security forces, including policy issues regarding the use of lethal force by the security forces and problems arising for local residents from the construction works at the combined police and Army base at Crossmaglen. The Conference also reviewed recent reports of the Independent Assessor of Military Complaints Procedures, the Reviewer of the Emergency Provisions Act, the Independent Commissioner for the Holding Centres and the Independent Commission for Police Complaints. The Conference restated the importance both sides attach to the prompt and effective handling of complaints by members of the public against the security forces and welcomed the initiatives already taken in this area.

ECONOMIC AND SOCIAL TOPICS

6. At this Conference, special attention was given to cross-border cooperation in public transport on which there was a report before the Conference prepared by the respective Departments. The Conference welcomed the high level of cooperation which already exists, noting especially cooperation in the development of the Dublin/Belfast rail line which was announced by the Conference on 27 April 1992 and is due for completion in 1996. The rail line is part of the European High Speed Rail network and is receiving significant assistance from the European Union. The Conference noted with satisfaction that the two Ministers responsible for public transport issues will meet later this year to officially mark important developments in this project. The Conference also paid tribute to the good cooperation that exists in relation to cross-border bus services and other public transport matters.

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The Conference had before it a report reviewing the most recent programme of work in North/South economic and social cooperation which will be completed shortly, and proposing topics for future consideration. The Conference adopted a future programme of work which will include prospects for increased cooperation on cross-border roads, health issues, protection of the heritage, conservation of energy and development of alternative sources, and cooperation in trade and tourism. The Conference will also review the progress of the International Fund for Ireland, the implementation of joint proposals in respect of Structural Funds for 1994-99 and the progress of Interreg II.

no person confirmed that any of the papers...
the papers' view is that the full range of...
the paper Unionist fears which are being...
these papers as timely and helpful. The...
It was recognized that the papers will...
of any papers and that if these papers...
subsequent after future talks that the...
that have a stronger political spin.
It was agreed that Jonathan Redell will...
advancing that this is a very finely...
give and take, inviting both to make a...
that economic and social papers should...
authorize the British side of the Secretariat...
side on the issue.

Heidi Kenny
27 June 1994