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The communique is very much a first draft but you may  
wish to glance at it & comment. (1)



Prime Minister

Foreign and Commonwealth Office

London SW1A 2AH

Paul  
- 4/9

4 September 1979

Dear Michael,

The Taoiseach's Visit

At the end of her briefing meeting this afternoon the Prime Minister asked for a draft press communique to be prepared setting out the list of points which we should be putting to Mr Lynch for action by the Irish authorities, in the clear understanding that this was unlikely to be welcome to or agreed by the Taoiseach. I attach a draft which has been prepared jointly by officials in the Northern Ireland Office and the Foreign and Commonwealth Office. It has not, however, yet been seen by the Foreign and Commonwealth Secretary.

During the briefing meeting there was also some discussion, in the context of the proposal for interrogation by the RUC, of the issues of extradition and extraterritorial jurisdiction; and Sir Brian Cubbon gave orally some of the background on the European Convention on the Suppression of Terrorism and the EEC Agreement. You may find it useful to have a further note by officials covering these two subjects. The first paragraph of this note suggests that there is a strong case for not asking both for RUC interrogation in the Republic and for change in the Irish attitude to extradition.

I am sending copies of this letter to the Private Secretaries to the Secretary of State for Northern Ireland, the Home Secretary, the Attorney General and to Martin Vile (Cabinet Office).

Yours etc

Paul

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PRIME MINISTER'S DISCUSSIONS WITH THE TAOISEACH AT No 10 DOWNING STREET ON WEDNESDAY, 5 SEPTEMBER

The Prime Minister, the Rt Hon Margaret Thatcher MP, had discussions today 5 September at No 10 Downing Street with the Taoiseach, Mr John Lynch TD, who was accompanied by Mr George Colley TD, Tanaiste and Minister of Finance and Mr Michael O'Kennedy TD, Minister for Foreign Affairs. The Rt Hon The Lord Carrington, Secretary of State for Foreign and Commonwealth Affairs, and the Rt Hon Humphrey Atkins MP, Secretary of State for Northern Ireland were present. The talks were preceded by a working lunch also attended by the Chancellor of the Exchequer, the Rt Hon Sir Geoffrey Hower QC, MP and by the Lord Privy Seal, the Rt Hon Sir Ian Gilmour Bt MP, at which European Community topics and other matters of mutual interest were discussed.

The Prime Minister raised with the Taoiseach the security measures set out below which the British security forces either already implement, or will be willing to implement on a reciprocal basis if the Irish authorities are prepared to do likewise. The Prime Minister made it clear that HM Government would be happy to consider comparable requests from the Irish Government on a similar basis.

*Living facilities are asked for the public in case prepared to give them in return.*

In response, the Taoiseach indicated that [he would accept/must reject the proposals at and ] but would consider the remaining proposals and be in further touch with Her Majesty's Government.

The proposals were:

- i. A range of specialised police facilities ~~should be provided~~ by the Irish authorities to enhance the/

*Information to be kept out  
in view of  
British equiv on  
border - key  
points - cross-border  
co-operation.  
Wants not. equiv.  
must make  
the charges.*



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the capabilities of the Garda in the border area and elsewhere to operate against terrorists. These should match existing capabilities of the RUC.

- ii. RUC officers should be permitted to interview in Garda stations, in the presence of members of the Garda, persons suspected of terrorist offences in the North~~er~~. A reciprocal facility was already already available to the Garda if they should wish to interview suspects held by the RUC.
- iii. A Garda Liaison Officer should be stationed in the RUC Headquarters to assist greater cooperation. The RUC would be happy to station a comparable member of their force in the South.
- iv. Helicopters of the British Army should have standing authority to overfly the Republic to a depth of 10 kilometres in order to maintain surveillance on fleeing terrorists, so that information on their whereabouts could be passed to the Garda. Again a reciprocal facility would be made available *to helicopters from the British*

The Prime Minister proposed [and the Taoiseach agreed] that the Secretary of State for Northern Ireland and the Minister for Justice should hold an early meeting with the Chief Constable of the RUC and the Garda Commissioner in order to monitor progress on these points and to consider how more effectively to co-operate in bringing terrorists to justice on both sides of the border.

During the discussions the Taoiseach raised the question of future political progress in Northern Ireland [and in particular the need to take account of the concerns of the minority population]. The Prime Minister took careful note of the points which had been made, and confirmed that HM Government's policy was to seek an acceptable way of restoring to the people of Northern Ireland more control over their own affairs.

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## EXTRADITION AND EXTRA-TERRITORIAL JURISDICTION

Our need to interrogate suspects in the South is particularly directed to the extra-territorial jurisdiction procedure, ie in many cases where we seek to have a man suspected of a crime done in the North tried in the South, we may need to require that the RUC should interview him to get the necessary evidence together. Since it is part of the procedure that the suspect should be arrested and held in custody by the Garda at some stage, there is a natural place for RUC questioning in it. It is however far from clear whether RUC questioning would fit so well into extradition procedures, since it is not necessary for the suspect to be held in custody in such cases. Apart from other reasons therefore, there is a strong case for not putting alternative requests to Mr Lynch, by asking both for RUC interrogation under the extra-territorial jurisdiction procedure and for a change in the Irish attitude to extradition. The complications inherent in a change in the constitution, which the Irish claim the introduction of extradition would require, are an additional argument for not insisting on this.

2 Article 29 of the Republic's constitution states that the Republic accepts the generally recognised principles of international law as its rule of conduct in its relations with other states. The view has prevailed in the Republic that the extradition of political offenders is contrary to the generally recognised principles of international law, and that, therefore, the extradition of political offenders is for them unconstitutional. This view, that international law precludes surrender in respect of political offences, is not one that is shared by the United Kingdom and it is evidently not held by the other states which have ratified or signed (without reservation) the European Convention on the Suppression of Terrorism. However many extradition treaties do not oblige a state to extradite its own nationals - a point which Mr Lynch has often stressed. (Any PIRA suspect of Northern Ireland origin of course can claim Irish nationality.)



E.R.

3 It would be unrealistic to suppose that the Government of the Republic would be willing to move away from its interpretation of the generally recognised principles of international law.

The European Convention on the Suppression of Terrorism

4 The Convention (a Council of Europe instrument) provides that certain serious "terrorist-type" offences are not to be regarded as offences of a political character for the purposes of extradition between contracting states, and embodies the principle that if a state refuses extradition it should refer the case to its own prosecuting authorities. Article 1 of the Convention lists a number of very serious crimes; the application of the Convention to these crimes is mandatory. Article 2 lists a number of less serious crimes and is discretionary. But Article 13 of the Convention recognises that a contracting state might be impeded for legal or constitutional reasons from fully accepting the obligations under Article 1 in relation to the grant of extradition for political crimes and permits contracting states to enter a reservation retaining discretion to prosecute rather than extradite, provided that they undertake to take into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence. Six states entered this reservation when signing the Convention: Sweden, Norway, Portugal, Italy, Denmark, and Cyprus. If the Republic of Ireland were to become a party to the Convention, but make this reservation, the gain for the United Kingdom would probably be minimal.

5 The Suppression of Terrorism Act 1978 enabled the United Kingdom to ratify the Convention without reservation. The Convention has been ratified by five other Council of Europe countries (Austria, Cyprus, Denmark, FRG, Sweden) and signed by 13 other countries. The Republic and Malta alone have neither signed nor ratified the Convention.

The EEC Agreement (The Belgium Protocol)

6 In accordance with declarations adopted at the 5th, 6th and 7th European Councils, an ad hoc group of senior officials of the Nine was set up to examine, under the guidance of Ministers of Justice, measures to combat international terrorism. This group drafted an agreement by which the Nine undertake to apply the European Convention



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on the Suppression of Terrorism among themselves until such time as they should all have ratified the Convention without reservation. To this extent, it must be regarded as a purely temporary measure. The EEC Agreement contains a special accommodation for the Republic of Ireland, by which it would have no obligation to extradite, but an obligation to consider prosecuting those whom it does not extradite. It is likely that this Agreement will be formally opened for signature during the current Irish Presidency. The Suppression of Terrorism Act 1978 will enable the United Kingdom to become a party to this Agreement. While an Irish decision to become a party will no doubt be welcome, it will not in fact change the present situation as regards persons suspected of terrorist offences in Northern Ireland, who are already covered by the Criminal Jurisdiction Legislation.

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