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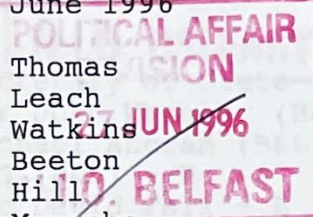
B/S

From: Donald A Lamont  
Republic of Ireland Dept

Date: 26 June 1996

cc

Mr Thomas  
Mr Leach  
Mr Watkins  
Mr Beeton  
Mr Hill  
Mr Maccabe  
Mr Bell  
Mr Stephens  
Ms Harrison  
HMA Dublin



Mr Whysall

*Mr Whysall*  
*De Smyth*

### CONSTITUTIONAL ISSUES

1. Thank you for sending me a copy of your minute to Mr Bell of 24 June (received today). If I may say so, it contains a deal of good sense and removes the need for me to intervene on this issue as I had intended. I shall just make two points.

2. The first point is to recall that FCO Legal Advisers were unhappy with the lack of clarity in the formulation "territorial claim of right to jurisdiction". The Foreign Secretary at the time decided not to urge that we secure a better formulation because of the urgency of bringing negotiations on the Joint Framework Document to a conclusion. I agree with you that the debate ought to be about the implications of Articles 2 and 3, and what language might make them more acceptable, rather than the formulation in "Frameworks". I am casting around within the FCO, in order to determine whether there is inspiration to be drawn from constitutional or treaty language in other cases in Europe.

3. If someone in RID agreed to investigate the UUP line (your para 4), I was not aware of it. But we shall certainly do so. I am sure, however, that our lawyers will confirm that the assertion of a claim to territory is not in itself contrary to legal principles. What matters is how that claim is pursued, whether peacefully or by use of force. The Irish have been keen-eyed and active participants in the CSCE (now OSCE) process; they are unlikely to have agreed to language which would be capable of being used effectively against them. However, I shall pursue the point with our OSCE experts and lawyers and revert in due course.

(SIGNED)

Donald A Lamont

DL/RHB/4916

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