

CONFIDENTIAL 662/8

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FROM: JOHN MCKERVILL
SPOB
24 August 1990

cc PS/Secretary of State (L&B)
PS/PUS (L&B) 28/8
① PS/Sir K Bloomfield 28/8
Mr Ledlie
Mr Chilcot
Mr Fell DED
Mr Murray DOE
Mr Wilson
Mr Alston
Mr Bell o/r
Mr Dodds
Mr G McConnell
Mr Blackwell
DARU
Mr Wolstencroft
Mr Cherry
Mr Whysall

② ex. Mr. Spence.

29/8

1. Mr. H. H. H.

2. Mr. H. H. H.

222/8 RW

ASST. / 143/8 NH
CENT SEC

PS/Minister of State (L&B)

PETROL SMUGGLING

1. The Minister of State will recall that just before the Conference meeting last month we received from H M Customs and Excise a summary of their investigation, in conjunction with their Southern counterparts, into the extent of commercial smuggling of petrol into the ROI. (A copy of the summary was included in the Minister's briefing for the 17 July meeting).

2. The report concluded that there are reasonable grounds for accepting that commercial smuggling of petrol to the ROI is of the order of 4 million gallons per year. The report identified 7 major smuggling groups involved and noted that all but one operate in South Armagh. Smugglers believed to have direct links to paramilitaries are estimated to have smuggled about 2 million gallons of petrol to the Republic in the last year.

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3. In submitting the summary of the report to the NIO, H M Customs and Excise drew attention to weaknesses in the current legislation governing the transport and storage of petroleum. In particular, current legislation/procedures governing the granting of planning permission and the issue of licences under the Petroleum Act seriously undermine attempts to control this illegal activity. While this legislation was introduced for health and safety reasons, H M Customs and Excise suggested that we might wish to consider whether a tightening of legal requirements in relation to storage and transport would provide an alternative to marking petrol. Accordingly, at the Conference meeting on 17 July the Minister of State did not commit HMG to introduce a marking scheme, on the basis of the agreed level of smuggling, but suggested there might be alternative methods of tackling the problem.

4. We have held a preliminary meeting with the Belfast Collector, H M Customs and Excise, at which ARU and DED representatives were also present, to consider the outcome of the Customs study and what might be said to the Irish side at the next Conference meeting. We agreed that new measures were needed to curtail what was wholly undesirable criminal activity; but we also agreed that, as UK officials, our motive should not be to protect the Irish Exchequer. With the knowledge that petrol smuggling is almost entirely confined to seven major operating groups in discrete local areas, we were not satisfied that a marking scheme applying universally across the whole of Northern Ireland represented the best way of solving this problem. Nor were we satisfied that forcing the Northern Ireland oil industry suppliers to introduce, and the population of Northern Ireland to use marked petrol would necessarily be enough to put the smugglers out of business. Whether or not that happened would depend on the effectiveness of Irish enforcement of the scheme. Up to now the Irish side do not appear to have shown a great deal of determination to prevent petrol smuggling themselves, despite knowing

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who the main culprits are, (although it is known that their Customs Officers have been threatened and attacked). Instead, they have argued that the solution to their problem is only to be found on the Northern Ireland side of the border in the form of a marking scheme. Given this apparent lack of determination to deal with the problem themselves, and what we know of their limited resources, it is not easy to be confident that Irish enforcement of a marking scheme will necessarily be effective in the future.

5. Moreover, further consideration of the implications to introducing a petrol marking scheme in Northern Ireland has led us to conclude that it might be politically more difficult than was first supposed. Taking such emotive and visible action in putting a coloured marker in Northern Ireland petrol principally for the benefit of the Irish Exchequer would be especially difficult given that the Irish are taking their own quite illegal steps to the same end, and to the detriment of Northern Ireland traders.

6. We have also further considered and recognised the strength of the difficulties likely to be faced in getting a legislative slot if Ministers were prepared to go for this before a marker had been tried and tested. There are serious doubts whether the next Finance Bill would be an appropriate vehicle for a provision that is not concerned with this country's revenue; and there is bound to be pressure for space within it. I understand that we may even be looking to insert other NI Provisions in this legislation. We have considered use of the EP Bill. But, Parliamentary presentation would then be very difficult, if not impossible, given that we cannot be specific about smuggling being an aid to paramilitary activity.

7. The Customs and Excise report shows that of the approximate 4 million gallons smuggled last year 54% was carried out by one operator in South Armagh. (The Minister will be aware of the

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measures which have already been put in hand against this individual). The remainder was smuggled by six other operators, only one of whom is not in the South Armagh area. Given the small number of petrol smuggling operations, we wonder whether the introduction of primary legislation to require the marking of petrol in Northern Ireland might not be regarded as a very large hammer to crack this particular nut. We are coming round to the view that the best way to tackle the problem, which, not simply because of its paramilitary dimension, we recognise is one for the UK as well as for the ROI, if possible, would be to use or strengthen existing regulatory legislation. Our primary objective here would be to prevent the smugglers from obtaining the petrol in the first place. As H M Customs and Excise have pointed out, there may well be scope for tightening up the current legislation relating to the conveyance, storage and sale of petroleum spirit ie the Petroleum (Consolidation) Act (Northern Ireland) 1929 and the various regulations made under that Act.

8. At the moment it would appear relatively easy to obtain a licence from a district council to store petrol, provided the storage tanks meet the standards for installation. No account is apparently taken of trade need. Thus, an application for a licence can be made, possibly successfully, to a Local Authority Petroleum Officer to store petrol in a tank located on an unapproved road, virtually a dirt track, very close to the border. There may well be scope for tightening up the regulations in order to place additional responsibilities on the Trade (major suppliers and distributors) to supply only persons holding a petroleum licence at approved premises. The criteria for obtaining a licence could correspondingly be tightened; for example, applicants might be required to show a clear trade need. Applications for licences, it is envisaged, would be considered by Local Authority Petroleum Officers against a clear list of criteria. It might be necessary, in order to reduce the risk

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to these officers, to introduce an appeals procedure. Persons storing hydro-carbon oils on unapproved premises and those conveying petrol by a means other than an approved road trailer might also be made the subject of tighter regulations and enforcement.

9. These are all matters which we propose to explore next week at a further meeting of officials to which the DOE (because of their transport and local government responsibilities) have also been invited. I will report further in the light of that meeting.

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