



Treaty Series No. 73 (1993)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Republic of Ireland

relating to the
Transmission of Natural Gas by Pipeline between
the United Kingdom of Great Britain and Northern
Ireland and the Republic of Ireland
with Exchange of Notes

Dublin, 30 April 1993

[The Agreement entered into force on 20 September 1993]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 1993*

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**NATURAL GAS INTERCONNECTOR AGREEMENT BETWEEN
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE REPUBLIC OF IRELAND**

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**AGREEMENT
BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF THE REPUBLIC OF IRELAND RELATING TO
THE TRANSMISSION OF NATURAL GAS BY PIPELINE BETWEEN THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE REPUBLIC OF IRELAND**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland,

Recalling the protocol, signed at Dublin on the 8 December 1992¹, to the agreement between them signed at Dublin on the 7 November 1988², concerning the delimitation of areas of the continental shelf between the two countries;

Further recalling the decision of the 16 December 1991 of the Commission of the European Communities on Community assistance from the European Regional Development Fund in the framework of a Community initiative (REGEN) concerning transmission and distribution networks for energy;

Desiring to facilitate the construction and operation of a pipeline between Moffat in Scotland and Loughshinny in the Republic of Ireland for the transmission of natural gas;

Have agreed as follows:

ARTICLE I

Definitions

In this Agreement unless the context otherwise requires:—

“Authorisation” or “consent” includes any necessary licence (but not any necessary wayleave or easement);

“Commission” means the Irish Sea Interconnector Commission established under Article 14;

“Inspector” means any person authorised by either Government to carry out any inspection of any part of the pipeline;

“Natural gas” means any gas derived from natural strata (whether or not it has been subjected to any process or treatment);

“Operator” means the person referred to in Article 4 and authorised in accordance with Article 2 who organises or supervises the construction or operation of the pipeline or any part thereof;

“Owner” means the person referred to in Article 3 and authorised in accordance with Article 2 who is entitled to possession of the pipeline or any part thereof and includes where appropriate any person designated for the purposes of Article 12(1) in accordance with Article 16;

“Pipeline” means the pipe from the natural gas custody transfer point at the British Gas Compressor Station at Beattock near Moffat in Scotland to the pig trap at the Irish Gas Board Shore Station at Ballustree near Loughshinny in the Republic of Ireland and includes part of the pipeline and any apparatus, equipment or other thing which is ancillary to the pipeline and which is between that pig trap and that custody transfer point together with that part of any connecting pipe from the point of connection up to and including the first isolation valve on any such connecting pipe;

“Pig trap” means a pressure vessel at the end of a pipeline to facilitate the entry into or removal from a pipeline of inspection and surveillance tools;

¹Treaty Series No. 47 (1993), Cm 2302.

²Treaty Series No. 20 (1990), Cm 990.

“Standard cubic metre”, when applied to natural gas, shall mean that quantity of natural gas free of water vapour which at fifteen degrees Celsius and at an absolute pressure of one thousand and thirteen decimal two five millibars (1,013.25 mbar) occupies the volume of one cubic metre; and

the singular includes the plural unless the context otherwise requires.

ARTICLE 2

Pipeline Authorisations and Consents

- (1) Subject to paragraphs (2) and (3), neither Government shall object to the laying and operation of the pipeline by the operator along the route illustrated on the map at Annex 1 and more particularly identified by the co-ordinates set out in Annex 2 hereto.
- (2) Each part of the pipeline shall be laid within the limits of deviation which are permitted by the competent authority in whose jurisdiction that part of the pipeline is laid.
- (3) Each Government shall, in accordance with and subject to its laws, issue any necessary authorisation or consent with respect to the laying and operation of the pipeline. A copy of any such authorisation or consent shall be given by the Government issuing it to the other Government.
- (4) No authorisation or consent referred to in this Article shall be issued, revoked, altered, modified or reissued by one Government without prior consultation with the other.

ARTICLE 3

Owner of the Pipeline

Any owner or change of owner of the pipeline or any part thereof shall require the approval of the Minister for Transport, Energy and Communications of the Republic of Ireland and that approval shall not, in relation to any part of the pipeline, prejudice any legislative requirements in existence at the time of the entry into force of this Agreement for the consent of the Government in whose jurisdiction that part of the pipeline lies.

ARTICLE 4

Operator of the Pipeline

- (1) Any operator or change of operator of the pipeline or any part thereof shall require the approval of the Minister for Transport, Energy and Communications of the Republic of Ireland and that approval shall not, in relation to any part of the pipeline, prejudice any legislative requirements in existence at the time of the entry into force of this Agreement for the consent of the Government in whose jurisdiction that part of the pipeline lies.
- (2) The operator shall be subject to the legislative requirements of the United Kingdom of Great Britain and Northern Ireland in respect of that part of the pipeline which is under the jurisdiction of the United Kingdom of Great Britain and Northern Ireland and shall maintain an appropriate place of business in the United Kingdom of Great Britain and Northern Ireland solely to satisfy those requirements.

ARTICLE 5

Safety

- (1) Each Government shall have the right to determine, in accordance with its own laws, the safety measures which are to govern the construction and operation of the part of the pipeline under its jurisdiction.
- (2) Without prejudice to paragraph (1), the competent authorities of the two Governments shall consult one another with a view to ensuring that there are appropriate safety measures for the pipeline and that the pipeline is subject to uniform safety and construction standards.

(3) The competent authorities of the two Governments shall consult one another from time to time in order to review the implementation of any of the arrangements made under paragraph (2) and shall keep the Commission informed of such consultations and of their outcome.

ARTICLE 6

Environmental Protection

(1) Each Government undertakes to make every endeavour, in accordance with and subject to its laws, to ensure as far as practicable that the laying and operation of the pipeline shall not cause pollution to the marine, coastal or land environment, or damage to facilities onshore or offshore, amenities, vessels or fishing gear.

(2) The competent authorities of both Governments shall consult one another on the manner in which the provisions of this Article are to be implemented including the manner of implementation to apply in an emergency.

ARTICLE 7

Inspections

(1) Each Government shall take steps to ensure that safety or pollution inspectors appointed by one Government have:

- (a) access, in accordance with the procedure specified in paragraph (3), to the part of the pipeline within the jurisdiction of the other, during the time of fabrication and laying of the pipeline as well as subsequently; and
- (b) access to all necessary information including all reports of inspections.

(2) The right of access of safety or pollution inspectors appointed by the Government of the Republic of Ireland under paragraph (1) shall extend up to, and include, the pig trap ancillary to the pipeline at the British Gas Compressor Station at Beattock near Moffat in Scotland.

(3) Each Government affirms that it has sole responsibility for all inspections of the part of the pipeline within its jurisdiction and of the operations carried out within its jurisdiction in relation to such part, and it is responsible for its own inspectors. Following a request by an inspector of one Government (the “visiting inspector”) to the competent authorities of the other Government (the “host Government”) to visit part of the pipeline under the jurisdiction of the host Government, the operator shall be required to give access to the visiting inspector and his equipment provided that he is accompanied by an inspector appointed by the host Government. The operator shall also be required to procure the production to the visiting inspector of such information as he may require to satisfy himself that the fundamental interests of his Government in respect to safety or pollution prevention are met. The host Government shall, in accordance with and subject to its laws, facilitate the task of the visiting inspector.

(4) Each Government shall ensure that if it is informed or if it becomes apparent to it (whether by or through an inspector or otherwise) that the safe operation of the pipeline may be in doubt or that there may be a risk of damage to persons or property or of pollution arising from the pipeline, this information will be communicated immediately to the operator and immediately thereafter to an inspector of the other Government.

(5) The competent authorities of the two Governments shall consult one another and agree practical measures for the implementation of paragraph (4) including the manner of implementation to apply in an emergency.

ARTICLE 8

Security Arrangements

The competent authorities for security of each Government shall consult one another with a view to concluding such mutual arrangements in relation to the physical protection of the pipeline as shall from time to time seem appropriate to them.

ARTICLE 9

Connections and Access to the Pipeline

- (1) The two Governments agree that the pipeline is being constructed to satisfy the demand for natural gas in the Republic of Ireland.
- (2) The two Governments recognise the desirability of transporting as economically as possible and with due regard to technical compatibility natural gas discovered below the sea bed of the Irish Sea, and of avoiding the unnecessary proliferation of pipelines in that area.
- (3) The two Governments also recognise the desirability of access to the pipeline for the transport of natural gas with due regard to technical compatibility of such natural gas on fair commercial terms.
- (4) In furtherance of the aims in paragraphs (2) and (3) each Government, subject to Article 10, agrees to take such measures as may be available to it to assist persons wishing to connect pipes to the pipeline or otherwise obtain access to it to make use of any spare capacity provided that any such connection or access shall not prejudice the efficient operation of the pipeline for the purpose of satisfying the demand for natural gas in the Republic of Ireland. The Government of the United Kingdom of Great Britain and Northern Ireland shall consult the Government of the Republic of Ireland where it proposes to take any measure of the kind referred to in this paragraph.
- (5) Articles 5, 6, 7 and 8 shall apply to any pipe connected with the pipeline pursuant to this Article or Article 10 up to the first isolation valve, which does not form part of the pipeline, on any such connecting pipe.

ARTICLE 10

Northern Ireland and the Isle of Man

- (1) The Government of the Republic of Ireland shall take such measures as may be available to it (including the introduction of proposed legislation) to ensure that the competent authorities in Northern Ireland (or a relevant authorised entity) shall, on fair commercial terms, have an option exercisable up to the 31st day of December 1999 to use, for such period as may be agreed with a similar option to renew, on fair commercial terms (relating where appropriate to the installation of compression), a portion of the capacity of the part of the pipeline between Moffat and the point of connection on land in Scotland of the connecting pipe to Northern Ireland. That portion of the capacity shall be up to but not in excess of 8,080,000 standard cubic metres of natural gas per day at a pressure of 56 bar by the 1st day of January 2015 and 8,640,000 standard cubic metres of natural gas per day at a pressure of 52 bar by the 1st day of January 2025.
- (2) The Government of the Republic of Ireland shall take such measures as may be available to it (including the introduction of proposed legislation) to ensure that the competent authorities in the Isle of Man shall, on fair commercial terms, have an option exercisable up to the 31st day of December 2015 to use, for such period as may be agreed with a similar option to renew, on fair commercial terms, a capacity of up to 767,000 standard cubic metres of natural gas per day at a pressure of not less than 70 bar for the transit of natural gas to or from the Isle of Man through a connecting pipe.
- (3) The Government of the Republic of Ireland shall take such measures as may be available to it (including the introduction of proposed legislation) to ensure that the owner or operator facilitates the transit of up to the quantity of natural gas referred to in paragraph (2) through the pipeline into or out of any pipe referred to in paragraph (2) connecting it to the Isle of Man, on terms as if Council Directive No. 91/296/EEC and any other relevant EEC gas transit legislation (as amended or replaced from time to time) applied to the Isle of Man and, where relevant, as if the competent authority of the Isle of Man were a designated entity as referred to in that Directive.

(4) The construction and operation of any pipes connecting the Isle of Man and Northern Ireland to the pipeline shall be in accordance with, and subject to, such fair terms and conditions as may be agreed from time to time between their respective competent authorities or, where relevant, authorised entities, and the owner or operator as appropriate.

ARTICLE 11

Co-operation in the Event of Disruption of Supply

The two Governments, recognising each other's legitimate interest in safeguarding supplies of natural gas to consumers and in maintaining system security and capability shall consult each other, at the earliest opportunity after the entry into force of this Agreement, in order to establish the framework for co-operation in the event of a serious disruption in natural gas supplies.

ARTICLE 12

Abandonment

(1) Each Government shall ensure that the abandonment of the pipeline, or any part thereof, shall be undertaken in compliance with the laws of the State within whose jurisdiction it is located.

(2) Each Government shall, on receipt of any proposal for abandonment of the pipeline, or any part thereof, consult the other Government with a view to ensuring that possibilities for potential further economic use of the pipeline are not neglected.

(3) Subject to paragraph (1), if no such potential further economic use is identified, the two Governments shall consult one another on the proposed arrangements for abandonment and, if these are not uniform over the whole length of the pipeline, each Government shall seek to procure, so far as is reasonably practicable, that the arrangements for the abandonment of the part or parts of the pipeline within its jurisdiction shall not prejudice alternative arrangements for the further use or abandonment of the part or parts of the pipeline within the jurisdiction of the other Government.

(4) If either Government in relation to that part of the pipeline within its jurisdiction considers the continued operation of that part of the pipeline for technical, economic or other reasons not to be practicable, it shall consult with the other Government and shall seek to procure, so far as is reasonably practicable, for the other Government (or any person authorised by that Government) the right to take over on fair terms and conditions the operation of that part of the pipeline which it considers necessary for transmission of natural gas.

(5) Subject to paragraph (4), the Government or person that takes over the operation of such part of the pipeline shall ensure the abandonment or isolation, whether by the owner of the pipeline or otherwise, of any section of that part of the pipeline which is no longer in use and which both Governments agree should be abandoned or isolated.

ARTICLE 13

Exchange of Information

(1) Both Governments shall ensure a free flow of information between them about matters relating to the operation of the pipeline and the current and projected utilisation of its capacity.

(2) Any information supplied by one Government to the other under paragraph (1) shall not be further disclosed by the receiving Government without the prior consent of the supplying Government.

ARTICLE 14

The Irish Sea Interconnector Commission

A Commission, called the “Irish Sea Interconnector Commission”, shall be established for the purpose of facilitating the implementation of this Agreement. The Commission shall consist of two joint Chairpersons and two joint Secretaries. One Chairperson and one Secretary shall be nominated by each Government with substitutes as necessary. Any other person which either Government or either Chairperson considers should be present at any Commission meeting may attend such meeting. The functions of the Commission, which shall include that of considering matters referred to it by either or both of the Governments, and its procedures, shall be subject to such further arrangements which may be agreed by the two Governments from time to time. Meetings of the Commission shall be convened by the two Governments acting jointly. However, if either Government requests a meeting of the Commission, it shall be held as soon as reasonably practicable thereafter and not later than the 21st day after receipt of that request unless otherwise agreed by the two Governments.

ARTICLE 15

Settlement of Disputes

(1) Any disputes about the interpretation or application of this Agreement shall be resolved through the Commission or, failing that, by negotiation between the two Governments.

(2) If any dispute the subject of this Article cannot be resolved in the manner specified in paragraph (1) or by any other procedure agreed on by the two Governments, the dispute shall be submitted, at the request of either Government, to an Arbitral Tribunal composed as follows:—

Each Government shall designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairperson and who shall not be a national of, or habitually reside in, the United Kingdom of Great Britain and Northern Ireland or the Republic of Ireland or a third State having a direct interest in the dispute. If either Government fails to designate an arbitrator within three months of a request to so do, either Government may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within one month of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. The Tribunal shall determine its own procedure, save that all decisions shall be taken, in the absence of unanimity, by a majority vote of the members of the Tribunal. The decision of the Tribunal shall be final and binding upon the two Governments. Each Government shall bear its own costs and the two Governments shall share the costs of the Chairperson of the Tribunal.

ARTICLE 16

Jurisdiction

(1) Nothing in this Agreement shall be interpreted as affecting the jurisdiction which each State has under international law over the Continental Shelf which appertains to it. In particular, any part of the pipeline located on the Continental Shelf appertaining to the United Kingdom of Great Britain and Northern Ireland shall be under the jurisdiction of the United Kingdom of Great Britain and Northern Ireland and any part of the pipeline located on the Continental Shelf appertaining to the Republic of Ireland shall be under the jurisdiction of the Republic of Ireland.

(2) Nothing in this Agreement shall be interpreted as prejudicing or restricting the application of the laws of either State, or the exercise of jurisdiction by their Courts, in conformity with international law.

ARTICLE 17

Interpretation

(1) In recognition of the fact that part of the pipeline will be laid on the sea-bed of the territorial sea adjacent to the Isle of Man and in order to ensure the proper functioning of this Agreement, each of the following terms used in the Articles referred to below with respect to the United Kingdom of Great Britain and Northern Ireland shall be construed to include its analogue in the Isle of Man:

- (a) "Government" as referred to in Articles 1-13;
- (b) "competent authority" as referred to in Articles 2(2), 5(2), 5(3), 6(2), 7(3), 7(5), and 8;
- (c) "laws" as referred to in Articles 2(3), 5(1), 6(1), 7(3), 12(1), and 16(2);
- (d) "legislative requirements" as referred to in Articles 3, 4(1) and 4(2);
- (e) "jurisdiction" as referred to in Articles 2(2), 3, 4(1), 4(2), 5(1), 7(1)(a), 7(3), 12(1), 12(3), 12(4) and 16(2).

(2) The two Governments acknowledge that this Agreement and any amendment thereto shall be construed in a manner consistent with their obligations under European Community Treaties.

ARTICLE 18

Entry into Force

Each Government shall notify the other in writing through the diplomatic channel of the completion of their respective requirements for entry into force of this Agreement. The Agreement shall enter into force on the date of the later of the two notifications.¹ The two Governments may amend or terminate this Agreement at any time by agreement.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in two originals at Dublin this 30th day of April, 1993.

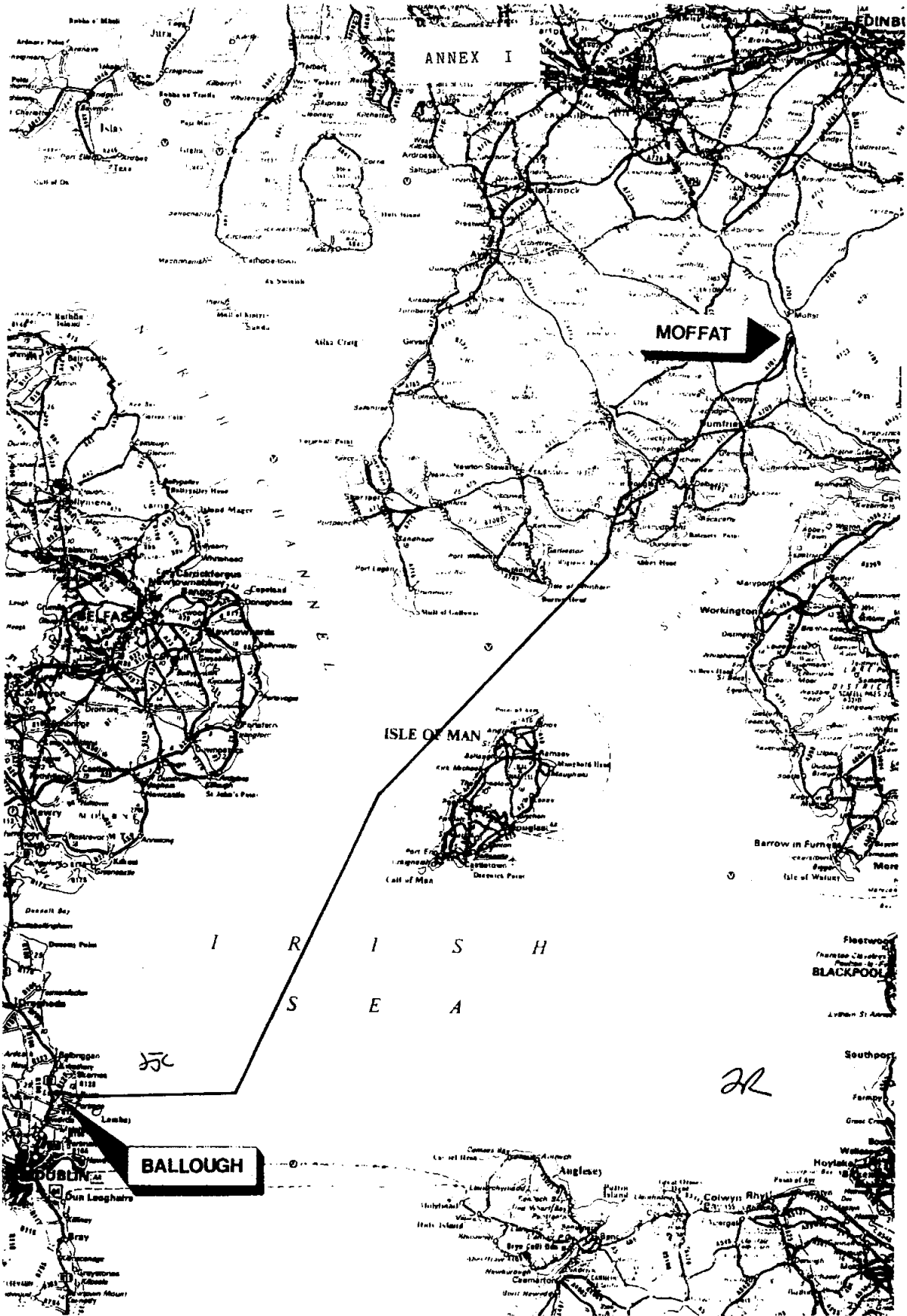
For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

DOUGLAS HURD

For the Government of the Republic of
Ireland:

BRIAN COWEN

¹ The Agreement entered into force on 20 September 1993.



ANNEX 2

Co-ordinates referred to in paragraph (1) of Article 2

	Latitude (in degrees, minutes and seconds)	Longitude
Moffat Offtake	55 16 56	03 25 57
Brighthouse Bay Compressor Station	54 47 31	04 05 54
Brighthouse Bay	54 47 17	04 07 09
Turning Point 6	54 13 14	04 59 11
Turning Point 4	53 36 34	05 25 03
Loughshinny	53 32 17	06 04 57
Ballustree Shore Station	53 32 00	06 05 26

The above geographical co-ordinates are on European Datum 1950 First Adjustment. The co-ordinates at Brighthouse Bay are those of the planned intersection of the pipeline with Mean High Water Springs as shown on the 1/2500 Ordnance Survey Map Sheet NX6345 Crown Copyright 1990. The co-ordinates at Loughshinny are those of the planned intersection of the pipeline with Mean High Water Springs as shown on the 1/2500 Ordnance Survey Map Sheet Dublin 8.4—1986 Edition.

No. 1

*The Department of Transport, Energy and Communications of the Republic of Ireland to
Her Majesty's Ambassador at Dublin.*

*Department of Transport
Dublin
30 April 1993*

Your Excellency,

I have the honour to refer to the Agreement signed today between the Government of Ireland and the Government of the United Kingdom relating to the transmission of natural gas by pipeline between Ireland and the United Kingdom.

Officials of the Government of Ireland informed officials of the Government of the United Kingdom during negotiation of the Agreement that fabrication of the pipeline commenced some months ago.

In order to avoid any misunderstanding both Governments agreed that Article 7(1) of that Agreement shall have the following meaning in relation to matters set out hereinafter:

It has been agreed between the two Governments that the obligation of the Government of Ireland under Article 7(1) to take steps to ensure that safety or pollution inspectors appointed by the Government of the United Kingdom have access, in accordance with the procedures specified in paragraph (3) of that Article, to any part of the pipeline within its jurisdiction during the time of fabrication shall only apply in respect of those parts of the pipeline which may be fabricated after the entry into force of the Agreement pursuant to Article 18 thereof.

It has been agreed between the two Governments that the aforesaid obligation imposed upon the Government of Ireland by Article 7(1) of the Agreement does not apply in respect of parts of the pipeline which may have been fabricated before the date of entry into force of the Agreement pursuant to Article 18 thereof. Furthermore the Government of Ireland has already informed the Government of the United Kingdom of the existence of the consent issued under Section 8 of the Gas Act 1976, by the Minister for Energy on 12 February 1992, and it has been agreed between the two Governments that nothing in Article 2(4) of the Agreement applies to the issuance of that consent.

These clarifications shall form part of the Agreement.

If this is in accordance with your understanding, I would appreciate receiving a confirmation from you.

I take this opportunity to renew to your Excellency the assurance of my highest consideration.

THOMAS REEVES

No. 2

Her Majesty's Ambassador at Dublin to the Department of Transport, Energy and Communications of the Republic of Ireland.

*British Embassy
Dublin*

30 April 1993

Sir,

I have the honour to acknowledge the receipt of your Note of today's date concerning the Agreement signed today between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland relating to the transmission of natural gas by pipeline between the United Kingdom of Britain and Northern Ireland and the Republic of Ireland.

In reply I can confirm that it is my understanding that the obligation of the Government of the Republic of Ireland under Article 7(1) of the Agreement referred to in your Note shall only apply in respect of those parts of the pipeline which may be fabricated after entry into force of the Agreement pursuant to Article 18 thereof and shall not apply in respect of parts of the pipeline which may have been fabricated before that date.

I can also confirm that it is my understanding that Article 2(4) of the Agreement shall not apply to the issuance of the consent under Section 8 of your Gas Act 1976 on 12 February 1992.

Furthermore it is my understanding that your Note and this reply shall form part of the Agreement.

In replying I have the honour to convey to you, Sir, the assurance of my highest consideration.

DAVID BLATHERWICK



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