

THE TRIBUNAL RESUMED ON THE 15TH NOVEMBER, 2005 AS FOLLOWS:

MR. HEALY: Mr. Brennan, please.

MARTIN BRENNAN, PREVIOUSLY SWORN, WAS EXAMINED BY MR. HEALY
AS FOLLOWS:

CHAIRMAN: Morning, Mr. Brennan. Thank you for coming back
to assist. You are, of course, already sworn.

Q. MR. HEALY: Thank you, Mr. Brennan.

Mr. Brennan, you provided the Tribunal with a supplemental
Memorandum of Intended Evidence, and as before, what I
propose to do is take you through it. There may be one or
two things which will arise as I go along, but I don't
intend to keep you very long, and we'll try to dispose of
them as we go along, rather than take up too much time
afterwards.

Do you have a copy of it there, do you?

A. Yes.

Q. You were asked a number of questions in a letter of the
21st May, 2004. The first question was in relation to your
knowledge of details of all dealings between the Department
and France Telecom in relation to the GSM process, and in
particular in relation to any interest expressed by France
Telecom in bidding for the GSM or in forming a consortium
to bid for the licence.

Your response was: "I have no particular recollection of
such dealings, but the Department's record shows that the
then Secretary of the Department, Mr. John Loughrey and I
met with madam Brigitte Bourgoïn, Director General, France

Telecom Mobile; Mr. Pierre Jandot; and Mr. Charles B.

Jeantelot, the latter of the French Embassy, Dublin, on the 30th March, 1995."

Did you in fact meet in the French Embassy?

A. No, it was in the Department. We don't go on circuit.

Q. They came to you.

"I have no recollection beyond what is contained in the record of the meeting. On the face of it, it is clear that my report of the meeting was no more than a file note given to Mr. Towey for that purpose, and there are no indications that I copied it to anybody else. It could not be ruled out that I sent a copy to Mr. Loughrey as the other participant in the meeting, but if it went beyond that, I expect I would have listed the recipients at the bottom of the note. The records show that there had been some routine exchanges with various parts of France Telecom about our consultancy requirements, but I had no involvement in that, to the best of my knowledge and belief. It is clear that the meeting to which I referred took place after the launch of the competition but well in advance of the originally anticipated closing date."

Just briefly have a look at the memorandum which you prepared. It's in Book 68, Leaf 3 sorry, Leaf 2, Tab 3.

"The Secretary, accompanied by the undersigned, met with Madam Brigitte Bourgoïn, Director General, France Telecom Mobile; Mr. Pierre Jandot, area manager, France Telecom International, responsible for a group of countries

including Ireland, and Mr. Charles B. Jeantelot of the French Embassy. Their purpose in coming to Ireland was to outline the strengths of France Telecom mobile in the context of their interest in the Irish GSM second licence. Madam Burgoyne went through a brochure of slides for that purpose which is on file. She had a copy of the GSM documentation and raised a number of questions in detail. It was made clear to her that even though they were not in time for the closing date of the information round, that the memorandum which would flow therefrom would be made available to all who had formally joined the competition by purchasing the documentation. She will certainly purchase the documentation in the next few days. She was assured that it seemed to us that all possible questions had been raised in one way or another by the various consortia who had sent in long lists of questions. It was made clear by the visitors that France Telecom had no interest in direct equity investment in PTOs in Europe. They were only interested in alliances on individual services. They saw themselves as a bidder for GSM2 with no conflict of interest in the Telecom Eireann race."

The Secretary made it clear that their being late coming in the GSM operation was no disadvantage and that we welcomed the French interest in the emerging Irish telecoms situation".

I just want to clarify one matter. You mention that the meeting was well in advance of the originally anticipated

closing date. I think after that date you adopted a much stricter self-denying ordinance about meeting with people; wouldn't that be right?

A. I'm not sure about the sequence in time now, to be honest.

Q. I think initially you I'm not making an issue out of this but initially you drew up a protocol for contacts with people. France Telecom at this stage were, I suppose, endeavouring to put up a flag, "Here we are, we are interested in this in some way". You met him with a number of other Department officials. It was well in advance of the closing time. They were simply expressing an interest in getting involved in the whole thing. The protocol for contacts you adopted was, if you like, tightened up after the closing date, I suppose, for perfectly obvious reasons?

A. That's reasonable, yeah.

Q. I think the top of the note, the handwritten note says "FT for information"; is that right?

A. "For info/file."

Q. Signed "MB"?

A. Yes.

Q. If you go on to the next paragraph in your Memorandum of Intended Evidence, you were asked for details of all dealings between departmental officials and Mr. Michael Lowry in connection with France Telecom's expressed interest in the licence. And your response is you have no recollection of any dealings between yourself and Mr. Michael Lowry in this connection.

Could I just ask you, when you say something goes to file, what sort of file would it go to? Do you know?

A. A Department would tend to have a sort of a main file or main file series for every significant operation, and it would simply be put on that as a continuous record.

Q. Do you mean that it would go on the GSM2 expressions of interest file or

A. Maybe correspondence file or whatever, yeah.

Q. I see. Query No. 3 was for details of your knowledge, direct or indirect, of the officials of your knowledge, direct or indirect, of any contact between Mr. Michael Lowry and Mr. Denis O'Brien or any persons on their behalf prior to the 5th April, 1995, and in particular, relating to France Telecom's expressed interest in the licence. You say you have no knowledge or recollection of being aware at the time of any contact between Mr. Michael Lowry and Mr. Denis O'Brien or any other persons relating to France Telecom's expressed interest in the licence.

Then the next query is as follows: You were asked for your knowledge of the contents of a document entitled "Possible questions arising at press conference briefing on second GSM licence, Friday, 19th April, 1996" including the person by whom the document was prepared, and in particular, in relation to the seventh bullet point on the second page of the document, which states as follows the document is on the overhead projector.

"Given Dermot Desmond's checkered history in the

telecommunications area, surely the Department would have reservations about this investment?"

You were asked for precise details of what was meant by the reference to Mr. Desmond's "checkered history in the telecommunications area" and all consequent matters or considerations which might have given rise to anticipated questions regarding reservations about this investment.

And your response is: "I am virtually certain that this document was not prepared by me and that I did not contribute to its preparation. The copy of the document available to me has some manuscript annotations, and they are not in my handwriting. Neither do I recognise the handwriting. I am not in a position to speculate as to who might have prepared this document."

Then, the next query you were asked concerned a letter and a draft letter prepared by Mr. Owen O'Connell in response to a request from the Department for information.

The question related to the draft letter dated the 10th May, 1995, prepared by Mr. Owen O'Connell in response to the Department's request made on the 3rd May 1996 at a meeting between Mr. Martin Brennan, Mr. Fintan Towey, Mr. Owen O'Connell and Mr. Knut Digerud for an explanation for the substitution of IIU Limited/Mr. Dermot Desmond for Davys Stockbrokers and the institutions named in the Esat Digifone bid documents, and in particular details of all contact between the Esat Digifone consortium and the Department officials regarding the contents of the letter

and details of any request or agreement by the Department that the portion of the draft letter comprising such explanation should be excised from the final version of the letter which was received on the 13th May, 1996. In this regard I would draw your attention to the evidence of Mr. Owen O'Connell on the 24th October, 2003, Day 242.

Your response is: "Beyond what is on the record in the hands of the Tribunal, I have no recollection of further involvement by me in the matter of this letter and its drafts. I do not believe that I either requested or acquiesced in any omission or deletion from one draft to the next. It is clear and indeed is acknowledged by Mr. O'Connell that I was not directly involved in the detailed interface with him and his clients around this time. It is clear from other evidence to the Tribunal that Ms. Regina Finn for the Regulatory Division and Mr. Towey from my division were involved in the details.

"It appears to me from my reading of Mr. O'Connell's evidence that the question of whether the Department requested or agreed the deletions from the letter is quite speculative. In fairness to Mr. O'Connell, at Questions 222 through 226 on Day 242, he appears to have acknowledged that either himself or his clients, or both, may have had valid reasons for not wanting to put an explanation about the IIU involvement on the record at that time."

Now, I think that you are familiar now with that letter, and it arose from a meeting at which I think you may have,

or somebody may have, on behalf of the Department, requested an explanation for why IIU came in and the institutions dropped out.

A. Yes.

Q. And without going into the detail it was, because we have been through it before with other witnesses, the letter of the 10th May contained a narrative account of why IIU/Mr. Dermot Desmond was substituted for the financial institutions, and then it brought the whole thing sort of up to date in terms of the current configuration of the shareholdings in the company. And ultimately, when the letter when the formal response was made to the Department, that narrative explanation had been removed.

And Mr. O'Connell canvassed a number of possible reasons why that might have happened, in the course of his evidence. And I think your response is that you are not agreeing with any of these reasons; you are saying they are merely his canvassing or speculative canvassing as to what might or might not have happened?

A. Absolutely.

Q. Could I just draw one thing to your attention. You say that he appears to have acknowledged for either that either himself or his clients, or both, may have had valid reasons for not wanting to put an explanation about the IIU involvement on the record at that time. Whatever reasons he had, or his clients had, valid or otherwise, for not putting an explanation on the record, can you think of any

reason why the Department didn't pursue the absence of an explanation?

A. I can't, really. I mean, I don't accept that the Department had any role in the various drafts of that letter. I certainly don't accept that I did, and I'd be amazed if the Department did. I think this was going on between lawyer and client, quite honestly. And I presume if we were aware of it, we might have been more comfortable having it in than out, I would think, but I'm not sure.

Q. I'm leaving all that aside, and I'm saying, assume that that is the case. I'm just wondering, can you throw any light on why nobody pursued the absence of an explanation?

A. At this stage, I'm trying to look at the time-frame. We are in May of 1996, the licensing stage.

Q. Fierce time pressure, I agree.

A. There was time pressure, of course, but there was background contact going on about IIU and whether they were good for it, if I might put it like that. All of that was going on, so there was no surprise to us. So should we have looked for it in a letter or not? I don't have any strong views one way or another. I don't have an answer to the question as you put it.

Q. Can I just go on to the next question, which concerned the circumstances in which and the purpose for which a press release was issued by the Department on the 5th December, 1996, together with details of the input of the civil

servants into the drafting of the press release and their knowledge, direct or indirect, of all matters which prompted the omission of any reference in the press release to the holding of the 25% of the shares in Esat Digifone by IIU Nominees.

That press release is in the documents as well. I don't think that was ever on the overhead projector before. Now, it's Tab 8 of Leaf 2. This is a document that came to light after some similar letter had been canvassed in evidence some considerable time ago.

And your response is: "The document dated 5th December, 1996, to which I have access is on Minister's office headed paper and is not in the normal format of a departmental press release, which would be on Press Office paper. I don't know what, if any, significance attaches to this, but I suspect none. I don't know at this stage whether this is a new drafting or a "scissors and paste" exercise from previous documents. It follows I have no idea who prepared it. It seems to me that the proposal for a 25% shareholding by IIU Nominees was one which only had a short life, was excluded by the Department on the basis that it wasn't in accordance with the original application, and that no significance was whatever was attached to it by the Department after that event. In my considered opinion, there was no conscious decision by anyone to omit a reference to that 25% proposal. It is simply that it had no ongoing relevance in the minds of the people concerned

after it had been disallowed."

And I just want to draw your attention to one aspect of that response, Mr. Brennan. Just your reference to the proposal for a 25% shareholding. I think the account that the Tribunal has from the documents is that there actually was a 25% shareholding or a 25% interest, let me put it that way, and that it had to be bought back from IIU.

A. Yeah, like, I am familiar with that evidence, or at least I have some recall of it.

Q. Is it possible and I am suggesting this in what I say is the most neutral way, that you you may have always thought this was a proposal, as opposed to a fact. It's just that you call it a proposal. It's only just occurred to me now.

A. I mean, I'm not sure I don't draft as a lawyer; I draft as a civil servant. I don't know why I used that particular word. I probably should say at this stage, and I don't have the details, that I heard coming over in the car today that there had been a discussion in the Dail the previous day about this issue, which is the context in which the stuff in which the press release came up. And I don't have the text, but it's

Q. I think we've heard evidence about something like that.

A. There is an underlying suggestion that at that stage IIU were a front for another well-known figure as a potential investor, but I don't have the details.

Q. Thank you very much, Mr. Brennan.

Mr. Fitzsimons, anything to raise?

MR. FITZSIMONS: No questions.

CHAIRMAN: Mr. McGonigal?

MR. MCGONIGAL: No questions.

CHAIRMAN: Mr. Fanning?

MR. FANNING: I don't know whether Mr. Shipsey wants to raise anything. I do have a couple of short matters I want to put to Mr. Brennan.

CHAIRMAN: I'll abide whatever may be your preference, gentlemen.

Do you want to go ahead, Mr. Shipsey, at this stage?

MR. SHIPSEY: I just have one or two questions for Mr. Brennan.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. SHIPSEY:

Q. MR. SHIPSEY: Mr. Brennan, when you came to the time in around April of 1996 and consideration was being given to the award of the licence, did the Department have available to it at around that time an opinion in relation to the entitlement of the Minister to express a view in relation to the participants in any given consortium?

A. I have no particular recall in that area. I suspect that we probably did, but it would require some notice and some research to turn it up.

Q. And you have I think referred in earlier evidence to an opinion that was obtained at some stage from I think Mr. Nesbitt; do you recall when that was obtained?

A. I'm sorry, no. I didn't prepare for questions in this area

at all. And I do recall Mr. Nesbitt being physically present in the Department, including late at night, during this period. But I haven't done any research as to what was written down and what wasn't, and so on. I'd be surprised if such records exist, I'm sure they probably do, they must be around in the hands of the Tribunal at this stage.

Q. Thank you.

THE WITNESS WAS EXAMINED BY MR. FANNING AS FOLLOWS:

Q. MR. FANNING: Just a couple of short matters, Mr. Brennan.

You will recall I appear for Mr. Lowry. Firstly, in relation to the France Telecom issue, I just want to clarify a couple of points with you and I want to put Mr. Lowry's position on it to you and hear any comment that you'll have in relation to that.

Firstly, from the Memorandum of Intended Evidence and the evidence that you have given to Mr. Healy this morning, I think it's clear that Mr. Lowry didn't meet France Telecom when they visited the Department on the 30th March.

Mr. Loughrey and yourself were the only two people on the Irish side that attended that meeting. Am I right in that?

A. That's correct.

Q. Am I right in saying this was in the nature of a preliminary courtesy meeting where France Telecom simply indicated they had an interest in principle in being involved in the competition?

A. Yeah.

Q. Now, Mr. Lowry has prepared a Memorandum of Intended Evidence to the effect that he has no particular recollection of attending the Communications 95 Exhibition in the RDS on the 4th April, 2005, nor does he have any particular recollection of speaking to Denis O'Brien at it.

I am just putting that to you. I'm not expecting you to comment on it. You can't speak for Mr. Loughrey, but Mr. Lowry thinks it is not inconceivable or it's possible that Mr. Loughrey mentioned to him that France Telecom were interested in the competition. And I don't know if you can comment on that.

A. No. I'd prefer not to comment, because Mr. Loughrey is available, presumably.

Q. Absolutely, but a question I can ask you is do you recall, in between the 30th March and the 4th April, having any conversation yourself with Mr. Lowry about France Telecom's interest?

A. I think I said in evidence already, and I'll repeat that, I think the chances of that happening are very slim indeed, because at no time in my civil service career did I have a kind of a drop in for a chat any time you are passing in relation to any Minister.

Q. Anyway, in the event that Mr. Loughrey did mention something, and I don't expect to you comment on that, and in the event that there was some conversation at the exhibition, though Mr. Lowry doesn't recall it, Mr. Lowry believes that if he mentioned anything to Mr. O'Brien, he

would have done so in the context of a general offhand conversation, and it would have been entirely noncommittal.

I don't know if you want to comment on that.

A. I don't particularly want to comment, but I don't actually think much turns on this at all, because it's before the closing date. I think that's acknowledged in the Opening Statement.

Q. I was going to come to that. As at the beginning of April 1995, it would have been somewhat unclear how many applications there would have been; isn't that so?

A. Correct.

Q. And it would have been unclear what quality the applications would have been?

A. Correct.

Q. And if any discussion did occur between Mr. Lowry and Mr. O'Brien at that time, it was, as you say, long before the closed stage of the competition which didn't begin til August; is that so?

A. Yeah, I mean, we knew who had purchased the documentation, and that's the only line we had to interested parties.

Long after the event, it was speculated that we always knew musical chairs were going on in consortia. That was all done; we were blind to it. We just didn't know anything about it.

Q. And is it your evidence to the Tribunal, then, as Chairman of the Project Group, and I just want to be clear on this, that such a conversation, if it occurred, could have had no

impact good, bad or indifferent on the ultimate outcome of the process?

A. I personally can't see how it could.

Q. The one other issue I want to canvass with you, Mr. Brennan, is in relation to Mr. Lowry's meeting with Mr. Boyle. You may not be prepared for this today, and if you are not in a position to assist me, I understand that; but I think you'll be aware that the last witness before you was Mr. Boyle, who gave evidence last week, and it's common case that there was a meeting with Mr. Lowry and Mr. Boyle in the Killiney Castle Hotel on the 16th August, 1995. I think you'll recall it from previously, even if you are not specifically prepared for it today.

Mr. Boyle's evidence, when he gave evidence in 2004 and he reiterated this last week, was I think to the effect that the meeting was akin to a sales presentation on his part, and that the information he presented to Mr. Lowry, such as it was, was effectively in the public domain already. He doesn't suggest that Mr. Lowry was anything other than noncommittal at the meeting, and he doesn't believe there was anything wrong about the meeting. Firstly, I'll give you the opportunity to comment on any of that.

A. Well, obviously, I learned about the meeting in the course of observing this Tribunal. As far as I know, Persona had brochures in wide circulation among members of the Oireachtas, and stuff like that.

Q. I think Mr. Boyle's evidence was he sent them to all

members of the Oireachtas. Now, what I do want to ask you today is just your attitude in relation to the meeting in circumstances where, since you have been here last, the Chairman, in his ruling of September, has indicated that it's one of the issues the Tribunal may be investigating at this stage. Mr. Loughrey has given evidence about this meeting on Day 186. We can take out the transcript if it's necessary, but I think in broad terms, Mr. Loughrey indicated that he was quite sure that the Minister wouldn't, at the meeting, have conferred any advantage on Sigma or Persona, and from what he knew of the meeting, Mr. Lowry may have just offered some standard politeness to Mr. Boyle. Would that be your understanding of the meeting at this vantage point, or do you want to comment?

A. I don't think that's a particular fair question, to be honest. I wasn't at the meeting. I heard of it a long time after the event. Mr. Loughrey was closer to his Minister than I was. I think whatever he might have to say on the matter might be a bit more reliable than anything I might have to say on it.

Q. Mr. Loughrey made the point in evidence that Mr. Lowry, from his vantage point, would have had no useful information to impart to Mr. Boyle as of the 16th August, 1995. Do you agree with that, as the Chairman of the Project Group?

A. He didn't get any information from me of any import, if any at all. I mean

Q. In your opinion, Mr. Brennan, and I'm not sure who is going to be better placed than you, would Mr. Lowry have had any materially useful information in his possession on the 16th August, 1995, when he met Mr. Boyle?

A. He probably knew who had applicants were, and that's probably about it, but I don't know.

Q. The evidence that we have heard from Mr. Boyle suggests that it was a noncommittal sort of meeting; it was a polite meeting, and Mr. Lowry didn't commit himself beyond indicating that he had heard that Motorola were a strong contender, or something to that effect. Can I suggest to you, Mr. Brennan, that from Mr. Boyle's evidence, therefore, nothing occurred at the meeting that would have influenced the outcome of the GSM process?

A. You are asking me to comment?

Q. Well, insofar as Mr. Boyle's evidence is a faithful account of the meeting, can you, as Chairman of the Project Group, assist me in whether or not anything occurred at the meeting, from your perspective, that influenced the Project Group?

MR. O'DONNELL: I don't really see how this witness can answer whether what happened at that meeting, that he wasn't present at

CHAIRMAN: It's pretty speculative, Mr. Fanning.

MR. O'DONNELL: I don't see how he can comment on it in any useful way.

CHAIRMAN: I don't think it's going to advance anything

further.

MR. FANNING: No.

Q. Can I just ask you a question in relation to the protocol, Mr. Brennan, that was agreed in March 1995, at I think the second meeting of the GSM Project Group. And this was in relation to contacts with potential bidders during the tendering process. You'll recall the protocol?

A. I do indeed. I wrote it.

Q. In the first instance, I am sure we are agreed that Mr. Lowry wasn't a member of the Project Group, but can I ask you, did you understand the protocol to have applied to him?

A. I wrote the protocol for the members of the group.

Q. Yes.

A. Just to set a standard. I gave it to Mr. Loughrey, I have a feeling Mr. Loughrey said in evidence that he shared it with the Minister. As far as I am concerned, it was a protocol set down by the Project Group for the Project Group.

Q. So, can I take it from that answer that subject to the dealings of Mr. Loughrey with Mr. Lowry, as far as you are concerned, as far as your evidence is concerned, the protocol didn't apply to the Minister as such?

A. I didn't write it for him. I wrote it for the group.

Q. Yes. There is

A. And I got the group to agree to it.

Q. Very good, Mr. Brennan. There is a note of yours I'd just

like you to comment upon for the moment. I think it can be put up on the screen. Firstly I'll ask you to confirm that it is your note.

Now, you might want to take a moment to read this letter.

This is a letter you'll see on Persona headed paper from

Mr. Boyle, the Chairman of that consortium, to

Mr. Loughrey, and the typed text, I think, is of no great

moment. The part I'm interested in is your handwritten or

what I take to be

A. That's my handwriting, yes.

Q. It is your handwriting. I think there is a note at the top

saying "Mr. Brennan, will you deal with this, please?" I

think that's not your handwriting. And then

A. I can't see that one on the

Q. If you scroll down a little bit, you might see.

A. That's Ms. Gilfoyle, who was Mr. Loughrey's Private

Secretary.

Q. Very good. The part I think begins "Fintan, I spoke to

T. Boyle". Is that your handwriting?

A. Yes, it is.

Q. The printed text of the letter talks to Mr. Loughrey about

the possibility of arranging a meeting, and your note on

it, I wonder, can you read it out for us insofar as you

can?

A. "I spoke to T. Boyle. He will make fresh contact with me

next week when they have fully studied the docs. I told

him I and you are the conduits for clarification and not

the Secretary. He will"

Q. Is it "separately"

A. "Separately seek a meeting for his principals and"

Q. I wonder, would that be "with sec/min"?

A. Yes, probably. "With sec/min." I can't read the rest of it now, I'm sorry.

Q. Do you see the little arrow that goes down then to a later part?

A. "The clarification phase"

Q. We think it might be "is over" "when the clarification phase is over".

A. Yeah, it could be.

Q. There seems to be an arrow down there, and the line is "That seems okay to me."

A. Yeah. "I also told him our ground rules"

Q. "Precluded acceptance of his party invitation for next Fri he understands this."

A. Yes.

Q. I am just giving you the opportunity to comment on this note insofar as it addresses the entitlement of the Secretary or the Minister to meet Mr. Boyle or his principals.

A. I think I was clarifying to Mr. Boyle that the relationship with the Project Team in relation to the application was with me and the Project Team.

Q. Am I correct in saying that the letter doesn't rule out the possibility of Mr. Boyle or his principals meeting the

Minister at a later stage?

A. It certainly doesn't rule it out, no.

Q. And indeed it seems to envisage it?

A. I wouldn't put it quite as strongly as that. I mean, he might have conveyed that he envisaged it. I was clear that I was conveying to him the idea that any formal communication about the application should be with me or with Fintan Towey or with other members of the Project Team.

Q. But insofar as there was a reference to the principals, to Mr. Boyle's principals meeting the sec or the min, your attitude seems to be, "That seems okay to me". Can I take it that your note indicates you didn't have a difficulty, as such, with the Minister meeting Mr. Boyle or his principals in certain circumstances?

A. Could you move up the script I am struggling to read a part of this script. And I mean, whatever it says, it says. If it could be moved up so as I can make the connection.

"Later when the clarification phase is over."

Q. I think we can hand in a copy to you.

A. Okay.

(Document handed to witness)

A. "He will separately seek a meeting for his principals" it must be "With sec/min, so a "Later" I think might be in there "When the clarification phase is over. That seems okay to me." That's obviously the view I had at the time.

Q. I just want to put to you Mr. Lowry's attitude to the meeting with Mr. Boyle and very briefly give you the opportunity to comment. You may not wish to comment.

Mr. Lowry will say, firstly, in terms of the question as to whether he should have had the meeting with Mr. Boyle, that he did have a discussion with Mr. Loughrey at which it was agreed that he would, generally speaking, take a hands-off approach to the competition. Mr. Lowry recalls that his discussion with Mr. Loughrey was to the effect that Mr. Loughrey suggested it was preferable that Mr. Lowry didn't meet applicants, but he accepted that it was inevitable that he, as Minister, would meet applicants and that the counsel of prudence in such cases was that the Minister ought not to get into any level of details when meeting applicants. Do you want to comment on any of that?

A. I would say that Ministers have we facilitate courtesy calls which are basically at that level of courtesy calls, all the time with people, with proposals of different kinds, and I wouldn't attach any significance to it. It would be fairly common practice.

Q. And in light of that answer, Mr. Lowry will say that he offers no apology for acceding to a request for a meeting by Mr. Boyle or anybody else.

A. That's between Mr. Lowry and the Tribunal, I guess.

Q. Very good. And at a political level, Mr. Lowry will say that he believed he had a responsibility to meet people, to thank them for their interest in the competition, to assure

them of the way in which the project ran and was being run, by an independent Project Team advised by international consultants. Do you want to comment on any of that?

A. That sounds fair enough to me, but it's for the Tribunal at the end of the day.

Q. And finally, Mr. Brennan, quite apart from the meeting at Killiney Castle with Mr. Boyle, Mr. Lowry met other persons who are involved in the process, isn't that so?

A. I think I became aware of that through observing the Tribunal, so...

Q. Yes. Thank you.

THE WITNESS WAS EXAMINED BY MR. O'DONNELL AS FOLLOWS:

MR. O'DONNELL: Just one issue, sir, just to cover.

Q. The letter of the 10th May of 1995, the draft letter from William Fry's, firstly, I think you are clear you never saw or received the letter?

A. Yeah.

Q. The draft?

A. That's correct.

Q. Secondly, are you aware of anybody else in the Department seeing or receiving that draft?

A. I'm not, no.

Q. And thirdly, you had no reason had you any reason to conceal the appearance of IIU as a party?

A. Not at all, no.

Q. Thank you.

CHAIRMAN: Anything in conclusion, Mr. Healy?

MR. HEALY: No, sir.

CHAIRMAN: Thank you for coming back and assisting,

Mr. Brennan.

That's today's sole evidence, and I think Mr. Towey is
similarly listed for eleven o'clock tomorrow morning.

Very good. Thank you very much.

THE TRIBUNAL ADJOURNED UNTIL THE FOLLOWING DAY, WEDNESDAY,

16TH NOVEMBER, 2005, AT 11AM.