



TITHE AN OIREACHTAIS

AN COMHCHOISTE UM FHORMHAOIRSIÚ AR AN tSEIRBHÍS PHOIBLÍ AGUS ACHAINÍOCHA

**An Tuarascáil ar Achainí P00072/12
“Investigation into US Military and CIA
use of Shannon Airport and Irish
Airspace” ón Dr. Edward Horgan agus
Shannonwatch**

Feabhra 2016

HOUSES OF THE OIREACHTAS

JOINT COMMITTEE ON PUBLIC SERVICE OVERSIGHT AND PETITIONS

**Report on Petition P00072/12
“Investigation into US Military and CIA
use of Shannon Airport and Irish
Airspace” from Dr. Edward Horgan and
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Chairman's Foreword

I have been Chairman of the Joint Committee on Public Service Oversight and Petitions since 16 January 2013. In my opinion the Public Petitions Committee exists so that all members of society can voice their opinion on any issue of Public importance, whether national or regional.

In the Joint Committee's consideration of petition P00072/12 the Joint Committee concluded that Ireland operates a policy of 'Military Neutrality' "*which is characterised by non-participation in military alliances*". Neutrality is not reflected in Bunreacht na hÉireann, or elsewhere in domestic legislation.

Given this, the Joint Committee recommends that the Dáil and Seanad debate the matter with a view to the holding of a Referendum so that the will of the people can be determined.

A handwritten signature in purple ink that reads "Pádraig MacLochlainn".

Pádraig MacLochlainn T.D.
Chairman
27 January 2016

1. Report of the Joint Committee.

It was decided by the 31st Dáil, under the Programme for Government published in February 2011, to establish for the first time a Joint Committee on Investigation, Oversight and Petitions. In order for the Oireachtas Committees to have proper meaningful power to investigate, an amendment to the Constitution was required.

However, a Referendum held on 27th of October 2011, asking the people of Ireland to give additional powers to Oireachtas Committees, was defeated. As a result of the Referendum being defeated, the Order of Reference for the Joint Committee was amended to exclude an investigatory role for the Committee. The Dáil and Seanad agreed the Orders of Reference for the Committee in July 2012 and the Public Petitions System was officially launched to the Public on 13 of September 2012. On 13 November 2012 Dr. Edward Horgan submitted petition P00072/12; titled: *Investigation into US Military and CIA use of Shannon airport and Irish airspace.*

The text of Dr. Horgan's petition is:

"This petition is a request to the Dáil Petitions Committee to examine the legislative and legal international peace and accountability implications that arise from the authorisation by successive Irish Governments from 2001 to date, of the use of Shannon airport and Irish airspace for the transit of United States armed troops, munitions and other war materials, and of the refuelling of CIA associated aircraft involved in the so-called extraordinary rendition of prisoners, many of whom were tortured. The Petitions Committee is also requested to compile a report on these matters, and to submit this report to the Dáil and Seanad with recommendations and a request that this report be debated in the Dáil and Seanad. If the Petitions Committee is not in a position to carry out an in-depth investigation into these matters from its own resources, then it should request the Dáil to set up a special investigation committee into these matters, similar to the special investigation committees that were established by the European Parliament (TDIP Committee) and the Council of Europe investigation into illegal transfers and secret detentions in Europe. The Irish Parliamentary investigation should focus on the two issues of extraordinary rendition and US military use of Shannon airport, but should confine itself to the involvement of the Irish Government, its agencies and agents in these matters."

The Joint Committee considered this petition at its meetings of 27 November 2013; 12 March 2014; 18 June 2014; 2 July 2014; 3 December 2014; 18 February 2015; 17 June 2015 and 15 July 2015. Further, members of the Joint Committee visited Shannon

Airport on 2 October 2014 and met with Shannon Airport management, An Garda Síochána and the petitioner, Dr. Horgan.

Following the consideration by the Joint Committee of the travel report in relation to the 2 October 2014 visit to Shannon Airport, it was agreed to invite independent experts on Irish neutrality to discuss what being a neutral country should mean. Further, it was also agreed to invite:

- a) The Minister Foreign Affairs and Trade;
- b) The Minister for Transport, Tourism and Trade, and;
- c) The Secretary General of the Department of Foreign Affairs and Trade.

The report of the visit to Shannon is at Appendix 3.

Table: List of interactions. (access to the transcripts of the meetings is embedded in the highlighted link)

13 November 2012	Petition lodged.
27 November 2012	Petition considered by the Joint Committee.
05 December 2013	Letter issued to Tánaiste & Minister for Foreign Affairs and Trade.
05 December 2013	Letter to Dr. Edward Horgan.
18 December 2013	Letter from Tánaiste & Minister for Foreign Affairs and Trade..
12 March 2014	Petition considered by the Joint Committee.
13 March 2014	Letter to Dr Edward Horgan.
14 March 2014	Letter to Private Secretary to Minister for Foreign Affairs.
14 March 2014	Letter to Private Secretary to Minister for Transport, Tourism and Sport.
15 May 2014	Reply from Dept. of Foreign Affairs & Trade and Trade.
27 May 2014	Letter inviting Dr. Horgan to meet the Committee.
16 June 2014	Submissions received from Petitioner in advance of the Joint Committee meeting of 18 June 2014: 1. Neutrality Irish experience European experience; 2. Submission to Joint Committee; 3. Positive Neutrality is Ireland's best Defence; 4. Booklet Shannon Airport, War and Renditions.
18 June 2014	Joint Committee meeting with petitioner; Dr. Horgan, Dr. John Lannon and Ms. Margaretta D'Arcy.
04 July 2014	Letter to Mr. Niall Maloney-Shannon Airport Operations Director regarding proposed visit to Shannon Airport.
02 July 2014	Petition considered by the Joint Committee – Private meeting.
09 July 2014	Dáil Debate-Deputy Mick Wallace. State airports (Shannon Group) Bill 2014
27 August 2014	Letter to Superintendent John Kerin, Ennis Garda Station regarding proposed visit to Shannon Airport.
16 September 2014	Letter from the Private Secretary to the Minister of sport.
02 October 2014	Visit by members to Shannon Airport
03 December 2014	Joint Committee meeting with Mr Niall Burgess, Secretary General, Department of Foreign Affairs and Trade.
13 January 2015	Letter to Mr Niall Burgess, Secretary General, Department of Foreign Affairs and Trade – follow-up letter seeking certain clarifications.

18 February 2015	Joint Committee meeting with Minister Pascal Donohoe, Minister for Transport, Tourism and Sport.
24 February	Letter to Minister for Transport, Tourism and Sport – letter of follow-up seeking certain clarifications.
11 March 2015	Invite Letter to Minister Charles Flanagan.
31 March 2015	Letter of response from Mr. Niall Burgess, Secretary General, Department of Foreign Affairs and Trade to the JC letter of 13 January 2015.
02 April 2015	Letter of response from the Private Secretary to the Minister for Transport, Tourism and Sport to the JC letter of 24 February 2015.
07 April 2015	Invite Letter from the Private Secretary to Minister for Foreign Affairs and Trade agreeing to meet the JC but that the Minister was unavailable on the proposed date.
17 June 2015	Joint Committee meeting with Minister Charles Flanagan, Minister for Foreign Affairs and Trade.
7 July 2015	Invite of invitation to Dr. Karen Devine.
12 July 2015	Presentations from Mr. Paddy Smyth.
15 July 2015	Joint Committee meeting with Dr. Karen Devine and Mr. Paddy Smyth.
15 July 2015	<p>Supplementary information in relation to Joint Committee meeting with Dr. Karen Devine and Mr. Paddy Smyth.</p> <ol style="list-style-type: none"> 1 Opening statement from Dr. Karen Devine; 2 Opening statement from Mr. Paddy Smyth; 3 'Neutrality: A really dead concept?' A reprise; 4 The Myth of 'the Myth of Irish neutrality': Deconstructing Concepts of Irish Neutrality using International Relations Theories; 5 Neither friend nor foe the Irish position - Irish Times; 6 Protecting neutrality in a militarised EU: A protocol to the Lisbon. Irish Times; 7 A Comparative Critique of the Practice of Irish Neutrality in the 'Unneutral' Discourse; 8 Tug of war between public and political elites: There is a gap. Irish Times; 9 Stretching the IR Theoretical Spectrum on Irish Neutrality: A Critical Social Constructivist Framework; 10 Values and Identities in Ireland's Peace Policy: Four Centuries of Norm Continuity and Change; 11 Irish Political Parties' Attitudes towards Neutrality and the Evolution of the EU's Foreign, Security and Defence Policies; 12 Neutrality and the development of the European Union's common security and defence policy: Compatible or competing?

The Joint Committee, as part of its considerations of the petition, noted that Dr. Horgan had taken a case to the High Court against the Irish Government in 2003. Judge Nicholas Kearns in his unreported judgement found;

"Despite the great historic value attached by Ireland to the concept of neutrality, that status is nowhere reflected in Bunreacht na hÉireann, or elsewhere in any

domestic legislation. It is effectively a matter of government policy only, albeit a policy to which, traditionally at least, considerable importance was attached.”¹

In its consideration of the petition and its meetings with the Minister for Foreign Affairs and Trade, the Minister for Transport, Tourism and Sport, the Secretary General of the Department of Foreign Affairs and Trade together with Dr. Karen Devine and Mr. Paddy Smyth, the Joint Committee noted the correctness of the findings of Mr. Justice Kearns that *"Despite the great historic value attached by Ireland to the concept of neutrality, that status is nowhere reflected in Bunreacht na hÉireann, or elsewhere in any domestic legislation."*

For the Joint Committee it is a fact that the status of the concept of neutrality is not reflected in Bunreacht na hÉireann, or elsewhere in domestic legislation. This permits the Executive to define neutrality and, as set out in the transcript of the hearings with the Minister for Foreign Affairs and Trade, *"The Government is committed to the long-standing policy of military neutrality, which is characterised by non-participation in military alliances. This commitment was publicly reaffirmed in the major statement of foreign policy priorities that we published in January of this year, entitled "The Global Island: Ireland's Foreign Policy for a Changing World", which states that "our policy of military neutrality remains a core element of Irish foreign policy"*

2. Recommendation of the Joint Committee

The Joint Committee note the lacuna between what is understood by the citizens by neutrality and what is the *de facto* position. Accordingly, the Joint Committee recommend that the Dáil and Seanad debate the matter of neutrality with a view to the holding of a Referendum so that the will of the people can be determined.

¹ For reference the judgement of Mr. Justice Kearns (unreported) was delivered 28 April 2003; case No. 3739P.

Appendix 1: Members of the Joint Committee

List of Members of the Joint Oireachtas Committee on Public Service Oversight and Petitions

Chairman: Pádraig MacLochlainn TD (SF)

Vice Chairman: Derek Nolan (LAB)

Deputies: Richard Boyd-Barrett TD (PBP)
Paul J Connaughton TD (FG)
Pat Deering TD (FG)
John Halligan TD (Ind)
Sean Kenny TD (Lab)
Seamus Kirk TD (FF)
Michael P. Kitt TD (FF)
Michael Healy-Rae TD (Ind)
Anthony Lawlor (FG)
Michelle Mulherin TD (FG)
Mary Mitchell O'Connor TD (FG)
Aengus Ó Snodaigh TD (SF)
Jack Wall TD (Lab)

Senators: Tony Mulcahy (FG)
Trevor Ó Clochartaigh (SF)
Susan O'Keeffe (LAB)
Ned O'Sullivan (FF)

1. Deputy Seán O Ferghail was appointed in place of Deputy Dara Calleary on 28 February 2012
2. Senator Thomas Byrne was appointed in place of Senator Darragh O'Brien on 14 June 2012
3. Deputy Richard Boyd-Barrett was appointed in place of Deputy Mick Wallace on 27 June 2012
4. The Committee on Investigations, Oversight and Petitions was renamed the Committee on Public Service Oversight and Petitions on 11 July 2012
5. Deputy Noel Harrington was appointed in place of Deputy John Paul Phelan on 28 November 2012
6. Deputy Peadar Tóibín resigned as Chairman with effect from 10 December 2012
7. Senator Thomas Byrne was discharged from the Committee on 19 December 2012
8. Deputy Pádraig Mac Lochlainn was appointed in place of Deputy Peadar Tóibín on 16 January 2013 and was elected as Chairman to the Committee on 30 January 2013.
9. Deputy Mick Wallace was appointed in place of Deputy Joan Collins on 23 January 2013
10. Deputy Seamus Kirk was appointed in place of Deputy Charlie McConalogue on 18 July 2013
11. Deputy Michael P. Kitt was appointed in place of Deputy Seán Ó Ferghail on 18 July 2013
12. Deputy Helen McEntee was appointed in place of Deputy Peter Mathews on 18 July 2013
13. Deputy Jack Wall was appointed in place of Deputy Michael Conaghan on the 7 October 2013.
14. Deputy Willie Penrose was appointed in place of Deputy Michael McCarthy on the 9 October 2013.
15. Deputy John Halligan was appointed in place of Deputy Mick Wallace on 5 February 2014
16. Deputy Patrick O'Donovan was appointed in place of Deputy Alan Farrell on the 12 February 2014
17. Deputy Sean Kenny was appointed in place of Deputy Willie Penrose on the 5 March 2014
18. Senator Ned O'Sullivan was appointed on the 6 March 2014
19. Deputy Flanagan Automatically discharged from the Committee on his appointment as Minister For Children and Youth Affairs on the 15 May 2014
20. Deputy Pat Deering was appointed in place of Deputy Charlie Flanagan on the 16th June 2015
21. Deputy Paul J Connaughton was appointed in place of Deputy Helen McEntee on the 16th June 2015
22. Deputy Anthony Lawlor was appointed in place of Deputy Patrick O'Donovan on the 16th June 2015
23. Deputy Mary Mitchell O'Connor was appointed in place of Deputy Noel Harrington on the 16th June 2015
24. Senator Jimmy Harte was discharged from the Joint Committee on 23rd September 2015.

Appendix 2: Orders of Reference of the Joint Committee

Orders of Reference of the Joint Committee on Public Service Oversight and Petitions

That, notwithstanding anything in Standing Orders—

- (1) the Order of the Dáil of 8th June, 2011 relating to the Joint Committee on Investigations, Oversight and Petitions, as amended by the Order of the Dáil of 29th September, 2011, is amended—
 - (a) in paragraph (1) by the deletion of all words from and including “Investigations,” down to and including “2011” and the substitution of “Public Service Oversight and Petitions, to consider the activities specified in Standing Order 165A.”, and
 - (b) by the deletion of paragraphs (2) and (3) and the substitution of the following:
 - “(2) Standing Orders 165A to 165E, inclusive, shall apply to the Joint Committee.”,
- and
- (2) the Order of the Dáil of 9th June 2011 relating to membership of the Joint Committee on Investigations, Oversight and Petitions is amended by the deletion of all words from and including “Investigations, Oversight and Petitions” and the substitution of “Public Service Oversight and Petitions”.
- (3) until further notice in the 31st Dáil, the Standing Orders of Dáil Éireann relative to Public Business are hereby amended—
 - (i) by the adoption of the following additional Standing Orders:
 - 165A. (1) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a Standing Committee, which shall be joined with a similar Committee of the Seanad, to form the Joint Committee on Public Service Oversight and Petitions.
 - (2) The Standing Committee shall consist of fifteen members of Dáil Éireann. The quorum of the Joint Committee shall be six, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann. The Chairman of the Joint Committee shall be a member of Dáil Éireann.
 - (3) The Joint Committee shall have oversight of public service delivery generally, with a particular focus on investigating and identifying improvements in the delivery of such services to citizens.
 - (4)
 - (a) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a sub-Committee which shall be called the sub-Committee on the Ombudsman, which shall be joined with a similar sub-Committee of the Seanad Committee, to form the Joint sub-Committee on the Ombudsman.
 - (b) The sub-Committee shall consist of all fifteen members of the Standing Committee. The quorum of the Joint sub-Committee shall be six, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann. The Chairman of the Joint Committee shall be the Chairman of the Joint sub-Committee.
 - (5)
 - (a) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a sub-Committee which shall be called the sub-Committee on Public Petitions, which shall be joined with a similar sub-Committee of the Seanad Committee, to form the Joint

- sub-Committee on Public Petitions.
- (b) The sub-Committee shall consist of all fifteen members of the Standing Committee. The quorum of the Joint sub-Committee shall be six, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann. The Chairman of the Joint Committee shall be the Chairman of the Joint sub-Committee.
- (6) Without prejudice to the generality of paragraph (3),
- (a) the Joint sub-Committee on the Ombudsman shall consider—
 - (i) the reports of the Ombudsman which are laid before the Houses of the Oireachtas under the Ombudsman Acts 1980 to 1984,
 - (ii) motions pursuant to section 2 of the Ombudsman Act 1980, which shall stand referred to the Joint Committee for consideration and report to the Houses of the Oireachtas thereon, and
 - (iii) such other matters as may be referred to the Joint sub-Committee by the Houses of the Oireachtas,
 - (b) the Joint sub-Committee on Public Petitions shall consider—
 - (i) public petitions addressed to the Houses of the Oireachtas which shall stand referred to the Joint sub-Committee in accordance with Standing Orders 165B to 165E, inclusive, and
 - (ii) such other matters as may be referred to the Joint sub-Committee by the Houses of the Oireachtas,
 - (c) the Joint Committee shall consider—
 - (i) the quality and standards of public service delivery informed by its sub-Committees' consideration of the reports and petitions under paragraphs (a) and (b), including the effectiveness of public service complaints and redress systems,
 - (ii) such other matters as may be referred to the Joint Committee by the Houses of the Oireachtas, and
 - (iii) any other related matters.
- (7) The Joint Committee and the Joint sub-Committee on Public Petitions shall have the following powers:
- (a) the powers defined in Standing Order 83, other than paragraphs (2A), (4A), (4B) and (6A) thereof; and
 - (b) power to refer any matter which has been considered by it (and which has been concluded to be of sufficient importance to require additional consideration) to the relevant Joint Committee appointed under Standing Order 82A for further consideration and report back to the Committee.
- (8) The Joint sub-Committee on the Ombudsman shall have the following powers:
- (a) the powers defined in Standing Order 83, other than paragraphs (4A), (4B) and (6A) thereof; and
 - (b) power to refer any matter which has been considered by it (and which has been concluded to be of sufficient importance to require additional consideration) to the relevant Joint Committee appointed under Standing Order 82A for further consideration and report back to the Committee.
- (9) Each Joint sub-Committee shall have the power to report

- directly to the Dáil
- (10) The provisions of Standing Order 92, other than paragraph (1) thereof, shall apply to the Joint Committee and its sub-Committees.
 - (11) In carrying out their roles under this Standing Order—
 - (a) the Joint sub-Committee on the Ombudsman—
 - (i) shall agree guidelines on collaborative working between the Joint sub-Committee and the Ombudsman, including a right of initiative for the Joint sub-Committee in bringing specific matters to the attention of the Ombudsman, and
 - (ii) may liaise with such other Ombudsmen, regulatory public bodies or bodies established for the purpose of redress, as the Joint sub-Committee considers appropriate,
 - (b) the Joint sub-Committee on Public Petitions may engage with the Committee on Petitions of the European Parliament including in relation to the European Citizens' Initiative.
 - (12) It shall be an instruction to the Joint Committee and its sub-Committees that they shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 163 and/or the Comptroller and Auditor General (Amendment) Act 1993.
 - (13) The Joint Committee shall prepare an annual work programme and an annual report as outlined in Standing Order 86, which shall be laid before both Houses of the Oireachtas.
 - (14) The Joint Committee shall review its role generally on an ongoing basis and may make recommendations for change by way of report to the Committees on Procedure and Privileges of both Houses.

Lodging a petition.

165B. (1) A petition may be addressed to the Houses of the Oireachtas on a matter of general public concern or interest in relation to their legislative powers or an issue of public policy.

(2) A petition may be lodged by an individual person, a body corporate or an unincorporated association of persons.

(3) A petition shall clearly indicate—

- (a) the name of the petitioner;
- (b) an address of the petitioner to which all communications concerning the petition should be sent; and
- (c) the name and address of any person supporting the petition.

(4) All petitions addressed to the Houses of the Oireachtas shall stand referred to a Committee or sub-Committee empowered to consider petitions under this Standing Order and Standing Orders 165C, D and E (referred to in this Standing Order and Standing Orders 165C, D and E as "the Committee").

(5) The Committee shall, from time to time, determine—

- (a) the proper form of petitions,
- (b) the manner in which petitions are to be lodged with the Houses, and
- (c) such other matters in relation to the consideration of petitions as the Committee considers appropriate and which are not otherwise provided for in these Standing Orders.

Admissibility of petitions.

165C. (1) A petition is admissible unless it—

- (a) requests the Dáil to do anything other than the Dáil has power to do;
- (b) does not comply with Standing Orders or is otherwise not in proper form;
- (c) is *sub judice* within the meaning of Standing Order 57;
- (d) contains the name or names of individuals;
- (e) contains language which is offensive or in the nature of being defamatory;
- (f) is the same as, or in substantially similar terms to, a petition brought by or on behalf of the same person, body corporate or unincorporated association during the lifetime of that Dáil and which was closed by agreement of the Committee;
- (g) is frivolous, vexatious or otherwise constitutes an abuse of the petitions system;
- (h) requires the Committee to consider an individual complaint which has been the subject of a decision by the Ombudsman, by another Ombudsman, or by a regulatory public body or a body established for the purpose of redress.

(2) In relation to admissible petitions, where a petition deals with

- (a) local or regional matters,
- (b) matters which are more appropriate to a regulatory public body or a body established for the purpose of redress,

the Committee shall establish that all available avenues of appeal or redress have been utilised by the petitioner prior to the Committee considering the matter.

(3) The Committee shall consider and decide in a case of dispute whether a petition is admissible and shall notify the petitioner of its decision and of the reasons for that decision.

Action on petitions.

165D. (1) If a petition is admissible, the Committee shall take such action as it considers appropriate in relation to that petition.

(2) Without prejudice to the generality of paragraph (1), the Committee may—

- (a) refer the petition to the Ombudsman, another Ombudsman or a regulatory public body or a body established for the purpose of redress;
- (b) refer the petition to any other Committee as it considers appropriate, with a request for further consideration and report back to the Committee;

- (c) report to the Dáil with recommendations, including a request that the report be debated by the Dáil
- (3) The Committee shall notify the petitioner of any action taken under paragraph (2).

Closing of petitions.

- 165E. (1) The Committee may close a petition at any time.
- (2) Where the Committee closes a petition it shall notify the petitioner that the petition is closed and of the reasons for closing it.”,

and

- (ii) by the insertion in Standing Order 82 of the following subparagraph after paragraph (2)(c):
- “(ad) that it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Service Oversight and Petitions in the exercise of its functions under Standing Order 165A.”.

Appendix 3: Report on visit to Shannon Airport

Report of the Joint Committee on Public Service Oversight and Petitions visit to Shannon Airport

2nd October 2014

1. Introduction.

At its meeting of 24 September part of the Joint Committee on Public Petitions consideration of Petition No: P000072/12 submitted by Dr. Edward Horgan, entitled "*Investigation into US Military and CIA use of Shannon airport and Irish airspace*".

The Joint Committee agreed that a delegation should visit Shannon Airport to examine first-hand the procedures followed by the Shannon Airport Authority when inspecting military planes which land in Shannon. It was further agreed to meet An Garda Síochána and the petitioner.

A delegation from the Joint Committee accordingly visited Shannon Airport on 2 October 2014. The delegation was led by Deputy Pádraig MacLochlainn (Chairman of the Joint Committee) and Senators Trevor Ó Clochartaigh and Susan O'Keeffe. Mr Ronan Lenihan, Clerk to the Joint Committee accompanied the delegation. The programme for the visit is at the appendix to this report.

2. Meeting with Shannon Airport Authority (SAA) – Shannon Group².

The delegation met with Ms. Rose Hines, Chairperson Shannon Group, Mr. Neil Pakey CEO, Shannon Group; Mr. Niall Moloney, Head of Operations SAA and Ms. Mary Considine, SAA Company Secretary.

Members were advised of the following:

1. There are three types of 'landings', as follows;
 - a. Civilian/Charter flights which transport military personnel – they may have personal weapons or side arms which are maintained on board under lock and require 'prior approval' from DTT&S;
 - b. Military aircraft – such aircraft require a Diplomatic Note, commonly referred to as a 'dip note' and it is standard on the 'dip note' that such aircraft do not carry any weapons or ordinance;
 - c. Other military aircraft – this is where a sovereign state seeks permission to land or overfly Irish airspace where the aircraft is transport for a Head of State either visiting Ireland or stopping on-route to another destination.
2. That granting the right to land or overfly Ireland's air space is vested in the Department of Foreign Affairs and Trade (DFAT);
3. In essence, Shannon Airport becomes the parking space for the decision to give permission to allow a military aircraft land;
4. The procedure is that the relevant authorities of a Sovereign state apply to the relevant Irish authority, DFAT, for permissions to land or overfly;
5. That in the year to date there has been some 600 aircraft which had landed under either a 'dip note' or 'prior approval';

² Shannon Group plc is the new umbrella organisation for a group of four commercially driven businesses who are focused on delivering economic benefits for the Shannon/Limerick area, the West of Ireland and the wider national economy. The four businesses are Shannon International Airport, Shannon Heritage, the International Aviation Services Centre (IASC) and Shannon Commercial Properties.

6. That all military personnel, whether disembarking from a 'dip note' or 'prior approval' flight go through the exact same airport security screening as all passengers and, therefore, no arms or ammunition enter the terminal;
7. That Shannon Air Traffic Control (ATC) handles all overflights through Irish air space and some 80% of all flights from European Airspace flying west to America transit/overfly Irish Airspace;
8. That Shannon airport has no role or function in boarding or searching an aircraft and SAA has no role or function in stopping An Garda Síochána/Revenue from boarding an aircraft;
9. That the State must protect 'dip note' flights when they land;
10. That SAA do not maintain any log of flights which land under a 'dip note' or 'prior approval';
11. That SAA do not undertake searches - this is a Garda/Revenue role;
12. That the SAA Board have conducted a risk assessment including a risk assessment of a threat to Shannon airport in consequence of its facilitation of US military flights/overflights and do not assess that risk as a major top line issue in comparison to passenger security clearance and procedures;
13. That SAA has a corporate whistle-blower policy. However, the Director of Operation advised that in his 31 years with the Airport no staff have ever raised an issue in relation to Shannon airport's facilitation of US military flights/overflights;
14. The SAA maintain that the revenue generated by its facilitation of US military flights/overflights is, in terms of the overall revenue of Shannon airport, very minute. SAA advised that the most profitable revenue stream for the airport is parking and the transit flights do not use the car parking facilities;
15. That in relation to the incursions of protestors there is a 12.5km perimeter fence around the airport. This perimeter fence is a first line that is primarily to keep livestock and those who 'have not reached the age of reason' off the airport;
16. That security intensifies closer to where the aircraft are parked;
17. Standards in relation to security are operated by Irish Aviation Authorities under EU Regulations wherein each airport is given a security classification and that determines the level of security which that airport must work to.

3. Meeting with An Garda Síochána.

The delegation met with Chief Superintendent John Kerin; Superintendent Derek Smart and Inspector Tom Kennedy.

Members were advised of the following:

1. That An Garda Síochána has no role in the granting of the 'dip note'. This is under the sole authority of DFAT;
2. That there is no letter or instruction from the Attorney General's (AG) office. It had been alleged that Garda were under instruction not to search US military aircraft;
3. That the AG, on request, clarifies for the Garda Commissioner aspects of the legislation and the scope of An Garda Síochána to operate;
4. An Garda Síochána are very firmly of the opinion, in relation to their security duties at Shannon airport, that they only have authority to act where an arrestable offence is suspected;
5. Where an arrestable offence is suspected An Garda Síochána must present, to a Judge, reasonable grounds for such suspicions in order to obtain a search warrant;
6. That 'dip notes' do not allow weapons on-board the aircraft;
7. That aircraft with 'dip notes' have the same status as an Embassy;
8. That An Garda Síochána get the same notification (the 'dip note') at the same time as Shannon airport;
9. That An Garda Síochána, in relation to 'prior notice' flights get an inventory of the personal arms and ammunition that are stored securely on board the aircraft;

10. The personal arms and ammunition that are stored on board the aircraft cannot be removed from the aircraft while the aircraft is here;
11. That Government Departments' (Justice, DFAT, Transport etc.) do not instruct An Garda Síochána to search any aircraft. An Garda Síochána on the ground make the operational decisions alone;
12. That complaints made to An Garda Síochána can only be acted upon where an arrestable offence is suspected;
13. An Garda Síochána advised the delegation that if an eyewitness had seen, as opposed to suspecting or contending that an offence was being or had been committed - for instance an airport worker reports that they had seen someone on board a 'dip note' aircraft who was in chains, then An Garda Síochána would have power to board the aircraft to make an arrest, but not to do a search of the 'dip note' aircraft as it has embassy status;
14. An Garda Síochána advised that some 26 reported incidents have been investigated. However, these were only investigated because an arrestable offence was suspected. In one case it was the Garda themselves who raised the alarm, in February 2013, when an AC130 with externally mounted armoury landed.

3. Meeting with Mr. Edward Horgan, Petitioner.

The delegation met with Mr. Horgan and he supplied photos of Military C 103 aircraft that had landed 1 October. Mr. Horgan also supplied a copy of the latest request he made to An Garda Síochána that very morning.

The Chairman outlined to Mr. Horgan what members had learnt in the meetings with SAA and An Garda Síochána. Mr Horgan contended that the aircraft in question are in transit to or from theatres of war and that, therefore, there is, in Mr. Horgan's view, a direct conflict between the State's position and International law and conventions. The dilemma is arrest versus search.

4. Conclusion.

The delegation is of the opinion that:

- The dilemma at the heart of the petition is that Sovereign states must have trust in what a Sovereign state says.
- That the copy Mr. Horgan supplied of the latest witness statement he made to An Garda Síochána illustrates the difficulty that An Garda Síochána experience in relation to an arrestable offence and An Garda Síochána having reasonable grounds to present to a Judge who would, having adjudicated on the reasonable grounds presented, grant or not a search warrant.

The delegation accordingly, recommends that, in the Committee's consideration of the petition:

- Consideration also needs to be given to the validity of claims about complaints made to An Garda Síochána which have not been acted upon – the very nature of the complaint can have the effect of negating its intent and misinterpretations can arise whereby An Garda Síochána are seen not to have acted.
- The status and effect of the 'dip note' should be explored, particularly in relation to how or under what authority a 'dip note' confers embassy status on aircraft with such designation.
- The Minister for Foreign Affairs and Trade be requested to provide briefing, to meet with the Committee to assist it in its further consideration of the petition.

Padraig Mac Lochlainn TD
Chairman of the Joint Committee
October 2013.

**Programme for the visit of the Joint Committee on Public Oversight and Petitions Visit to Shannon Airport
2 October, 2014**

- 11:15 Arrive at Shannon Airport;
- 11:30 Meeting with Shannon Airport Authority (SAA);
Ms. Rose Hines, Chairperson SAA;
Mr. Neil Pakey, CEO;
Mr. Niall Moloney, Head of Operations;
Ms. Mary Considine, Company Secretary.
- 12:30 Meeting with An Garda Síochána;
Chief Superintendent John Kerin, Ennis Garda Station;
Superintendent Derek Smart;
Inspector Tom Kennedy.
- 14:00 Tour of the Facilities at Shannon Airport;
- 15:00 Depart Shannon Airport;
- 15:15 Meeting with Shannon watch;
- 17:00 Depart.

Appendix 4 Supplementary Information

Date of Joint Committee meeting	Universal Resource Link (URL) link to a document on the Oireachtas website.
18 June 2014: Submissions received from Petitioner in advance of the Joint Committee meeting of 18 June 2014:	
Neutrality Irish experience European experience;	http://www.oireachtas.ie/parliament/media/committees/psop/Shannonwatch-Petitions-Committee-Exec-Summary[1].docx
Submission to Joint Committee;	http://www.oireachtas.ie/parliament/media/committees/psop/Shannonwatch-Petitions-Committee-Submission[1].pdf
Positive Neutrality is Ireland's best Defence;	http://www.oireachtas.ie/parliament/media/committees/psop/PANA-White-Paper-on-Defence.pdf
Booklet Shannon Airport, War and renditions.	http://www.oireachtas.ie/parliament/media/committees/psop/Shannon_Watch_Book_LR.pdf
15 July 2015: Supplementary information in relation to Joint Committee meeting with Dr. Karen Devine and Mr. Paddy Smyth.	
Opening statement from Dr. Karen Devine;	http://www.oireachtas.ie/parliament/media/committees/psop/Presentation-by-Paddy-Smyth-to-Joint-Committee-on-Public-Oversight-and-Petitions.docx
Opening statement from Mr. Paddy Smyth;	http://www.oireachtas.ie/parliament/media/committees/psop/Opening-statement-from-Karen-Devine--Neutrality-.pdf
'Neutrality: A really dead concept?' A reprise;	http://www.oireachtas.ie/parliament/media/committees/psop/Agius-Devine-Neutrality-Reprise-2011-CoCo.pdf
The Myth of 'the Myth of Irish neutrality': Deconstructing Concepts of Irish Neutrality using International Relations Theories;	http://www.oireachtas.ie/parliament/media/committees/psop/Devine-Deconstructing-Concepts-of-Irish-neutrality-2006-ISIA.pdf
Neither friend nor foe the Irish position - Irish Times;	http://www.oireachtas.ie/parliament/media/committees/psop/Devine-Irish-Times-25-Nov-2008.pdf
Protecting neutrality in a militarised EU: A protocol to the Lisbon. Irish Times;	http://www.oireachtas.ie/parliament/media/committees/psop/Devine-Irish-Times-Lisbon-Treaty-27-Nov-2008.pdf
A Comparative Critique of the Practice of Irish Neutrality in the 'Unneutral' Discourse;	http://www.oireachtas.ie/parliament/media/committees/psop/Devine-Practice-of-Irish-neutrality-ISIA-2008.pdf
Tug of war between public and political elites: There is a gap. Irish Times;	http://www.oireachtas.ie/parliament/media/committees/psop/Devine-Public-Opinion-IT-26-Nov-2008.pdf
Stretching the IR Theoretical Spectrum on Irish Neutrality: A Critical Social Constructivist Framework;	http://www.oireachtas.ie/parliament/media/committees/psop/Devine-Public-Opinion-on-Irish-Neutrality-IPSR-2008.pdf
Values and Identities in Ireland's Peace Policy: Four Centuries of Norm Continuity and Change;	http://www.oireachtas.ie/parliament/media/committees/psop/Devine-Values-Identities-Neutrality-SPSR-2013.pdf
Irish Political Parties' Attitudes towards Neutrality and the Evolution of the EU's Foreign, Security and Defence Policies;	http://www.oireachtas.ie/parliament/media/committees/psop/IPS-Irish-party-positions-on-neutrality-ESDP-2009.pdf

Neutrality and the development of the European Union's common security and defence policy: Compatible or competing?	http://www.oireachtas.ie/parliament/media/committees/psop/Neutrality-ESDP-CoCo-Devine-2011.pdf
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