E109/37/03

23 April 2003

Circular 9/2003: Confined competition for appointment to the position of Legal Adviser at Assistant Secretary level in the Department of Foreign Affairs

A Dhuine Uasail,

1. I am directed by the Minister for Finance to announce the holding of a confined competition to be run by the Civil Service Commission for appointment to the position of Legal Adviser in the Department of Foreign Affairs. The post is at Assistant Secretary level.

Background

2. The Legal Adviser heads a Division which includes a Deputy Legal Adviser and five Assistant Legal Adviser posts as well as a small number of support staff. The Legal Division provides legal information and advice to the Minister for Foreign Affairs and the Department, particularly on matters of public international law, human rights law and EU law and represents Ireland in international legal proceedings and in international fora and negotiations concerned with international legal matters. The Division is also responsible for laying before the Dáil international agreements to which Ireland is a party, for making available to the public details of such agreements, and for registering them with the UN Secretariat.

3. The Division is based in Dublin but the duties of the Legal Adviser also involve attendance at international conferences relating to legal matters. The Legal Adviser is a member of the Department's Management Advisory Committee.

Specific Role Profile

4. The function of the Legal Adviser is to provide advice and assistance to the Minister and to the Department as requested with a view to ensuring that Irish foreign policy is formulated and interpreted in a manner cognisant of Ireland's international legal obligations. Advice given has regard to relevant sources of international law, including Ireland's treaty obligations and relevant rules of customary international law, as well as relevant policy goals. The work of the Legal Adviser includes advising on the conduct of international legal proceedings in which the State is a party and negotiation of international agreements. Subjects of direct concern include legal questions arising from membership of the European Union, the United Nations and other international organisations, diplomatic and consular relations (including legal immunities and privileges), the law of the sea, extradition, international protection of human rights, the law of armed conflict and international criminal law.

TO ALL DEPARTMENTS
[For Department, read Department/Office throughout this Circular]

Other general responsibilities

5. The Legal Adviser is also responsible for the following matters in respect of the Legal Division:

- *directing the day-to-day business of the Division*

- *with regard to the policy areas relevant to the Division*
  - providing advice to the Secretary General and to the Minister
  - the formulation and implementation of policies in accordance with Government guidelines and directives
  - monitoring Government policies which affect the Department

- *in relation to the Department's (current) Strategy Statement*
  - ensuring the implementation of the objectives relevant to the Division
  - strategic planning in line with the objectives of the Department
  - providing progress reports to the Secretary General on the implementation of the objectives relevant to the Division

- *managing and monitoring the overall performance of the Division including*
  - ensuring the effective operation of the Performance Management and Development System
  - ensuring the delivery of outputs as determined by the Minister and the Secretary General
  - the provision of quality services relevant to the Division
  - the continuous examination of the scope for further efficiencies
  - the general management of staff within the Division: this will include assignment of staff and work, management of performance, the identification of training and development needs, arranging of necessary coaching and monitoring and early correction of performance or discipline problems
  - the development of divisional business plans and their updating as required.

- *ensuring that expenditure relevant to the Division is as provided for in subheads of the Department's Votes and in accordance with the Public Financial Procedures of the Department of Finance and that value for money is obtained. This will include responsibility for any relevant schemes or programmes which come under the subheads in question.*

- *ensuring the co-ordination of activities within the Division and the alignment of the Division's activities with those of other Divisions.*

Extracts from the current Role Profile Form (PMDS) are attached at Appendix I.

Personal Requirements

6. The successful candidate will possess the following essential skills:
   - Knowledge of public international law
   - Knowledge of human rights law and of EU law

- Proven ability to lead and work as part of a team
- Proven ability to work on his/her own initiative
- Good interpersonal, communications and presentation skills
- Proven people management skills and sound judgement

Knowledge of the French language is desirable.

Eligibility

7. In order to be eligible to compete, prospective candidates must, on or before 1 May, 2003:

a) have been called to the Bar or have been admitted and be enrolled as a Solicitor in the State

and

b) after qualifying as above, have practised as a Barrister or Solicitor for eight years or otherwise have acquired eight years post-qualification experience relevant to the position

and

c) on the date on which they apply for the competition, be serving in an established capacity in the Civil Service at Principal Officer level or equivalent. [Officers in higher grades may also apply, if otherwise eligible.]

8. Officers on special leave with pay may apply, if otherwise eligible. Officers on special leave without pay (e.g. to serve with the EU) may be eligible. Personnel Sections should check cases not covered by Department of Finance Circular 33/91 with this Department. Officers on career break may apply if their career break conforms with the terms of Department of Finance Circular 18/98 and if they are otherwise eligible.

Conditions of appointment

9. A successful candidate who is not already serving as an Assistant Secretary will be offered appointment to that grade. Such appointment will be in an acting capacity for at least one year and will be subject to the usual conditions governing such appointments. In the event of an officer's service with the Department of Foreign Affairs during that period not being satisfactory, the officer will be returned to his or her parent Department and/or duties in his/her former grade. Any extra payment arising from the assignment would then cease.

The competition

10. Selection will be by means of a competitive interview conducted by the Civil Service Commission. The Commission may, at their discretion, request the interview board to examine the applications of all candidates by reference to the nature of the duties and personal requirements as detailed in paragraphs 5-6 above. The Commission, having considered the report of the Board, may decide that only a number of candidates will be invited to attend for interview. In addition, in order to select the candidate best qualified for appointment, the

Commission may require candidates to undergo a preliminary interview and invite only those who reach the requisite standard to attend for competitive interview.

11. In placing in order of merit the candidates considered best qualified for appointment, the Civil Service Commission will give credit for proficiency in both Irish and English, in accordance with Department of Finance Circular 30/90 and Department of the Public Service Circular 43/75, and any other relevant instruction to candidates qualified for the award of such credit.

Applications

12. Application forms are available from Personnel Sections or, alternatively, candidates can apply online at **www.publicjobs.ie .** The Civil Service Commission will supply application forms to Personnel Sections on request. Candidates should return their completed application forms online or directly to the **Chief Executive Officer, Office of the Civil Service Commissioners, Chapter House, 26-30 Abbey Street Upper, Dublin 1, or e-mail to profman6@publicjobs.ie** to arrive not later than **5.15 p.m.** on **Friday 16 May 2003. This date must be strictly observed.** Candidates should use only one means of application i.e. online, hardcopy or email. Interviews are expected to take place in June/July 2003. The onus is on candidates to make themselves available for interview at short notice.

13. The Civil Service Commission will contact Personnel Sections in respect of candidates being called to competitive interview. For each candidate called for competitive interview the Head of Department will be required to :

a) certify that she or he
- has worked well and been satisfactory in his/her present grade
- has been satisfactory in general conduct
- fulfils the conditions of **eligibility** set out in paragraphs 7-8 above

and

b) send to the Civil Service Commission an assessment of the candidate's suitability for
- appointment to the post applied for, and
- promotion (if appropriate),

on a form to be supplied by the Civil Service Commission.

14. Candidates should note that (i) eligibility for the competition, and (ii) health and the level of sick leave, are not verified by the Civil Service Commission until a candidate comes under consideration for appointment after the competitive interview stage. Admission to the competition, therefore, does not imply that a candidate meets the health and sick leave criteria. In considering a candidate's suitability for appointment in terms of health and sick leave, the Commission will have regard to Department of the Public Service Circular 34/76, as amended by Department of Finance Circulars 32/91 and 33/99. Candidates with doubts about any aspect of their eligibility are advised to clarify their position with their Personnel Section before proceeding with the application.

Circulation

15. Please bring this Circular to the notice of all eligible officers serving in your Department and associated Offices without delay. Special care should be taken to ensure that eligible officers on maternity leave, career break or other relevant forms of leave are notified of the competition.

16. The Civil Service is an equal opportunity employer. Promotion within the service is made on the basis of qualifications and the ability to carry out the responsibilities of the grade or post.

17. If candidates have any queries about this Circular, they should contact their Personnel Section. Subsequent enquiries about their candidature should be addressed directly to the Civil Service Commission.

Mise le meas,

John O'Connell
Assistant Secretary

APPENDIX I

EXTRACTS FROM CURRENT PMDS ROLE PROFILE FORM

Job Title:

(1) General Description:

- To provide legal information and advice, particularly on matters of public international law, human rights law and EU law, to the Minister and Department of Foreign Affairs; and

- To represent Ireland in international legal proceedings and in international fora and negotiations concerned with international legal matters.

(2) Key Functions/Responsibilities:

- Operational

- Directing the day-to-day business of the Division;

- Ensuring an appropriate legal input into the formulation and implementation of Ireland's foreign policy;

- Contributing to effective Irish participation in international legal fora;

- Making public information on all international agreements to which Ireland is a party.

Human Resources

- managing and monitoring the overall performance of the Division including:-
  - ensuring the effective operation of the Performance Management and Development System
  - ensuring the delivery of outputs as determined by the Minister and the Secretary General
  - the provision of quality services relevant to the division
  - the continuous examination of the scope for further efficiencies
  - the general management of staff within the Division; this will include assignment of staff, assignment of work, management of performance, the identification of training and development needs, arranging of necessary coaching and monitoring and early correction of performance or discipline problems
  - the development of divisional business plans and their updating as required.

- Customer Service

- providing prompt and accurate advice to the Minister, the Secretary General and the Department

- Strategy/Planning

- In relation to the Department's (current) Strategy Statement
  - ensuring the implementation of the objectives relevant to the Division
  - strategic planning in line with the objectives of the Department
  - providing progress reports to the Secretary General on the implementation of the objectives relevant to the division

- Additional responsibility:

- ensuring that expenditure relevant to the Division is as provided for in subheads of the Department's Votes and in accordance with the *Public Financial Procedures* of the Department of Finance; and that value for money is obtained. This will include responsibility for any relevant schemes or programmes which come under the subheads in question.
- Participation in the Management Advisory Committee

What are the key long term objectives?

To ensure that Irish foreign policy is formulated and interpreted in a manner cognisant of Ireland's international legal obligations;

To enhance the management and capability of the Division;

To contribute to the effective management of the Department.

Key Deliverables for the year:

Put in place preparations for Ireland's EU Presidency in 2004;

Provide legal advice for the Convention on the future of Europe and the following IGC;

Ensure effective representation in international legal fora and proceedings.

Critical Success Factors:

Effective cooperation with other Law Offices in the State, and particularly the Attorney General's Office;

Close cooperation and communication with line Divisions of the Department;

Effective management of staff and other divisional resources.

Key Performance Indicators:

Timely provision of legal advice and assistance;

Effective representation of Ireland's position and interests in international fora;

Timely compliance with obligations/commitments in regard to the publication of international agreements.

April 2003

Ref.: S430/10/03

14 February 2003

Mr Tom Considine
Secretary General
Department of Finance
Merrion Street
Dublin 2

Dear Tom,

Public Private Partnerships and National Development Finance Agency

1. I am directed by the Minister for Finance to bring to your attention the following matters regarding PPPs and the NDFA. Appropriate instructions regarding Public Agencies reporting to your Department should issue as relevant from your Department.

NDFA now established

2. Arising out of a review of the early experience with certain PPP projects which involved a deferred funding element met by the Exchequer, the Minister for Finance has now put in place a new Agency, the National Development Finance Agency (the NDFA). This Agency will have a key role in advising Departments and public agencies on the most cost effective approach to project funding and provide funding itself where this would be more cost effective than private sector finance.

Private sector involvement

3. The Minister is anxious to ensure that Departments and public agencies utilise to the maximum extent possible more effective ways of delivering public infrastructure. Involvement of the private sector in this task may deliver a more effective and inclusive approach to design/build/operation, and risk management, than the

traditional approach to project delivery. Value for money is the key objective in this context.

4. In his Aide-Memoire for Government dated 30 January 2003 the Minister of Finance explained the budgetary impact of PPP projects. In short, projects which involve deferred financing terms and which are funded by the Exchequer over time will impact on the key budgetary measure, the General Government Balance. See Appendix 1 to this letter which sets out further information on this aspect.

Capital investment envelope

5. In relation to project financing, the bulk of public investment in recent years has been through direct Exchequer investment and this was made possible by the healthy public finances. All Government Departments, State Authorities and Agencies are aware that the situation has now changed and the availability of Exchequer financing for public investment is now constrained. For this reason, the Minister has decided that in future, all Departments will have to complement a more restricted Exchequer cash envelope for investment with private financing for project delivery through the PPP route, or NDFA funding, where this would be more cost effective taking account of all relevant factors.

6. In future, therefore, the Minister intends that public investment will be financed through three routes: Exchequer direct grants /PPP finance/NDFA financing. These financing options must be planned in a coherent rational way that is consistent with overall budgetary policy and specific targets for the General Government Balance. An overall envelope for capital investment that impacts on the GGB will be determined for each programme area to achieve this objective. In the context of the new arrangements now being put in place to facilitate a more structured approach to planning capital investment programmes on a five-year rolling basis (see earlier correspondence on this), the Minister will be evaluating the mix of Exchequer and private/NDFA funding for these programmes and will be issuing approval for an investment envelope on this basis.

Projects outside GGB additional to envelope

7. In accordance with EU rules, the Minister intends that non-Exchequer funded projects, whether funded through private sector finance in the PPP context, or through the NDFA, which:

- transfer the main risks to the private sector; and
- are funded through user charges, with no subsidy or guarantees, direct or indirect

will be outside the investment envelope, once it is clear that they will not impact on the General Government Balance. Both conditions will have to be satisfied before a project will fall outside the GGB.

The Minister wishes to encourage all Departments, State Authorities and Agencies to press ahead with the development of such investment projects.

Projects within the investment envelope and the GGB

8. There are two types of financing that will be included in the investment envelope:

- the first is direct up-front Exchequer funding;
- the second is projects funded through deferred financing terms whether PPP with upfront private sector funding or NDFA financing with Exchequer funded repayments.

Where projects are financed on a deferred payment basis by the private sector or through the NDFA, these involve a stream of annual charges payable by the State (i.e. not the users). Under EU rules, the capital value of such projects is a charge on the General Government Balance over the construction phase. The Net Present Value* of the stream of annual payments (less costs - e.g. for maintenance - that would normally be met out of the Vote on a current basis) will be charged against the annual investment envelope on a similar basis (see simplified example in Appendix 2).

* Future stream of payments to be discounted at rate advised by NDFA

9. The annual Exchequer costs of servicing any deferred PPP/NDFA funding consistent with the approved investment spending envelope will be separately financed through the annual estimates. These will be ring-fenced and transparent within that context.

Standing Committee of officials

10. The Minister recognises that the concept of what falls on the GGB in investment terms is not straightforward. A Eurostat group is currently reviewing the accounting rules on this. The Minister will be establishing a small standing committee to advise Departments on the General Government Balance implications of private sector/NDFA financed projects and generally to assist the Central Statistics Office in its statistical work on this matter. The committee will consist of officials from the Department of Finance, the Department of the Taoiseach, the CSO, the NDFA, the Departments of Education and Transport and an independent expert.

National Development Finance Agency (NDFA)

11. As indicated earlier, a new Agency, the National Development Finance Agency (NDFA), was established on 1st January 2003. All Departments / State Authorities /Agencies must now seek the advice of the Agency on the best financing approach for projects and should not enter into any further contractual arrangements for consultancy services under this heading. The role of the Agency includes:

a. providing advice to State Authorities, including Government Departments, to assist them in evaluating financial risks and costs of infrastructure projects and facilitating them in availing of the best financing package for each project;

b. assessing optimal financing as between a private/PPP financing package or NDFA funding for major infrastructure projects set out in the National Development Plan and other infrastructure priorities;

c. raising finance for projects (including certain PPPs), where this would be more cost-effective than private funding and, in respect of conventionally procured capital projects, where there are clear benefits offsetting any increased cost of Agency funding over Exchequer funding; and

d. creating special purpose companies that can raise project finance with guarantees, securitise revenues from projects with user-charging and receive land or other property assigned or transferred from State authorities for use in financing infrastructure projects.

In practical terms the advice of the NDFA must be sought for major projects and grouped projects costing in excess of €20 million but if Departments wish to seek advice on projects below this level, this can be raised with the NDFA. Projects currently in procurement should, where feasible, avail of NDFA expertise to assist in settling on the final form of any financial package.

12. The Board of NDFA was announced by the Minister on Tuesday 7 January 2003 and experts in project financing are now being recruited by the Agency. In this regard, the NDFA will be advised by the Minister of the determination of the envelope for investment referred to at paragraph 5 above, and will also be given the schedule of capital projects currently being submitted by all Departments. The NDFA will be in contact with all relevant Departments to discuss their role and services which will be made available.

Financial Consultants

13. Where a Department, State Authority or Agency has employed financial consultants to provide advice for an individual project or a programme of projects these arrangements will be honoured. The NDFA will, where requested, work with that Department, State Authority or Agency and their advisors to deliver the best value for money for the Exchequer. For projects where the procurement team is not yet formulated, the NDFA will be the financial advisor to the procuring body.

14. If you wish to discuss any general policy questions arising out of the above please contact me. Any specific queries regarding this correspondence should be addressed in the first instance to Cormac Gilhooly, Central PPP Unit, Department of Finance, 15 Lower Hatch Street, Dublin 2; telephone 01 6396220 or e-mail Cormac_Gilhooly@finance.gov.ie. Queries to the National Development Finance Agency should be addressed to Mr. Jim Farrell or Mr. Paul Farrell on telephone number (01) 664 0800 or e-mail at jfarrell@ntma.ie or pfarrell@ntma.ie.

The PPP unit in the Department of Finance will be issuing under separate cover some more detailed notes on the PPP process.

Yours sincerely,

David Doyle,
Second Secretary General
e-mail: David_Doyle@finance.gov.ie

Appendix 1 - General Government Balance

General Government Balance

1. A key issue for Government policy consideration is the impact that the various funding arrangements will have on the General Government Balance (GGB) and on the Exchequer Borrowing Requirement (EBR). While the EBR reflects the direct borrowing position of the Exchequer in a given year, the GGB is a wider concept used by the EU to measure the overall financial position of the State. The GGB takes into account direct borrowing by the NTMA and indirect borrowing through the PPP route where the investment involved is paid for by the State - even if this is done through a deferred financing arrangement with the private sector or the NDFA. The GGB concept measures borrowings and surpluses across all Government funded agencies to build up a picture of the total exposure of the State.

2. The GGB is the critical measure of what can be accommodated within our obligations under the Stability and Growth Pact in the context of the Maastricht Treaty. The Maastricht rules count the effective amount of spending/borrowing under a PPP contract as part of the annual amount of spending/borrowing by a country in the period during which the spending on the project takes place.

3. The General Government Balance concept can be illustrated by the following simple examples:

Example 1

A couple decide to build their own house. The total cost of the house is €300,000. 100% of the cost is to be funded by way of a mortgage which at an interest rate of 5.25% would cost (say) €22,000 p.a. over 25 years. Only the €22,000 p.a. falls on the couple's current account - in the same way the annual payments under a PPP project fall on the Exchequer's bank account and thus the EBR. The mortgage account held by the couple is a loan, and clearly they owe the "Bank" that amount of money. Under the Maastricht rules the effective amount of money owed under a PPP project is calculated on a similar basis and included in the amounts borrowed by a country each year. Therefore, if this example were a PPP project the €300,000 would be considered to be borrowing for General Government purposes at the point where the spending on building the house takes place.

Example 2

A simplified fictional example of how the private example quoted above would work would be the development of a National Research Centre, with a capital cost of say €100 million. A Public Private Partnership arrangement might be agreed for a private company, Research Ltd, to design, build and operate the centre, with the financing to be provided by the NDFA at 5.25% per annum on a 25 year basis, with annual payments of say €7.3 million required to pay off the capital and interest. The State pays the annual payments of €7.3 million and the capital cost of €100 million would be included in the calculation of the General Government Balance over the construction period as it represents effective borrowing by the State. From an EBR point of view, the annual payments of €7.3 million would be provided in the Vote on a current basis.

4. The key point is not simply adherence to EU rules on the GGB, which we are legally obliged to do, but that all deferred payments or financing undertaken by the Government must be serviced and the capital sum involved must be paid back just as in the case of a mortgage. The General Government Balance reflects this reality even if the more narrow, cash-based EBR does not do so in all such cases.

5. In initiating the PPP approach the Government explicitly chose a wide variety of PPP structures from, design, build and operate (water services); design, build, finance and operate without user charges (education); and concession contracts with significant user charges (toll roads). The latest position in relation to examples of these projects is as follows:

There are now over forty PPP projects at various stages of procurement in roads, rail, water services, waste management, education and health. Consistent with the Governments approach to the Pilot PPP programme these projects are testing the PPP approach through the delivery of real projects and provide valuable "learning by doing" opportunities for State Authorities. The following paragraphs outline these projects and their budgetary impact.

Design, Build and Operate projects (DBO)

6. Under this approach, the Exchequer bears the full capital cost up front, with the cost falling on both the EBR and the GGB. Thirty four projects in the water and waste water sectors are in various stages of procurement. The combined capital cost of these projects is in excess of €1 billion.

Design, Build, Finance and Operate projects (DBFO)

7. Under this heading the private sector delivers a design, build and operate package. It also finances the project, and the State contracts to pay for it over a defined period. Because the projects involve deferred Exchequer finance, the capital cost impacts on the General Government Balance over the construction period. (The treatment of the components of the annual payments under these contracts is as follows: all these elements (interest, maintenance etc and capital) impact on the Votes and thus the EBR. The interest and maintenance element count against the GGB. The capital element of the repayment does not impact on the GGB as these have already been charged at the outset).

Concession projects

8. These encompass projects which are fully commercial i.e. they are fully financed by users and no State funding is required. Some concession projects are partly commercial with some upfront State funding and some private funding paid for by user charges.

Fully commercial

(i) The recent second West Link bridge and the much earlier East and West Link bridges are the only fully commercial projects to date. The user charges (hard tolls) remunerate the total capital and operational costs for the second West Link bridge. The cost of the West Link bridge project has no impact on either the EBR or the GGB.

Partly commercial

(ii) The pilot roads programme (excluding the second West Link bridge) are all targeted to be partly commercial projects. The private sector receives the concession to collect user charges (hard tolls) to cover part of the cost. The NRA estimates the total capital investment by the private sector up to 2008 from the current programme to be €1.25 billion on a total investment of €2.5

billion. Examples include Kilcock/Kinnegad and the Dundalk, Fermoy and Waterford bypasses. Under this heading the Exchequer financed element will impact on both the EBR and GGB.

Appendix 2 - Net Present Value

What is Net Present Value?

1. Net present value simply facilitates the comparison of cash payments, made over different time periods, in today's terms. Net present values are calculated by discounting future cash payments by the cost of capital, which is essentially the cost of borrowing. For example a mortgage of €300,000 borrowed at a 5.25% interest rate and repaid over 25 years would have annual repayments of say €22,000 per annum. The total nominal (cash) value of these payments would be €550,000 (€22,000 x 25) but the net present value would be €300,000 at a 5.25% discount rate (cost of capital/borrowing).

Application of NPV to Investment Envelopes

2. To illustrate the effect of the NPV concept on the investment envelope, we return to the simplified example cited in Appendix 1 of the National Research Centre. This Centre has a capital cost of €100 million. It is financed by the NDFA over 25 years at an interest rate of say 5.25%. Construction is assumed to take place over a 3 year period starting in 2003, with 50% of the total capital costs being incurred in 2003 and 25% in each of 2004 and 2005 with the project being handed over on 1 January 2006.

3. Capital and interest payments would amount to just under €7.3 million per annum (calculated in a similar manner to the repayments on a mortgage). The NPV charged to the investment envelope would be calculated by discounting the financing costs (i.e. just under €7.3 million per annum) at the rate advised by the NDFA, say 5.25%. The calculation is set out in Table 1 below.

Table 1

Construction Payments

2003	**50,000**
2004	**25,000**
2005	**25,000**

Repayment of Capital and Interest during operation

Year	Total Cash Payment each Year €,000	Discount Factor @ 5.25%	Present Value in Year 2005 terms €,000 †
2006	7,274	0.9501	6,911
2007	7,274	0.9027	6,566
2008	7,274	0.8577	6,239
2009	7,274	0.8149	5,928
2010	7,274	0.7743	5,632
2011	7,274	0.7356	5,351
2012	7,274	0.6989	5,084
2013	7,274	0.6641	4,831
2014	7,274	0.6310	4,590
2015	7,274	0.5995	4,361
2016	7,274	0.5696	4,143
2017	7,274	0.5412	3,936
2018	7,274	0.5142	3,740
2019	7,274	0.4885	3,554
2020	7,274	0.4642	3,376
2021	7,274	0.4410	3,208
2022	7,274	0.4190	3,048
2023	7,274	0.3981	2,896
2024	7,274	0.3783	2,751
2025	7,274	0.3594	2,614
2026	7,274	0.3415	2,484
2027	7,274	0.3244	2,360
2028	7,274	0.3082	2,242
2029	7,274	0.2929	2,130
2030	7,274	0.2783	2,024
	Net Present Value		**100,000**

4. The impact of this project on the Department's investment envelope would be felt over the 3 year construction period, on a pro rata basis to the GGB impact. In this example €50 million would be charged against the investment envelope in 2003, €25 million would be charged in 2004 and €25 million would be charged in 2005. (The precise calculation would be slightly different from this simple example).

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† These payments relate to the Capital and interest elements only. Payments for maintenance etc are met on a current basis and do not impact on the investment envelope.

Dear <   >.

Your Department will have received the letter of 16 February 2004 to Ministers from the Minister for Finance outlining the Eurostat clarification of the treatment of PPP projects for GGB purposes, a press briefing note on this and a supplementary questions and answers.

At the seminar held by the Department of Finance on 23rd February 2004 it became obvious that Departments needed to see an example of how the capital costs of PPP projects would impact on the Capital Investment envelopes (which in fact is a separate issue from the Eurostat classification.)

It has been decided that in the light of these developments, there is general need to update the letter of 14 February 2003 from David Doyle to Departments in relation to PPPs.

In the interim I attach a short note on Capital Envelope treatment and a table which shows the GGB/Exchequer Balance and capital envelope implications using a PPP example.

The introduction of the Capital Investment Envelopes and the Eurostat ruling should assist Departments in implementing their PPP capital envelopes targets by giving greater clarity to the accounting treatment of PPP projects. The overall 5% investment envelope looking forward to the 2005 Budget will be considered in the context of the new rules and the overall sustainability of the Budgetary position.

A revised general letter will issue shortly.

Stephanie O'Donnell
Principal Officer
Central PPP Unit

For circulation to all Departments/

Projects within the Capital Investment Envelopes

The capital investment envelope comprises all the costs associated with the construction or acquisition of physical assets to the point of becoming available for use, where funded by either:

1. direct up-front Exchequer funding; or
2. private sector/NDFA funding - which will be repaid from the Exchequer over time[1] by means of unitary payments[2].

In the case of both categories (1) and (2) above the full capital cost of projects is a charge on the Capital Investment Envelopes over the construction phase. To simplify matters and to avoid unnecessary complications, it has been decided that this should be represented as the capital costs over the period of construction and not the Net Present Value cost, as previously advised. Where projects are financed by the private sector or through the NDFA, these may involve a stream of annual charges payable by the State (i.e. not the users) in the form of unitary payments. All payments to a PPP service provider under the unitary payments will be treated as current expenditure and will have no impact on the Capital Investment Envelopes.

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[1] These repayments will be subject to the satisfactory performance of the private sector over the life of the project.

[2] Each unitary payment repays a portion of the capital cost, the operation and maintenance costs, the financing charges and asset replacement costs in addition to the private sectors return on its investment as agreed in the contract.