

GRS 350
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DESKBY 291700Z
FM WASHINGTON 291615Z DEC 81
TO IMMEDIATE FCO
TELNO 3947 OF 29 DEC 81
INFO IMMEDIATE BIS NEW YORK NIO (LONDON) NIO (BELFAST) DUBLIN.

YOUR TELNO 1997 (NOT TO DUBLIN): NORTHERN IRELAND EXTRADITION :
DESMOND MACKIN

1. WE HAVE SPOKEN TO THE DEPARTMENT OF JUSTICE, THE STATE DEPARTMENT AND THE U S ATTORNEY (BELOTE). WE SAID THAT, IN THE LIGHT OF THE APPEAL COURT'S DECISION NOT TO REVIEW THE CASE, AND IN THE LIGHT OF ADVICE FROM ALL THE U S AUTHORITIES CONCERNED THAT WE WOULD NOT WIN A NEW HEARING IN THE DISTRICT COURT, WE WERE PREPARED TO AUTHORISE BELOTE NOT TO FILE FOR THE CASE TO BE REHEARD.

2. BELOTE HAS NOW SPOKEN TO MACKIN'S LAWYERS WHO HAVE AGREED THAT MACKIN SHOULD BE DEPORTED. SUBJECT TO A FORMAL DEPORTATION HEARING TODAY, MACKIN WILL BE PUT ON AER LINGUS FLIGHT 104 FOR DUBLIN, LEAVING NEW YORK AT 1945 TOMORROW (30 DECEMBER) AND ARRIVING IN DUBLIN AT 0825 LOCAL TIME ON 31 DECEMBER. HE WILL REMAIN IN CUSTODY IN THE MEANTIME.

3. NEWS OF MACKIN'S IMPENDING DEPORTATION WILL PROBABLY BECOME PUBLIC TODAY. IF QUESTIONED, WE SHALL SAY THAT, IN THE LIGHT OF THE APPEAL COURT'S FINDING THAT IT COULD NOT CONSIDER THE CASE (BECAUSE OF A LEGAL TECHNICALITY) AND IN THE ABSENCE OF GUIDANCE FROM THE APPEAL COURT ON THE SUBSTANCE OF THE CASE IE HOW THE UK/US EXTRADITION TREATY SHOULD BE APPLIED TO TERRORIST CASES, WE HAVE REACHED THE CONCLUSION THAT THERE WOULD BE NO ADVANTAGE IN A SECOND HEARING, IN DISTRICT COURT, WHICH WOULD MERELY COVER ALL THE GROUND TRODDEN IN THE FIRST HEARING. UNATTRIBUTABLY, WE WILL DRAW ATTENTION TO THE LEGISLATION NOW BEFORE CONGRESS WHICH WOULD TAKE THE WHOLE QUESTION OF EXTRADITION AWAY FROM THE COURTS. WE SHALL ALSO POINT OUT THAT IF, PENDING THE PASSAGE OF THE NEW LEGISLATION BEFORE CONGRESS, THE DISTRICT COURT HAD CONFIRMED THE ORIGINAL DECISION IN MACKIN'S FAVOUR, THIS WOULD HAVE SET AN UNDESIRABLE PRECEDENT IN LAW. THE MAGISTRATE'S DECISION, WHILE UNWELCOME, DOES NOT SET ANY PRECEDENTS.

CCN: INFO MO (BELFAST) SHOULD READ NIO (BELFAST)

HENDERSON

LIMITED

NTD

RID

NAD

INFO DEPT

WED

MAED

NEWS D

SECURITY D

FUSD

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PS

PS/LPS

PS/MR HURD

PS/LORD TREFGARNE

PS/FUS

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