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PS/MR HURD	MR WOODFIELD)
PS/PUS	MR BRENNAN)
SIR J BULLARD	MR ANGEL)
MR GOODISON	MR BOYS SMITH)
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HD/RID	SIR R ARMSTRONG)
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NIO

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TO IMMEDIATE FCO

TELEGRAM NUMBER 3614 OF 8 NOVEMBER

INFO IMMEDIATE NIO LONDON NIO BELFAST HMC6 NEW YORK BIS NEW YORK
PRIORITY DUBLIN

BIS NEW YORK TELEGRAM NO 14: NORTHERN IRELAND: NORAIID GUNRUNNING TRIAL

1. AS REPORTED IN TELEGRAM UNDER REFERENCE FIVE MEN, INCLUDING THE DIRECTOR OF NORAIID (MICHAEL FLANNERY), WERE ACQUITTED ON 5 NOVEMBER OF CHARGES RELATING TO THE SHIPMENT OF ARMS TO THE IRA. THE FIVE HAD BEEN INDICTED IN OCTOBER 1981 (MY TEL NO 2956) FOLLOWING A SUCCESSFUL UNDERCOVER OPERATION BY THE FBI. THE FBI HAD BEEN TIPPED OFF THAT ONE OF THOSE LATER CHARGED (HARRISON) HAD BEEN INVOLVED IN GUN RUNNING TO THE IRA. THE FBI USED AN UNDERCOVER AGENT TO NEGOTIATE A SALE OF WEAPONS AND AMMUNITION TO HARRISON, WHO IN TURN OBTAINED THE 17,000 DOLLARS TO PAY FOR THE WEAPONS (WHICH INCLUDED 47 MACHINE GUNS) FROM FLANNERY. HARRISON INDICATED TO THE UNDERCOVER AGENT AT THE TIME THAT...

INCLUDED 47 MACHINE GUNS) FROM FLANNERY. HARRISON INDICATED TO THE UNDERCOVER AGENT AT THE TIME THAT HE WAS EXPECTING A FURTHER 50,000 DOLLARS TO PAY FOR MORE ARMS. ONE OF THOSE USED BY THE FBI TO SET UP THE DEAL WAS A WELL KNOWN GUN DEALER NAMED GEORGE DEMEO, WHO WAS CONVICTED IN 1980 OF ILLEGAL ARMS SHIPMENTS TO THE IRA BUT WHOSE SENTENCE WAS REDUCED IN RETURN FOR HIS WILLINGNESS TO COOPERATE WITH THE US AUTHORITIES.

2. IN COURT, THE ISSUE WAS WHETHER THE DEFENDANTS HAD BREACHED US LAW GOVERNING THE POSSESSION OF UNREGISTERED WEAPONS AND THEIR EXPORT. THE REPREHENSIBLE NATURE OF THE DESIGNATED RECIPIENT WAS NOT, LEGALLY, A FACTOR. NONE OF THE DEFENDANTS CONCEALED THEIR SUPPORT FOR THE IRA AND HARRISON ADMITTED THAT HE HAD QUOTE SUPPLIED ARMS TO THE REBELS IN NORTHERN IRELAND FOR A QUARTER OF A CENTURY UNQUOTE. FLANNERY, WHILE DENYING THE CHARGES, SAID THAT HE HAD AVAILABLE TWO FUNDS - ONE FOR NORAIID AND ANOTHER TO BUY ARMS. THE DEFENCE RESTED ITS CASE ON THE CONTENTION THAT IN SHIPPING ARMS THE ACCUSED DID NOT VIOLATE ANY US LAW BECAUSE THEY BELIEVED THEY WERE ACTING WITH AND THROUGH GEORGE DEMEO WHO, THEY ALLEGED, WAS AN AGENT OF THE CIA AND THEREFORE ACTING ON BEHALF OF THE US GOVERNMENT. ALTHOUGH THE US AUTHORITIES DENIED THAT DEMEO EVER HAD ANYTHING TO DO WITH THE CIA (AND WE HAVE BEEN PRIVATELY ASSURED THAT HE HAD NO SUCH CONNECTION), THE JURY IN THE END ACCEPTED THE BIZARRE ARGUMENT THAT, FOR PURPOSES OF ITS OWN, THE CIA, AS AN AGENCY OF THE US GOVERNMENT, WAS ENGAGED IN, OR AT LEAST PREPARED TO COUNTENANCE, THE UNAUTHORISED SMUGGLING OF ARMS TO THE IRA. THE US PROSECUTOR ALSO BELIEVES THAT THE JUDGE (WHOSE NAME WAS MCLOUGHLIN) WAS BIASED FROM THE START AND TWO OF THE JURORS HAVE SINCE SAID THAT THE JURY LEANED TOWARD ACQUITTAL FROM THE OUTSET. THE AGE OF THE DEFENDANTS (FLANNERY IS 80) MAY HAVE PLAYED A PART IN THIS. UNDER US LAW THE US AUTHORITIES ARE PRECLUDED FROM APPEALING THE COURT VERDICT.

3. AMERICAN LAW LEANS OVER BACKWARDS IN FAVOUR OF THE DEFENDANT AT THE BEST OF TIMES (VIZ THE VERDICT IN THE CASE OF PRESIDENT REAGAN'S ASSAILANT, JOHN HINCKLEY) AND IT HAS ALWAYS BEEN WELL KNOWN IMPOSSIBLE TO SECURE CONVICTIONS ON IRISH QUESTIONS IN THE NEW YORK COURTS. THE SUCCESSFUL ARMS PROSECUTION IN 1980 (AGAINST DEMEO AND OTHERS) TOOK PLACE IN NORTH CAROLINA (WHERE DEMEO LIVED). THE UNITED STATES AUTHORITIES MADE CLEAR TO US AT THE TIME THAT THE LOCATION OF THE TRIAL IE IN A STATE WHERE THERE ARE FEW IRISH AMERICANS, WAS A MAJOR FACTOR IN ITS SUCCESSFUL OUTCOME. FRANK DURKAN, THE LAWYER FOR THE DEFENDANTS IN THE PRESENT CASE, IS CLOSE TO PIRA AND HAS OFTEN BEEN A VISITOR TO NORTHERN IRELAND. HE REGULARLY APPEARS FOR NORAIID AND IRA DEFENDANTS. HIS FIRM REPRESENTED DESMOND MACKIN IN A RECENT IRA EXTRADITION CASE. WE

REPRESENTED DESMOND HACKETT IN A RECENT IRA EXTRADITION CASE. WE HAVE HEARD FROM RELIABLE US SOURCES THAT A NUMBER OF MEMBERS OF THE NEW YORK JUDICIARY OWE THEIR POSITIONS TO DURKAN'S PATRONAGE. WHILE THERE IS EVERYTHING TO BE SAID FOR REGISTERING OUR DISAPPOINTMENT AT LAST WEEK'S OUTCOME, IT WOULD NOT HELP THE PROSPECTS FOR FUTURE ARMS TRIALS (SEE BELOW) FOR US TO SUGGEST ON THE RECORD THAT THE TRIAL WAS A TRAVESTY, TEMPTING THOUGH IT IS TO DO SO.

4. THERE IS TO BE A PRE-TRIAL HEARING IN ANOTHER ARMS CASE LATER THIS WEEK (BEING REPORTED BY SEPARATE TELEGRAM FROM NEW YORK). THAT APART THERE WILL NOW BE A GAP UNTIL THE NEXT IRA ARMS TRIAL OPENS IN NEW YORK ON 24 FEBRUARY. THIS IS THE TRIAL OF FOUR MEN CHARGED WITH CONSPIRACY TO PURCHASE AND EXPORT WEAPONS, INCLUDING 5 SAM MISSILES (MY TEL NO 1124). ALSO DUE TO STAND TRIAL (AT A DATE YET TO BE SET) IS BERNARD MCKEON, WHO WAS FIRST ARRESTED IN 1979 FOLLOWING THE DISCOVERY BY THE IRISH POLICE AT DUBLIN DOCKS OF 151 WEAPONS ORIGINATING IN THE US. MCKEON IS BELIEVED TO HAVE PROVIDED THE WAREHOUSE IN NEW YORK IN WHICH THE WEAPONS WERE STORED BEFORE SHIPMENT. HE HAS LINKS BOTH TO NORAID AND TO THE IRISH NATIONAL CAUCUS.

5. IN BRIEFING BRITISH PRESS REPRESENTATIVES HERE, WE ARE DRAWING A DISTINCTION BETWEEN THE ROLE OF THE US COURTS (OVER WHICH NEITHER WE NOR THE US AUTHORITIES HAVE ANY CONTROL) AND THAT OF THE US AUTHORITIES THEMSELVES, MAKING CLEAR THAT THEIR PURSUIT OF GUNRUNNERS HAS BEEN VIGOROUS AND SUCCESSFUL. WE HAVE POINTED OUT THAT THE IRA'S GUNRUNNING OPERATIONS HAVE BEEN SEVERELY DISRUPTED BY THE FBI'S EFFORTS AND THAT WE HAVE BEEN GETTING GOOD COOPERATION FROM THE PRESENT US ADMINISTRATION. WE HAVE MADE CLEAR THAT WE ARE IN CONSTANT CONTACT WITH THE US AUTHORITIES AT EVERY LEVEL ABOUT NORTHERN IRELAND IN AN EFFORT TO REDUCE THE FLOW OF WEAPONS AND MONEY TO THE TERRORISTS. WE HAVE NOT, HOWEVER, ALLUDED TO THE INTENSIVE WORKING COOPERATION WITH THE FBI WHICH HAS LED TO THEIR RECENT SUCCESSES IN ARRESTING IRA GUNRUNNERS. WERE THE DEFENCE IN SUBSEQUENT TRIALS TO BE ABLE TO DEMONSTRATE WHAT THEY ALLEGED IN THE FLANNERY TRIAL - NAMELY THAT THE US AUTHORITIES HAD BEEN IMPELLED BY OUR REPRESENTATIONS TO BRING THE CASE - ANY CHANCE OF CONVICTION WOULD EVAPORATE AND THE OPERATIONAL EFFECTIVENESS OF THE FBI (WHICH HAS BEEN THE MAIN FACTOR IN DISRUPTING IRA GUNRUNNING) WOULD BE IMPAIRED.

FCO PLEASE ADVANCE TO NO 10 DOWNING STREET.

WRIGHT