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Draft Agreement concerning the application of the European Convention on the Suppression of Terrorism between the Member States of the European Communities.

1. Mr. Kirwan
2. Mr. Nally

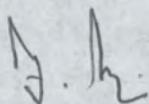
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Our position in so far as the European Convention on the Suppression of Terrorism is concerned was set out by the Taoiseach in his "no haven for terrorists" speech^p delivered on the 27th April last. In this speech, the Taoiseach referred to the declaration made by the Heads of Government of the Nine, at their meeting in Brussels in July, 1976, when they invited their Ministers for Justice to draw up a Convention under which the Nine Member States would undertake to prosecute or to extradite those who take hostages. The principle of aut dedere aut iudicare which Ireland had proposed, should be incorporated in the European Convention on the Suppression of Terrorism which was then under consideration in the Council of Europe, was on the occasion of the Brussels meeting accepted by our partners in the Community. Their attention had been drawn to the constitutional difficulties created for Ireland by a commitment to extradite for political offences as distinct from prosecuting such offences in the country where those concerned are arrested. This difficulty, however, was ignored in the final draft of the Council of Europe Convention which was opened for signature on the 17th January, 1977. We have not, in the circumstances, signed the Convention because of the fact that it is against the spirit of our Constitution and of previous international Conventions on the matter of extradition.

The draft agreement which the Government are now asked to approve provides for the application of the European Convention on the Suppression of Terrorism in relations between the Member States of the European Community, including Ireland which has not ratified that Convention. The draft Agreement had its origins in the Brussels European Council meeting of July, 1976, as already stated, and since then it has been the subject of meetings of Working Groups of officials from the Nine which included in our case representation from the Department of Justice. The draft Agreement, as approved by the Working Group, contains a special provision for Ireland - Appendix I, Article 3.3 - which gives us an unqualified right to try instead of extraditing offenders. This meets with the criteria set down by the Taoiseach in his "no haven for terrorists" speech and is a considerable advance, in so far as we are concerned, on the terms of the European Convention on the Suppression of Terrorism.

Mr. Colwell of the Department of Justice confirmed that his Department had consulted the Attorney General about the terms of the draft Agreement. The Attorney has indicated that this draft Agreement contains no provision which would prevent the State in law from ratifying it. However, as a consequence of our signing and subsequently ratifying the draft Agreement, it will be necessary to introduce legislation on the lines of the Criminal Law (Jurisdiction) Act to provide for extra-territorial jurisdiction in respect of offences covered by the ~~draft~~ Agreement where jurisdiction for such does not exist at present. This, of course, will have to be the subject of a further Memorandum by the Department of Justice following consideration of all the factors involved.

I received notification by telephone of the need to submit this Memorandum for consideration at today's Government meeting yesterday afternoon and received a copy of the Memorandum itself at approximately 4 p.m. As the Memorandum provides for the principle of aut dedere aut judicare and arises directly from the Brussels European Council meeting of July, 1976 and in the light of the Attorney General's concurrence, I indicated to the Department of Foreign Affairs that we had no objection to the terms of the Memorandum.



3 October, 1978.