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SECRET

MESSAGE FROM THE TAOISEACH, MR. CHARLES J. HAUGHEY, T.D.,
TO THE RIGHT HONOURABLE MARGARET THATCHER, M.P., PRIME MINISTER
ON 23RD DECEMBER 1987

A serious problem has arisen in relation to the Extradition arrangements between our two countries. The problem appears to stem from a meeting at official level to discuss the new arrangements and which was held in London on Friday December 18th. I understand that the British officials at that meeting said they had definite instructions as to the limited documentation which would be provided by the British Attorney General for the purposes of the new procedures. This, it was stated, would be a confirmatory note to the effect that the relevant prosecuting authority had the clear intention to bring a prosecution and that such authority had satisfied itself that there was sufficient admissible evidence to found a prosecution.

Such a confirmatory note would not, by itself, be sufficient to meet the requirements of the new Act. This Act requires the Attorney General to direct that a warrant shall not be endorsed unless, having considered such information as he deems appropriate, he is of the opinion that there is a clear intention to prosecute and that such intention is founded on the existence of sufficient evidence. The Act confers on the Attorney General alone the function

of forming these opinions, which must be formed on a basis which complies with the Act. The proposed confirmatory note is, I am advised, sufficient only insofar as the question of an intention to prosecute is concerned.

By letter dated the 15th day of December 1987 the Attorney General conveyed to the British Attorney General that where the question as to the sufficiency of evidence is concerned he must at least have a summary or synopsis of the evidence which is available to the prosecution and a statement concerning the relevant law. What the Attorney General has sought is the very least by way of documentation that he could be expected to require in the light of his duties under the Act.

I am informed that such a summary of the evidence would not be a difficult document to prepare and may well exist, as a matter of routine, on most prosecution files.

You will recall that, at Copenhagen, having acknowledged that the new procedure had not been welcomed by your Government, I expressed confidence that we could make the new arrangements work and said they should be given the opportunity to do so. You responded by indicating that your authorities would give the new system a chance.

I am informed that the present approach on the British side to this matter may have been conditioned, in part at least, by an assurance I am supposed to have given at

a meeting with Ambassador Fenn on 24 November last to the effect that the documentation under the new Act would not be more than the certificate previously envisaged under the suggested non-statutory arrangement. I am afraid there has been a serious misunderstanding here. Mr. Dermot Nally, the Secretary to the Government, who was present during the discussion in question, has noted [the following two statements made by me at separate stages of the discussion:

"All we want is a statement of facts. We want to take a minimalist position."

"What we are concerned about is a minimalist position. The Attorney will form an opinion. It will be his business how he forms that opinion. What is needed is nothing more than the facts: We need a simple statement of the facts. If these are in the certificate, there is no going beyond the certificate."

Those statements are consistent with what I had said in previous meetings with the Ambassador and with what was being said by officials on the Irish side at that stage also.]

Britain has always been and continues to be the most favoured nation under our extradition arrangement. The new procedure is there now and with the traditional co-operation on both sides it can and will work. Security co-operation between our two Governments has never been better than it is at

present. It would be very sad indeed if, against this background, there were to be a breakdown in legal co-operation between us on this simple issue.

The new procedure provided for in our legislation should be given a chance to work. If the procedure is not allowed an opportunity to prove itself, then things clearly will go wrong. The commitment which I gave you, in order to meet the fears on your side, that the satisfactory working of the new arrangements would be reviewed is now enshrined in the legislation itself. We should be under no illusions about the options which would be open to an Irish Government or to Dail Eireann if it transpired that the new procedure had not worked because it had never been given a chance to work in the first place.

While appreciating the concerns which you have expressed concerning the new procedure I believe that what is at issue - the effective transfer of wanted persons from one jurisdiction to the other - is so important to both our countries that we should make every effort to make the new Act work. It is therefore my hope and expectation that the Attorney General will be provided with sufficient information which will enable him to form an opinion as to the existence of sufficient evidence in these cases.