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13 August 1996

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NBPM
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ks 14/8.

BY FAX

Dear Mr Beeton

JIMMY SMITH

1. Many thanks for the advice which you gave me over the telephone this evening. I attach a copy of a letter which I have sent to Mary Ann Peters explaining the position.

2. We subsequently discussed the implications. She raised two points:

(a) she wondered whether the decision of the Court of Appeal in the case of Doherty was necessarily relevant to that of Smyth. The case for Doherty was taken to the Court by the plaintiff, and rejected. But if the Secretary of State was himself to take the initiative, wouldn't that be different? I said that the Secretary of State could hardly ignore the ruling of the Court of Appeal in a similar case a few years earlier, particularly if - as was quite possible - those who thought that Smyth should serve his full sentence decided to challenge the Secretary of State's decision in Court;

(b) she took my point about "no deals", but was attracted by the idea of trying to make something of the decision not to prosecute Smyth for jail-breaking. Could we let her know when this decision was taken? (We would need to make clear that it had nothing to do with any last minute negotiation to get Smyth back to the UK.) She would also like to know whether the ruling was of a generic nature and would therefore apply to the three other extradition cases in the pipeline.

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3. I should be grateful if we could have a further word tomorrow. The White House remain keen to give themselves some kind of political cover with the Irish American Lobby, even though we have taken every opportunity to underline the importance, in their own terms, of the President not appearing equivocal or hesitant on such an open-and-shut terrorist extradition case.

Yours Ever

Peter Westmacott

cc: Mr Stephens NIO(L)
Mr Lamont, RID, FCO
Mr Oakden, No 10
Mr Reid, BIS New York