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SECRETARY OF STATE FOR THE HOME DEPARTMENT

UK/US EXTRADITION TREATY

1. Thank you for sending to me a copy of your minute to the Foreign Secretary concerning the US proposal to delete Article IV.
2. I agree with you that in practice the main advantage of our being able to seek assurances is presentational only. In the Kirkwood case we did not refuse to extradite the offender, even though we did not receive an assurance that the death penalty would not be carried out. I also agree that our ability to obtain certain assurances from the US authorities helped us to satisfy the European Commission on Human Rights that Kirkwood's complaint was inadmissible. Lest there be any misunderstanding, however, I do not think that one should infer from the Commission's decision on admissibility that, had we not sought assurances or had Article IV not existed, the UK would necessarily have been in breach of the Convention. The retention of Article IV should not therefore be seen as essential to satisfy our obligations under the Convention; the seeking of assurances is just one factor which the Commission will take into consideration.
3. I agree with the approach you propose to adopt with the Americans.
4. I am sending a copy of this minute to the Prime Minister, the Lord President, the Foreign Secretary, Secretary of State for Northern Ireland and to Sir Robert Armstrong.

M.H.
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2 April 1985

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