

INTRODUCTION

On November 28, 1995, the Governments of the United Kingdom and the Republic of Ireland issued a Communique which announced the launching of a "twin track" process to make progress in parallel on the decommissioning issue and on all-party negotiations."

One track was "to invite the parties to intensive preparatory talks with a remit to reach widespread agreement on the basis, participation, structure, format and agenda to bring all parties together for substantive negotiations aimed at a political settlement based on consent." This has become known as the political track.

The other track concerned decommissioning, and was elaborated as follows in paragraphs five through eight of the communique:

"5. In parallel, the two governments have agreed to establish an International Body to provide an independent assessment of the decommissioning issue.

6. Recognising the widely expressed desire to see all arms removed from Irish politics, the two Governments will ask the International Body to report on the arrangements necessary for the removal from the political equation of arms silenced by virtue of the welcome decisions taken last Summer and Autumn by those organisations that previously supported the use of arms for political purposes.

7. In particular, the two Governments will ask the Body to:

- identify and advise on a suitable and acceptable method for full and verifiable decommissioning; and
- report whether there is a clear commitment on the part of those in possession of such arms to work constructively to achieve that.

8. It will be for the International Body to determine its own procedures. The two Governments expect it to consult widely, to invite relevant parties to submit their analysis of matters relevant to the

decommissioning issue and, in reaching its conclusions within its remit, to consider such evidence on its merits."

We are the International Body. This is our assessment.

To provide us with sufficient information to meet our remit, we held two series of meetings, in Belfast, Dublin and London; the first December 15 through 18, 1995, the second January 11 through 14, 1996. In addition, we held an organizational meeting in New York on December 9, 1995.

In the course of our meetings we heard orally and in writing from dozens of government officials, political leaders, church officials, and other relevant persons. A list of all those with whom we met is attached as Annex B. We received hundreds of letters and telephone calls from members of the public. We thank all for their submissions. Submissions from those who suffered losses during the period of troubles but are strongly committed to the peace process were especially moving. All the submissions have been carefully reviewed and considered.

DISCUSSION AND RECOMMENDATIONS

I. For nearly a year and a half, the guns have been largely silent in Northern Ireland. People want peace. That is one thing on which all with whom we spoke agreed. It was the dominant theme expressed in the many letters and calls we received from people, north and south, Unionist and Nationalist, Catholic and Protestant, Loyalist and Republican.

Notwithstanding some repugnant lapses, the sustained observance of the ceasefire for nearly a year and a half reflects a commitment by the paramilitary organizations to the peace process. The existence of the ceasefire itself should not be devalued. It is a significant factor which must be given due weight in assessing the commitment of the paramilitaries to "work constructively to achieve" the removal of weapons from the political process.

Since the ceasefires the political debate has focused largely on the differences that have prevented the commencement of all party negotiations intended to achieve an agreed political settlement. This has

tended to obscure the widespread agreement that exists - so widespread, in fact, that it tend to be taken for granted.

The Governments and the relevant parties should not underestimate the value of the consensus for peace, and the fact that no significant group is actively seeking to end it.

II. Confidence-building measures and mutual trust are the keys to continued progress in the peace process. Suggestions made to us on confidence-building measures covered a broad range; many were beyond the remit of the International Body. Confidence-building measures brought up during our discussions that the two Governments and relevant parties could consider in the course of the peace process include, but are not limited to, the following subjects:

- Questions related to prisoners: duration of sentences; transfer of prisoners as appropriate under relevant conventions and agreements; prisoner reintegration into society.
- Punishment beatings: Control and elimination of vigilanteism
- Acceptance of the principle of consent: Changes in constitutional structure with approval of majority only; protection of minority rights.
- Legally held weapons in private hands: Rules and regulations pertaining to possession and use of legally held weapons.
- The status of policing: Role of police in all communities; achievement of goal of unarmed police in concert with evaluation of security situation.
- Emergency legislation: Revision and eventual elimination consonant with evaluation of security situation.
- Commitment of parties to democracy: unambiguous, unconditional devotion to the ideals and practice of democracy.
- Human rights issues: for example, clarification of the fate of "the disappeared."

Different views were expressed to us as to weapons to be decommissioned. In the Communique, the Governments made clear their view that our remit is limited to those weapons held illegally by paramilitary organizations. We accept and share the view that there is no equivalence between such weapons and those lawfully authorized. In this regard, however, we welcome the commitment of the Governments of the United Kingdom and the Republic of Ireland, as stated in paragraph 9 of the Communique, "to continue to take responsive measures, advised by their respective security authorities, as the threat reduces."

III. Several oral and written submissions raised the idea of an elected assembly. We note the reference in paragraph three of the Communique to "whether and how an elected body could play a part." Elected bodies are of course the essence of democracy, offering an opportunity to air differences in a democratic way. Bodies elected in accordance with accepted principles of representation express and reflect the will of the people. The political track is beyond the scope of our remit; nevertheless we emphasize the important role that an elected body with an appropriate mandate and timeline could play in the peace process within the three-strand context in establishing the trust and confidence necessary for an equitable settlement agreed by all parties.

IV. With respect to decommissioning, we are satisfied that everyone with whom we spoke agrees in principle with decommissioning. There are differences on timing and context of decommissioning - indeed it is those differences which led to the creation of this Body - but they should not be allowed to obscure the nearly universal support which exists for decommissioning.

V. With respect to the first of the specific questions contained in paragraph seven of the Communique, the modalities of decommissioning, we recommend the following principles, recognizing that specific details would have to be determined by negotiation:

The decommissioning process should suggest neither victory nor defeat

The decommissioning process should be supervised by, and should take place to the satisfaction of, an independent commission

acceptable to all parties. The commission would be appointed by the British and Irish Governments on the basis of consultations with the other parties to the negotiating process. The commission should be able to operate without hindrance in both jurisdictions, and should enjoy appropriate legal status and immunity.

In addition to having available to it independent sources of legal and technical advice and adequate field resources to receive and audit armaments and to observe and verify the decommissioning process, the commission should have available to it the resources and the relevant technical expertise of the British and Irish Armies.

Individuals or organizations wishing to deposit armaments (including weapons, explosives, ammunition and detonators) for decommissioning, or to provide information which would result in the decommissioning of armaments, would have the option of doing so through the commission or through the designated representatives of the British or Irish Governments.

The decommissioning process should not expose individuals to prosecution

Individuals directly involved in the decommissioning process should be protected from prosecution relating to the possession of those armaments, on the basis of an amnesty established in law in both jurisdictions. Armaments made available for decommissioning, whether directly or indirectly, should be exempt under law from forensic examination, and information obtained as a result of the decommissioning process should be inadmissible as evidence in courts of law in either jurisdiction. Groups in possession of illegal armaments should be free to organize their participation in the decommissioning process as they judge appropriate, e.g. groups may designate particular individuals to deposit armaments on their behalf.

The decommissioning process should contribute to public safety and to generating confidence in the peace process and in all-party negotiations

The decommissioning process could encompass a variety of methods, subject to negotiation, including: the transfer of

armaments to the commission or to the designated representatives of either government, for subsequent destruction; the provision of information to the commission or to designated representatives of either government, leading to the discovery of armaments for subsequent destruction; the depositing of armaments for collection and subsequent destruction, by the commission or by representatives of either government; and the destruction of armaments by those currently in possession of them.

In all cases, the decommissioning process should result in the complete destruction of the armaments. Procedures for the destruction of armaments would include the physical destruction of small arms and other weapons, the controlled explosion of ammunition and explosives and other forms of conventional munitions disposal, within the two jurisdictions. Priority should be accorded throughout to ensuring that armaments are safely handled and stored, and are not misappropriated.

The decommissioning process would be fully verified by the commission, which would record information required to monitor the decommissioning process effectively, other than that which could be deemed to constitute forensic evidence. In monitoring the progress of the decommissioning process, the commission should have available to it the relevant expertise and data of the *Garda Síochána* and the Royal Ulster Constabulary. The commission would report periodically to relevant parties on progress achieved in the decommissioning process.

Decommissioning should occur in the course of all-party negotiations

In view of the attention which the issue of decommissioning has attracted, details regarding the modalities of the decommissioning process, including the timetable for decommissioning, should receive a high priority in the all-party negotiations. One practical measure during the initial stage of the decommissioning process should include the provision of inventories by paramilitary groups, to be followed by the inspection, by the commission, of selected stockpiles. Decommissioning should take place simultaneously between Loyalists and Republicans.

VI. With regard to the second of the two specific questions in paragraph seven of the communique, we have concluded that there is a clear commitment on the part of those in possession of such arms to work constructively to achieve their removal from the political equation as part of the process of all-party negotiations, but not prior to such talks.

The view of the vast majority of the organizations and individuals who made oral and/or written submissions was that a decommissioning of arms would not occur prior to all-party negotiations. This was the unanimous and emphatically expressed view of the representatives of the political parties closely associated with the paramilitary organizations on both sides. Most tellingly, it was the view of the leadership of the security forces, north and south, that the leaders of those political parties could not obtain a prior decommissioning of arms, even if they were willing to do so.

It is possible to debate the morality or wisdom of such a circumstance, but it is nonetheless a fact with which all concerned must deal.

It does not follow that all-party negotiations should begin without further commitment. On the contrary, it is necessary to affirm certain principles and practical requirements to which all parties should commit or recommit before the commencement of such negotiations, and to thereby create the trust and confidence necessary to the success of all-party negotiations.

VII. Accordingly, we recommend that each party to such negotiations publicly express its total and absolute commitment

1. To democratic and exclusively peaceful means of resolving political issues;
2. To renounce any use of force, or threat of the use of force;
3. To the total and verifiable disarmament of all paramilitary organizations, to the satisfaction of an independent third party, as part of the process of all party negotiations, and to accept the need to advance the actual decommissioning of arms in the course of all-party negotiations;

4. To accept and abide by the principle of consent, as contained in the Downing Street Declaration, with respect to any agreement reached by the parties in all party negotiations.

4. [Possible Alternative Language for Principle No. 4: To agree to abide by the terms of any outcome of all party negotiations to which a majority of the people in Northern Ireland and in the Republic of Ireland give their assent and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree.]

5. To not participate in or condone so-called punishment killings and beatings, and to take effective steps to prevent such actions.

In order to be meaningful and effective, such commitments would, of course, have to apply to the paramilitary organizations themselves, as well as to the political parties with which they are closely associated.

The divisions in Northern Ireland are historic and deep, but we believe they are outweighed by the nearly universal longing for a just and lasting peace. The necessary will and resoluteness exist in the people with whom we met, and in the million and a half more we did not meet but whose presence we felt. At this critical moment in their history, we urge their leaders to seize this opportunity.