

Version 5

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 set forth 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."

The International Body is an outside group whose members have no stake in the issue of Northern Ireland other than an interest in seeing an end to the conflict there and the ability of the people of Northern Ireland to live in peace. If we have a useful role to play in the current process it is to bring a fresh and unbiased perspective to the issue. We are motivated solely by our wish to help.

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. This assessment represents our best and our unanimous judgement. There are no differences among us.

Our examination of the issues and of the facts, and the perspectives brought to us by those who have briefed us or who have made written representation to us, convince us that not only is there no simple solution to the problem, but that the factors on which a process for peace must be based are already well-known to the parties involved. While we can indicate the way we believe these factors should be handled, so that decommissioning of arms and a move to all-party talks can proceed, only a resolute approach to the issues by the parties themselves, including the commitment to trust and, where necessary, the acceptance of some degree of risk, will allow substantial progress to be made. It is clear from our discussions and from the submissions received that the depth of pain and distrust among people of both traditions is

such that no single gesture can be sufficient to overcome each community's deep suspicion of the other, and that the trust and confidence required to bring about the removal of the gun from Irish politics can only be developed through a process of engagement involving both words and deeds.

The International Body is aware of the enormous contribution made by individuals and groups in getting the process of peace in Northern Ireland to the stage it is now. The tireless and courageous efforts of Prime Minister Major, and of Taoiseachs Reynolds and Bruton, in brokering the joint agreements in the Downing Street Declaration and the Framework Documents, as well as in the Joint Communique of November 1995, have been essential precursors to any final plan for a lasting peace. So, too, have the individual actions of political parties, of other organizations and of the paramilitary groups themselves in declaring and maintaining the ceasefires.

We have asked ourselves how those who have suffered during the twenty-five years of internal strife can accept the fact that the establishment of a lasting peace will call for collaboration with those they hold responsible for their loss and pain. The events of the past and the continued suffering and bereavement of individuals and of families can never and should never be forgotten. But if the focus is to remain on the past, the past will become the future, and that is something no one can desire. That knowledge alone encourages us in making the suggestions we do in this report, suggestions we know will not please everybody but which nonetheless we feel are necessary in pointing the way towards a lasting solution.

After all our interviews and our reading we remain convinced that the shared will of the vast majority in Northern Ireland and in the Republic is to seek a lasting peace and the establishment of a democratic process of government in which violence or the threat of violence can play no part. We believe that members of both traditions are less far apart on the resolution of their differences than they may believe. The path to an honourable and lasting solution is there for those courageous enough to follow it.

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 reprehensible killings and beatings, 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 tends to be taken for granted. That such widespread agreement exists is tribute to the vision and courage of many people, in particular Prime Minister Major, Taoiseach Bruton and his predecessor Albert Reynolds, Secretary of State for Northern Ireland Mayhew and Irish Minister for Foreign Affairs Spring.

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. We were asked to deal with the issue of decommissioning. It is a serious problem. But it is also a symptom of a larger problem that may be described in a word: trust. Or, more precisely, the lack of trust.

Put simply, neither side trusts the other. If there was one thing common to our meetings it was a litany of reasons, steeped in history, as to why the other side cannot be trusted. As a consequence, even well-intentioned acts are often viewed with suspicion and hostility.

But a resolution of the decommissioning issue - or any other issue - will not be found if the parties resort to their packed arsenals of historical

recriminations. Or, as it was put to us several times, what is really needed is the decommissioning of mindsets in Northern Ireland. In this situation, trust can only be built if all parties are willing to take steps that build confidence in others. This will require courage and involve risk. But the risks of a continued lack of trust are much greater.

That is why we believe it appropriate to discuss some of the many measures that were suggested to us as ways to establish trust and build confidence, even though most are outside the scope of our remit. We do so because we believe that the important objective of all-party negotiations to reach an agreed political settlement cannot be achieved solely by reference to the issue of decommissioning.

The Governments have established a two-track process. Progress on the political track is as essential - perhaps even more essential - as progress on the decommissioning track. Nothing we say or do on decommissioning will by itself achieve the Governments' overall objective of all-party negotiations. That requires action on both tracks. And what both tracks have in common is the absence of trust.

We urge all of the parties to try to understand the reality of and the basis for others' fears and mistrust; and we ask the Governments and the parties to carefully consider how dealing with each of the following matters can help to build the trust that is now so conspicuously lacking. The following list is neither all-inclusive nor in order of importance, but represents the subjects most often raised with us:

-- Questions related to prisoners: We are told that paramilitary prisoners play an important role in shaping the decisions taken by paramilitary leaderships. Additional measures affecting the duration of sentences of paramilitary prisoners, facilitating the transfer of prisoners under relevant conventions and agreements, and assisting the reintegration of prisoners into society could boost trust and confidence.

-- Punishment killings and beatings: Control and elimination of vigilanteism, including alleviation of the circumstances that give rise to such deplorable phenomena, could boost trust and confidence.

-- Acceptance of the principle of consent: This is a fundamental principle of democracy. Any alteration in the status of a political entity can occur only with the consent of the population of that entity. The

principle of consent, as a bedrock of democracy, demands respect for the views of groups that constitute a minority as well as an equitable role in the exercise of political life within that a given political entity.

-- Legally held weapons in private hands: We are told that a review of rules and regulations pertaining to possession and use of legally held weapons to ensure that the principles of fairness and even-handedness apply and to remove perceptions of potential intimidation could boost trust and confidence.

-- The status of policing: We are told that measures to improve the standing of the police in all communities, to increase the participation of minority populations in the force, and strive toward the achievement of the goal of unarmed police, in concert with evaluation of security situation, could boost trust and confidence.

-- Emergency legislation: We are told that review, modification, and, consonant with an evaluation of the security situation, eventual elimination of emergency legislation, could boost trust and confidence.

-- Commitment of parties to democracy: An unambiguous, unconditional devotion to the ideals and practice of democracy is the sine qua non for participation in politics and the maintenance of peace in a civil society.

-- Human rights issues: The fate of the "disappeared" is an example. We are told that an accounting of the fate of those who disappeared as the result of paramilitary activities, including a determination of the location of their remains, could boost trust and confidence.

-- Paramilitary activities: We are told that despite the ceasefire, paramilitaries continue surveillance and targetting, thus sustaining a climate of fear and intimidation. Cessation of such activities could build trust and confidence among the paramilitaries and alleviate the fears and anxieties of the general population. Similarly, adoption of a no-first-strike pledge by all paramilitaries could reduce tensions.

-- Elected assembly: 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. But the importance of establishing trust and building confidence is not. And an elected body with an appropriate mandate and timeline could play a role within the three-strand context in establishing the trust and building the confidence necessary for an equitable settlement agreed by all parties. Accordingly, in the course of all-party negotiations all participants should demonstrate a willingness to engage seriously on the subject of an elected assembly.

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. 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.

IV. 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 the parties themselves through 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 amnesties 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 and other practical confidence-building measures, should receive a high priority in the all-party negotiations. Decommissioning should occur in the course of all-party negotiations and should take place simultaneously between Loyalists and Republicans.

V. With regard to the second of the two specific questions in paragraph seven of the Communiqué, 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 associated with the paramilitary organizations on both sides. We reached this conclusion only after careful consideration based upon intensive discussions of the subject with the Governments, the political parties, the religious leaders, the leadership of the security forces, north and south, and with many others.

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.

Even though there will not be decommissioning prior to all-party negotiations, it does not follow that such negotiations should begin without further commitments by the participants. On the contrary, it is necessary to affirm certain principles and practical requirements to which all parties should adhere before the commencement of such negotiations, in order to create the trust and confidence necessary to the success of all-party negotiations.

VI. 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 for themselves, and to oppose any effort by others, to use force, or threaten the use of force, to influence the course of or the outcome of all party negotiations
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 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, respectively, 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.

VII. A commitment to these principles by all of the parties would be significant. Those who seek decommissioning prior to all-party negotiations do so out of fear that those political parties associated with paramilitary organizations will use force or threaten to use force, to get their way in the negotiations, or to change any aspect of the outcome of negotiations with which they disagree. Given the history of Northern Ireland, this is not an unreasonable fear.

The commitments we recommend deal directly with those concerns. Each party to the negotiations would publicly express its total and absolute commitment, first in general terms to democratic and exclusively peaceful means of resolving political issues; and then in the specific context of the negotiations, (a) to renounce for themselves, and to oppose any effort by others, to use force, or to threaten the use of force, to influence the course or outcome of such negotiations; and (b) to abide by any outcome of such negotiations and to use democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they disagree.

This latter commitment expresses the principle of consent: the fundamental understanding that the future of Northern Ireland must be decided by the people of Northern Ireland.

We have been told repeatedly that this principle is one of profound significance and that until now it has not been accepted by all parties. If they do so now, it will be for the first time, and it will be a major step in helping to create a climate of trust for all-party negotiations.

Taken together, these commitments, if made and honored, would effectively preclude the use of force, or the threat of the use of force, before, during, and after all-party negotiations. They should enable all parties to enter negotiations with confidence that force will not in any way be a factor. That alone should lead to meaningful negotiations.

But the principles we recommend go further. They would also require all parties to commit 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 accept the need to advance actual decommissioning in the course of such negotiations. These too would be significant steps in the confidence-building process.

The final principle deals with punishment killings and beatings. These brutal actions have been rightly condemned by the Governments, religious and community leaders, and many others. They contribute substantially to the fear that those who have used violence to resolve political issues in the past will do so again in the future. Participants in all-party negotiations would commit not to participate in or condone such acts and to take effective steps to prevent them from occurring.

Taken as a whole, the public commitment of all participants to these principles - some of them for the first time - should be a sufficient basis for all participants to enter into all-party negotiations, secure in the knowledge that it will be truly an exercise in democracy, not a process skewed by violence, or the threat of violence. That will be progress.

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. In the words of one of those with whom we spoke: "The single most potent force in Irish life today is the desire for peace." If that is true, and we hope it is, then there is an opportunity to translate that desire into the reality of peace. The will and resoluteness necessary to achieve that peace 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.

