Version 6

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."

We who constitute the International Body form an outside group with no stake in the issue of Northern Ireland other than an interest in seeing an end to the conflict there and in the ability of its people 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 , 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 A. 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 commited 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 negotiations 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 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.

We are 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 Bruton and |Reynolds have been essential precursors to a lasting peace. We recognize as well have the individual actions of some political parties and their leaders and of other institutions, organizations, and individuals in the promotion of peace.

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 which may 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 is to seek a just and lasting peace and the establishment of a democratic process of government in which violence or the threat of violence can play no part. Members of both traditions may be less far apart on the resolution of their differences than they believe. The path to an honorable and lasting solution is there for those courageous enough to take 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 reprehensible punishment killings and beatings which have occurred, 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.

No one should 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. Common to many of our meetings were arguments, 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.

III. 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 Siochana* 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 practical confidence-building measures and a timetable for decommissioning, 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 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 negotiations.

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 close to 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. On the basis of our discussions, we are satisfied that

all parties that would participate in all-party negotiations are able to reaffirm commitment to such principles.

VI. Accordingly, we recommend that each party to such negotiations publicly reaffirm 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, and to agree that decommissioning of arms should occur 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. Not to 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 to which they are close.

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 concern 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 concern.

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 all parties do so now, it would be for the first time, and it would 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 help 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.

We note for the record that, in the course of our discussions, subjects were brought up to us that are relevant to the peace process but beyond our remit. We make no recommendations but observe that subjects such as (but not limited to) paramilitary prisoners, legally held weapons in private hands, policing, emergency legislation, and human rights issues (for example, the fate of the "disappeared") offer further opportunities to build the trust and confidence that are the keys to a just and lasting peace. In this connection, we welcome the commitment of the two Governments, as stated in paragraph nine of the Communique, "to continue to take responsive measures, advised by their respective security authorities, as the threat reduces."

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." Bodies elected in accordance with accepted principles of fair and equitable representation express and reflect the will of the people. As noted, the political track is beyond the scope of our remit. But the importance of establishing trust and building confidence is not. An elected body chosen at a proper time and with an appropriate mandate could be a step, within the three-strand context, in the ongoing process of establishing trust and building confidence.

A final word: 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." We are certain there is an opportunity to translate that desire into the reality of peace.