Eleventh Draft

INTRODUCTION

On November 28, 1995, the Governments of the United Kingdom and the Republic of Ireland issued a Communiqué 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 - deleted) in** the Communiqué:

" 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 an outside group with no stake **(in the issue of-deleted)** 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. **Our** role **(to play-deleted)** in the current process **(it-deleted)** 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 **(comma-deleted)** in Belfast, Dublin and London; the first December 15 through 18, 1995, the second January 11 through 21, 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. We received hundreds of letters and telephone calls from members of the public. We thank all for their submissions. **Contributions** from those who suffered losses during the **time** 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-deleted)** briefed us or who **(have-deleted)** made written representations to us, convince us that while there is no simple solution to the problem, the factors on which a process for peace must be based are already **known**. We can indicate the way we believe these factors should be addressed, so that decommissioning of arms and **(a move to- deleted)** all-party negotiations can proceed, **but** only resolute **action** by the parties themselves **will** produce progress.

That noted, we are aware of the enormous contribution already made by individuals and groups in getting the process of peace in Northern Ireland to **its current** stage. The tireless and courageous efforts of Prime Minister Major, and of Taoiseachs Bruton and Reynolds **are** essential steps to a lasting peace. We **commend** as well 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 **many** 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 remains on the past, the past will become the future, and that is something no one can desire. That knowledge encourages us in making our recommendations.

(After all our study-deleted) We are convinced that the **(shared-deleted)** will of the vast majority in Northern Ireland is to seek **(a just-deleted)** and lasting peace **and reconciliation (and the establishment of a democratic process of government-deleted)** in **a society in** which violence or the threat of violence plays 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-deleted)**

DISCUSSION AND RECOMMENDATIONS

I. For nearly a year and a half, the guns have been largely silent in Northern Ireland. **All with whom we spoke agreed that people want peace.** 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 recent reprehensible punishment killings and beatings, the sustained observance of the ceasefires **(for nearly a year and a half-deleted)** reflects a commitment by the paramilitary organizations to the peace process. The existence of the ceasefires **(itself-deleted)** 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 cease-fires 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 **circumstance** has obscured 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 recrimination. Or, as it was put to us several times, what is really needed is the decommissioning of mindsets in Northern Ireland. **Establishing trust** 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 the timing and context **(of decommissioning-deleted)** - indeed those differences led to the creation of this Body - but they should not be allowed to obscure the nearly universal support which exists for **the total disarmament of all paramilitary organizations**.

IV. With respect to the first of the specific questions contained in paragraph seven of the Communiqué, the modalities of decommissioning, we recommend the following principles. **These recommendations reflect what we understand to be accurate estimates of the nature and scale of the arsenals in question.** We

believe **the principles** should be acceptable to all **(parties-deleted)** who would participate in the negotiations. The **(specific-deleted)** details would have to be determined by the parties themselves through negotiation.

1. The decommissioning process should suggest neither victory nor defeat

The decommissioning process should be **verified** 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 **be able to call upon** the resources and the relevant technical expertise of the British and Irish Armies**, when it is appropriate.**

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. Parties would also have the option of destroying their weapons themselves, **subject to verification by** the commission.

2. 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.

3. 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-deleted)** process effectively, other than that which could be deemed to constitute forensic evidence. In monitoring **progress,** the commission should have available to it the relevant **(expertise-deleted)** 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.

4. Decommissioning should be mutual

Details regarding the implementation of the decommissioning process, including supporting confidence-building measures and its

timing and sequencing, should receive a high priority in the process of all-party negotiations. Decommissioning would take place on the basis of the mutual commitment and participation of the paramilitary organizations.

V. The second specific question to which we were asked to respond was "to report whether there is a clear commitment on the part of those in possession of such arms to work constructively to achieve [full and verifiable decommissioning]."

We are unable to answer that question without reference to timing. That is because we have concluded that there is a clear commitment on the part of those in possession of such arms to work constructively to achieve full and verifiable decommissioning as part of the process of all-party negotiations; **that commitment does not include decommissioning prior** to such negotiations.

We **conclude** that there will be no prior decommissioning only after careful consideration, based upon intensive discussions with the Governments, the political parties, religious leaders, the leadership of the security forces, north and south, and many others. That was the view of the vast majority of the organizations and individuals who made oral and written submissions. It was the unanimous and emphatically expressed view of the representatives of the political parties close to the paramilitary organizations on both sides.

The morality or wisdom of such a circumstance is the subject of intense debate, but it is nonetheless a fact with which all concerned must deal.

On this crucial issue, two competing arguments were **made to us.**

One was that decommissioning of arms must occur prior to all-party negotiations. We were told that **the clearest demonstration of adherence to democratic principles and of a permanent end to the use of violence is the safe removal and disposal of illegally held arms; and that at this time only a start to decommissioning will provide the confidence necessary for all-party negotiations to commence.** In this view, all parties were aware of the necessity of prior decommissioning before the ceasefires were announced and no party should now be able to avoid that requirement, however difficult it may be.

The competing argument was that decommissioning of arms prior to all-party negotiations was not requested before the announcement of the ceasefires; indeed, if it had been, there would have been no ceasefires. Those who entered into **the** ceasefires did so in the good faith belief that they would lead directly and immediately to all-party negotiations; and the request for prior decommissioning, seriously pursued for the first time months after the ceasefires, is merely a tactic to delay or deny all-party negotiations. In this view, the ceasefires having been **(announced and-deleted)** maintained **(now-deleted)** for nearly a year and a half, all-party negotiations should begin immediately, with no further requirements.

We accept **part of** each argument.

From those who demand prior decommissioning we accept the need for something to provide the **confidence necessary** to enable all-party negotiations to begin.

From those who oppose decommissioning we accept the reality that prior decommissioning will not occur.

This means that something other than prior decommissioning is needed to create the **(trust -deleted)** and confidence necessary to begin all-party negotiations. Indeed, the absence of prior decommissioning increases the need to address the concerns of those who demand it. They are entitled to have the shadow of violence lifted from all-party negotiations.

This can be done by public commitment and adherence to fundamental principles of democracy and non-violence. All those who aspire to participate in all-party negotiations should affirm their commitment to such principles.

VI. Accordingly, we recommend that **the parties** to such negotiations publicly affirm **their** total and absolute commitment:

1. *To urge that punishment killings and beatings stop, and to take effective steps to prevent such actions.*

2. *To democratic and exclusively peaceful means of resolving political issues;*

3. *To the total disarmament of all paramilitary organizations;*

4. *To agree that such disarmament must be verifiable to the satisfaction of an independent commission;*

5. *To agree that some decommissioning of arms should occur in the process of all-party negotiations;*

6. *To renounce for themselves, and to oppose any effort by others, to use force, or threaten the use of force, to influence the course or the outcome of all-party negotiations;*

7. *To agree to abide by the terms of any agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree.*

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-deleted)**

VII. A commitment to these principles by all of the parties would be significant. Those who demand decommissioning prior to all-party negotiations do so out of concern that **the paramilitaries will use force, or threaten the use of force, to enable the political parties close to them to influence** 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 **address those** concerns **directly**. **First,** each party to the negotiations would publicly affirm its total and absolute commitment, in general terms to democratic and exclusively peaceful means of resolving political issues. **Second**, in the specific context of the negotiations, **each party would agree** (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 **the terms of any agreement reached in** such negotiations and to use democratic and exclusively peaceful

methods in trying to alter any aspect of that outcome with which they disagree.

Taken together, these commitments, **when** 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 disarmament of all paramilitary organizations, **to agree** that such disarmament must be verifiable to the satisfaction of an independent **commission**; and to agree that some decommissioning of arms should occur in the process of such negotiations. These too would be significant steps in the confidence-building process.

The **other** principle deals with punishment killings and beatings. We join the Governments, religious and community leaders, and many others in condemning these brutal actions. 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 to urge that such acts stop and to take effective steps to prevent them in the future.

Taken as a whole, the public commitment **(of all participants-deleted)** to these principles 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 **influenced** by violence, or the threat of violence. That **would constitute real** progress.

VIII. **It will be important for all participants to take practical steps to build confidence throughout the process of all-party negotiations. In the course of our discussions, subjects were raised which are relevant to the peace process and to the development of trust. We believe it appropriate to address some of these measures, since an agreed political settlement resulting from all-party negotiations cannot be achieved solely by reference to the issue of decommissioning.**

Support for the use of violence is incompatible with participation in the democratic process. The early termination of paramilitary activities, including surveillance and targeting, would demonstrate the parties' commitment to peaceful methods and so build trust among other parties and alleviate the fears and anxieties of the general population. So, too, would the provision of information on the status of missing persons, and the return of those who have been exiled.

Early action by the Governments in implementing agreements regarding the transfer of relevant prisoners between jurisdictions would bolster trust, as would implementation of the proposed review of emergency legislation, consistent with the evolving security situation.

Different views were expressed as to the weapons to be decommissioned. In the Communiqué, 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. However, in the context of building mutual confidence, we welcome the commitment of the Governments, as stated in paragraph nine of their Communiqué, "to continue to take responsive measures, advised by their respective security authorities, as the threat reduces."

Likewise, a review of the situation with respect to legally registered weapons would contribute to the building of trust. We also share the hope, expressed to us by the Royal Ulster Constabulary, that policing in Northern Ireland can be normalized as soon as possible.

Several oral and written submissions raised the idea of an elected body. We note the reference in paragraph three of the Communiqué 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. **To be part of the peace process, an elected body should include the requisite parties, operate within the three-strand process, and serve only to facilitate agreement on all three strands.**

IX. 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." It is that force which creates the present opportunity. Bold and courageous leadership can now translate the desire for peace into the reality of peace.