

DRAFT FIFTEEN

INTRODUCTION

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2. One track was to involve the parties in a series of preliminary talks with a view to reaching a settlement on the basis of participation, structure, content and scope of the talks. The other track was to involve representatives of all parties in a process of negotiation based on consent. This has been the basis of the Commission's work.

3. The other track concerned disarmament and was set out in the following in the Commission's report.

4. In parallel, the two governments have agreed to establish an international body to provide an independent assessment of the disarmament issue.

5. Recognising the widely expressed desire to see arms removed from Irish politics, the two Governments have asked the International Body to report on the arrangements necessary for the removal of the political equation of arms supplied by violence and the welcome decision to take arms from the streets and out of the hands of organisations that previously supported the use of arms for political purposes.

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7. identify and advise on a suitable and acceptable mechanism for full and verifiable disarmament, and

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- 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."

4. We are that Body. This is our report. We are an outside group with no stake in Northern Ireland other than an interest in seeing an end to the conflict and in the ability of its people to live in peace. Our role is to bring an independent perspective to the issue. We are motivated solely by our wish to help.

5. 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 21, 1996. In addition, we held an organisational meeting in New York on December 9, 1995.

6. In the course of our meetings we heard orally and in writing from dozens of government officials, political leaders, church officials, and other organisations, institutions, and individuals. 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.

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

8. Our examination of the issues and of the facts, and the perspectives brought to us by those who briefed us or who 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 all-party negotiations can proceed, but only resolute action by the parties themselves will produce progress.

9. 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 John Major and *Taoiseach* John Burton (and before him Albert 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, organisations, and individuals in the promotion of peace.

10. We considered our task in the light of our responsibility to all of the people of Northern Ireland; the need for the people to be reassured that their democratic and moral expectations should be able to be realised; and in the spirit of serious efforts made by the British and Irish governments to advance the peace process.

DISCUSSION

11. For nearly a year and a half, the guns have been silent in Northern Ireland. All with whom we spoke agreed that people want peace. They want lasting peace and reconciliation in a just society in which paramilitary violence plays no part. That 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.

12. 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. Surely 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.

13. Notwithstanding recent reprehensible "punishment" killings and beatings, the sustained observance of the cease-fires 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" full and verifiable decommissioning.

14. 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 that it tends to be taken for granted. In fact, members of both traditions may be less far apart on the resolution of their differences than they believe.

15. No one should underestimate the value of the consensus for peace, and the fact that no significant group is actively seeking to end it.

16. In paragraph five of the Communiqué we were asked to provide an independent assessment of the decommissioning. It is a serious problem. It is also a symptom of a larger problem: the absence of trust. 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.

17. But a resolution of the decommissioning issue - or any other issue - will not be found if the parties resort to their vast inventories of historical recrimination. Or, as it was put to us several times, what is really needed is the decommissioning of mind-sets in Northern Ireland.

18. However the issue of decommissioning is resolved, that alone will not lead directly to all-party negotiations. Much work remains on the many issues involved in the political track. The parties should address those issues with urgency.

19. Everyone with whom we spoke agrees in principle with the need to decommission. There are differences on the timing and context -- indeed, those differences led to the creation of this Body -- but they should not

obscure the nearly universal support which exists for the total and verifiable disarmament of all paramilitary organisations. That must continue to be a paramount objective.

RECOMMENDATIONS: PRINCIPLES

20. To reach an agreed political settlement and to take the gun out of Irish politics, there must be public commitment and adherence to fundamental principles of democracy and non-violence. Those who aspire to participate in all-party negotiations should affirm their commitment to such principles.

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

- a. *To democratic and exclusively peaceful means of resolving political issues;*
- b. *To the total disarmament of all paramilitary organisations;*
- c. *To agree that such disarmament must be verifiable to the satisfaction of an independent commission;*
- d. *To renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations;*
- e. *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; and,*
- f. *To urge that "punishment" killings and beatings stop and to take effective steps to prevent such actions.*

22. The need for this last principle has become especially clear to us since we began our work. We join the Governments, religious leaders, and many others in condemning "punishment" killings and beatings.

They contribute to the fear that those who have used violence to pursue political objectives in the past will do so again in the future. They have no place in a lawful society.

23. Those who demand decommissioning prior to all-party negotiations do so out of concern that the paramilitaries will use force, or threaten to use force, 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.

24. The principles we recommend address those concerns directly. 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. With specific reference to the negotiations, each party would agree to renounce the use or threat of force to influence the negotiations or to change the outcome.

25. The principles would also commit all parties to the total disarmament of all paramilitary organisations, and to agree that such disarmament must be verifiable to the satisfaction of an independent commission.

26. These commitments, when made and honoured, would remove the threat of force before, during and after all-party negotiations. They would focus all concerned on what is ultimately essential if the gun is to be taken out of Irish politics: an agreed political settlement and the total and verifiable disarmament of all paramilitary organisations. That should encourage the belief that the peace process will truly be an exercise in democracy.

COMMITMENT TO DECOMMISSIONING

27. The second of the specific questions in paragraph seven of the Communiqué asks us "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.

28. 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; but that commitment does not include decommissioning prior to such negotiations.

29. After careful consideration, on the basis of intensive discussions with the governments, the political parties, religious leaders, the security forces, and many others, we have concluded that the paramilitary organisations will not decommission any arms prior to all-party negotiations. That was the unanimous and emphatically expressed view of the representatives of the political parties close to paramilitary organisations on both sides. It was also the view of the vast majority of the organisations and individuals who made oral and written submissions. It is not that they all are opposed to prior decommissioning. To the contrary, many favour it. But they are convinced that it will not happen. That is the reality with which all concerned must deal.

30. On prior decommissioning, competing views were advanced. 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 cease-fires were announced and no party should now be able to avoid that requirement.

31. We were told, in the competing view: that decommissioning of arms prior to all-party negotiations was not requested before the announcement of the cease-fires, and that it had been, there would have been no cease-fires; that those who entered into cease-fires did so in the belief that they would lead immediately to all-party negotiations; and that the request for prior decommissioning, seriously pursued for the first time months after the cease-fires, is merely a tactic to delay or deny such negotiations. In this view, the cease-fires having been maintained for

nearly a year and a half, all-party negotiations should begin immediately, with no further requirements.

32. We believe that each side of this argument reflects a core of reasonable concern which deserves to be understood and addressed by the other side.

33. Those who insist on prior decommissioning need to be reassured that the commitment to peaceful and democratic means by those formerly supportive of politically motivated violence is genuine and irreversible, and that the threat or use of such violence will not be invoked to influence the process of negotiations or to change any agreed settlement.

34. Those who have been persuaded to abandon violence for the peaceful political path need to be reassured that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their tradition and the need for new political arrangements with which all can identify.

35. Clearly, new approaches must be explored to overcome this impasse. That is the purpose of the six principles we recommend. They invoke a comprehensive commitment to democracy and non-violence that is intended to reassure all parties to the negotiations.

36. The parties could also consider an approach under which some decommissioning would take place as a part of the process of all-party negotiations, rather than before or after as the parties now urge.

37. Such an approach would represent a middle course. It offers each side the opportunity to participate in a reasonable compromise that enables all to move forward to all-party negotiations leading to an agreed political settlement.

RECOMMENDATIONS: GUIDELINES ON THE MODALITIES OF DECOMMISSIONING

38. With respect to the first of the specific questions contained in the Communiqué, we recommend the following guidelines on the modalities of decommissioning. these recommendations are realistic in light of the nature and scale of the arsenals in question, estimates of which were provided to us by the governments and their security forces. we believe these estimates to be accurate.

A. *The decommissioning process should suggest neither victory nor defeat.*

39. The cease-fires and the peace process are products not of surrender but rather of a willingness to address differences through political means. This essential fact should be reflected clearly in the modalities of the decommissioning process, which should not require that any party be seen to surrender.

40. The details of decommissioning, including supporting confidence-building measures, timing and sequencing, have to be determined by the parties themselves and should receive high-priority in all-party negotiations.

B. *The decommissioning process should be verified by an independent commission.*

41. 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.

42. The commission should be able to operate independently 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.

43. Individuals or organisations wishing to deposit armaments (including weapons, explosives, ammunition and detonators) for decommissioning, or to provide information which could result in the decommissioning of armaments, should have the option of doing so through the commission or through the designated representatives of the British or Irish Governments. Parties should also have the option of destroying their weapons themselves, subject to verification by the commission.

44. The commission would record information required to monitor the process effectively. The commission should have available to it the relevant data of the *Garda Síochána* and the Royal Ulster Constabulary. It would report periodically to relevant parties on progress achieved in the decommissioning process.

C. *The decommissioning process should not expose individuals to prosecution.*

45. Individuals involved in the decommissioning process should not be prosecuted for the possession of those armaments; amnesties should be 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 organise their participation in the decommissioning process as they judge appropriate, e.g. groups may designate particular individuals to deposit armaments on their behalf.

D. *The decommissioning process should contribute to public safety.*

46. 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.

47. 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. Priority should be accorded throughout to ensuring that armaments are safely handled and stored, and are not misappropriated.

E. Decommissioning should be mutual.

48. Decommissioning would take place on the basis of the mutual commitment and participation of the paramilitary organisations. This offers the parties an opportunity to use the process of decommissioning to build confidence one step at a time during negotiations.

FURTHER CONFIDENCE-BUILDING

49. It will be important for all participants to take steps to build confidence throughout the peace process. In the course of our discussions, many subjects, other than decommissioning, were raised which are relevant to the process and to the development of trust. We make no recommendations on them since they are outside our remit. But we believe it appropriate to address some of them, albeit briefly, since success in the peace process cannot be achieved solely by reference to the issue of decommissioning.

50. 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 a 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.

51. Early action by the Governments on prisoners would bolster trust, as would implementation of the proposed review of emergency legislation, consistent with the evolving security situation.

52. 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 organisations. We accept and share the view. There is no equivalence between such weapons and those lawfully authorised. However, in the context of building mutual confidence, we welcome the commitment of the Governments, as stated in paragraph nine of the Communiqué, "to continue to take responsive measures, advised by their respective security authorities, as the threat reduces."

53. We share the hope, expressed by the Royal Ulster Constabulary, that policing in Northern Ireland can be normalised as soon as feasible. A review of the situation with respect to legally registered weapons, the use of plastic bullets, and balanced representation in the police force, would contribute to the building of trust.

54. 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". Given the overwhelming commitment to peace, the circumstances could be created for the decommissioning process to proceed during all-party negotiations, within the three-strand structure on which the parties have already agreed. The confidence to achieve these could in turn be created by a broadly acceptable elective process.

55. Finally, in our meetings, the social and economic development of Northern Ireland and its communities was emphasised time and again in the context of building confidence and establishing a lasting peace.

CONCLUDING REMARKS

56. 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.

57. Last week we stood and looked at in the centre of Belfast looking at a thirty foot high wall topped with barbed wire. That wall, which has ironically come to be known as the "peace line," is a tangible symbol of the division of Northern Ireland into two warring groups. To the outsider both are warm generous, friendly. It is only with themselves that they are fearful and hostile.

58. Yet, it is now clear beyond doubt that the vast majority of the people of both traditions want to turn away from the bitter past. They want a future of peace, equality and prosperity. There is a powerful desire for peace in Northern Ireland. It is that desire which creates the present opportunity.

59. This is a critical time in the history of Northern Ireland. Either the peace process will move forward or this society could slip back to the horror of the past quarter century.

60. Rigid adherence by the parties to their past positions will simply continue the stalemate which has already lasted too long. In a society as deeply divided as Northern Ireland, reaching across the peace line requires a willingness to take risks for peace.

61. We urge the parties to consider the issue of decommissioning - indeed all of the issues - in this light.