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MEETING OF LIAISON SUB-COMMITTEE ON DECOMMISSIONING WEDNESDAY 25 MARCH 1998 (12.12)

CHAIRMAN: Mr Holkeri

THOSE PRESENT: International Independent Commission
British Government
Irish Government

Alliance
Labour
Northern Ireland Women's Coalition
Progressive Unionist Party
Sinn Féin
Social Democratic & Labour Party
Ulster Democratic Party
Ulster Unionist Party

1. The Chairman convened the meeting at 12.12 and told participants that, due to the heavy burden on the notetakers, the minutes of the previous meeting on 25 February would be circulated in the next few days. He added that, at that last meeting, a presentation and preliminary discussion had taken place on the draft legislation brought forward by both Governments and it had been agreed that a further meeting should be scheduled to take account of any further comments from participants on these issues. The Chairman said, by way of commencing this session, that he would ask the Commission to provide some opening comments.

2. The Commission recalled that this meeting of the Sub-committee, originally scheduled for two weeks ago, had been postponed to allow

participants more opportunity to review detailed schemes and regulations that both governments had introduced at the 25 February meeting. The Commission then brought participants up to speed with its activities since the last meeting. Essentially it had now completed its preparatory tasks, with standard operating procedures in place, an operational centre in each jurisdiction set up, discussions with forensic scientists in both locations carried out and acquisition of commercial sources for vehicles and equipment explored. The Commission said it now believed it could handle decommissioning as and when required and it had given this overview to the review Plenary the previous day. The Commission said it would be happy to respond to any points from the participants on these and any other related matters.

3. The British Government said it supported the compromise approach to decommissioning set out in the Report of the International Body, which envisaged some decommissioning during the course of the negotiations. It believed this could be a major contribution to confidence building and the momentum towards agreement. It had therefore taken a range of practical steps to make it possible. It had worked with the Irish Government, the Independent International Commission on Decommissioning and with the Liaison Sub-committee to put in place the necessary practical arrangements to enable decommissioning to happen in a safe and orderly manner consistent with the proposals of the International Body.

4. The British Government said these arrangements included activity taken forward by its predecessor, including, in February 1997,

framework decommissioning legislation enacted in both jurisdictions to ensure that those genuinely wished to decommission illegal arms could do so without fear of prosecution for offences, such as possession, arising directly from the decommissioning process. In August 1997 both Governments signed an international agreement establishing the Independent International Commission for Decommissioning. In September 1997 the Commission began its work in parallel with the launch of substantive talks: both Parliament and the Dail passed measures giving the Commission certain privileges and immunities to enable it to carry out its task. In December 1997 the Commission presented its views on how decommissioning might take place to the specially established Liaison Sub-committee. In January 1998, after discussion in the Sub-committee, the Commission formally submitted to the two Governments its report containing its recommendations on how decommissioning might occur. Both Governments accepted the recommendations. In February 1998, both Governments presented to the Sub-committee their proposals on how they intended to give effect to the Commission's recommendations. These proposals took the form, in the British case, of a draft scheme for decommissioning, and in the case of the Irish Government, of draft regulations. The intent behind the documents was identical.

5. The British Government said it had made an Order enabling it to give immediate effect to a scheme. This Order had come into force the previous day. Some schemes for decommissioning had been drawn up and all the necessary legislative and other preparations had been made.

Participants now had had the opportunity to consider the steps that had been taken and how to take these forward.

6. Summarising the British Government said there was no obstacle to the decommissioning of illegal weapons as soon as those holding such weapons were brought to accept the need to commence decommissioning.

7. The Irish Government said it was pleased to be present again and to be participating in the work of the Sub-committee. As everyone was aware, it presented at the last meeting the Draft Regulations - entitled the Decommissioning Act, 1997 (Decommissioning) Regulations, 1998 - which would enable the proposals made by the Independent International Commission on Decommissioning for decommissioning schemes to be given legal effect in its jurisdiction. Once again it wished to express its gratitude to the Commission for the work and the thought which it had put into its proposals. It was a measure of their quality that they had met with such a general welcome from participants.

8. The Irish Government said on the occasion of the last meeting that a preliminary discussion of the Draft Regulations and the corresponding British draft scheme had taken place. It was hoped that the discussion of the drafts could be concluded today. Following conclusion of this debate, it, along with British colleagues, would consider any points made by participants and would make any necessary amendments to the drafts. The texts of the Regulations and the scheme would then be in their final form and would be available to be made as and when

required. This could be done at very short notice. Participants would by now have had the opportunity to consider the contents of the Draft Regulations in some detail. The Irish Government and its officials were happy to listen and respond to any questions or comments which participants might have.

9. The Chairman indicated that the floor was now open for a general discussion. Labour said the issue of decommissioning had been discussed extensively yesterday in the review Plenary and a further meeting on it was scheduled for Monday. The party said it wished to clarify the position on "immunity" in the legal sense and asked both Governments whether each required a commencement order to bring their respective scheme and regulations into force, thereby legally creating the immunity provisions. The party viewed this as a crucial and important issue since it believed the absence of immunity to date was hindering progress on the achievement of any decommissioning.

10. The Irish Government confirmed that there was provision for immunity in Sections 5 and 6 of its legislation. These would require a commencement order but this could be handled at extremely short notice. The British Government said it was in a similar position with its legislation. As soon as people wished to avail of the decommissioning scheme and were genuine in this regard, a commencement order could be signed quickly. The British Government said the immunity provisions could not be invoked before a genuine act of decommissioning was on offer since to do so would mean suspending criminal law.

11. The SDLP thanked the Commission for all its work. The party said while it was obvious that no progress had been made on the actual decommissioning of weapons, both Governments and the Commission had done what they had to do. On the political front, given the progress that was being made across all three Strands, participants hoped that a package could be agreed and it would in these circumstances be a great confidence building measure if those holding arms would decommission them. The SDLP said it also welcomed the comments from both Governments today.

12. Alliance said it had no further queries with regard to the regulations and schemes. It wished to place on record its thanks for the work of the Commission and both Governments in this regard. The party said it shared the British Government's view that no obstacle lay in the path of decommissioning save the will of those holding arms to take such a decision. Everyone had agreed and supported the contents of the Procedural Motion on 24 September and recognised therefore that it was an important issue which needed to be addressed. Furthermore it was an issue which would create destabilisation if it was not addressed properly and participants had to be wary of this. Alliance said the ball was now entirely in the court of those who had control or influence over the weapons. It urged these people to take the issue extremely seriously. What was required from them were realistic proposals on how to move forward on the matter.

13. The NIWC congratulated the Commission and both Governments for their work to date. It was optimistic that decommissioning would happen. The party would continue to urge those people to hand over their weapons since it believed everyone had a role to play in creating the conditions for decommissioning.
14. Sinn Féin said it too appreciated the work of the Commission and the two Governments on the matter. There was no doubt that comprehensive consideration had been given to the whole issue and it accepted that both Governments had now provided the legislative framework and the mechanics under which decommissioning could take place. However, Sinn Féin said it did not have any weapons. It was present solely on the basis of representing its constituents. It did wish to see decommissioning as part of an overall settlement but furthermore wished to see total demilitarisation occurring in this context as well.
15. The PUP also recognised the work of the Commission as being very thorough. The details brought forward to encourage decommissioning, including conditions such as “immunity”, were to be very much welcomed. The party was still disappointed by the earlier comments from Alliance which had proposed an “over to you now” approach. The PUP said it had also heard comments being made about progress occurring in all the Strands. What progress was this? The party said everyone needed to be very careful about making statements such as this at this point. The PUP said everyone had a role to play in ensuring that decommissioning commenced. It had listened to Sinn Féin earlier speaking about representing their constituents but the party (the

PUP) had also been honourable in its work on this aspect. It had nominated a representative to speak with the Commission on the issue. The fact of the matter was, however, that the party couldn't believe that loyalists would give up their weapons when mortar attacks were still occurring - even though these incidents might not be carried out by people associated with Sinn Féin. The party said thought and consideration still had to be given to the whole areas of prisoners and future release arrangements. This was an issue which participants needed to think about more since the party didn't believe that the process was, as yet, anywhere near the conditions whereby people would give up their arms.

16. The UUP said it was interesting to contrast the approach of the Commission and that of the two Governments. The party commended the Commission for dealing with every aspect of preparing for decommissioning. It had got through all of this with great expedition and professionalism, given that both Governments had adopted a repetitious approach at each meeting and had been passive and even sought to delay the process of decommissioning to facilitate progress elsewhere. The UUP said it had a large number of questions for the Governments but first wished to ask the Commission whether it considered that it had done everything possible to the point where it was now time for others to react. Furthermore did the Commission consider that its members could now return home and await a telephone call to return and oversee a decommissioning event? Moving on, the UUP then asked both Governments, who had said some two years previously that decommissioning was an "indispensable" part of the negotiations,

what they would do if no tangible decommissioning occurred by 9 April? The party continued with another question. In any agreement which was forthcoming, would both Governments be minded to include, in the scope of that agreement, those parties linked to paramilitary organisations who had not decommissioned and therefore not met their obligations under the Mitchell principles?

17. The UUP continued, asking that, if some decommissioning occurred, what was meant by the word "some"? Was this one bullet or was there another watermark to be considered? The party said "some" for one organisation might not be the same as "some" for another. A definition was required and the party was looking to both Governments for this and if no response was forthcoming from them was it down to the Commission to answer this? The UUP raised a further point in relation to whether the completion of "progress" on decommissioning would be defined in any agreement. Would this progress be benchmarked or included in any legislation which might be necessary in respect of certain elements of an agreement? The party said if there was no clear indication of the metamorphosis beginning and being completed, then it would be impossible to make any kind of judgement in respect of decommissioning.

18. On the other hand, the UUP said if there was no decommissioning, despite the presence in the process of representatives of paramilitary organisations and if agreement was possible without these parties, were they to be barred from the new arrangements? At what level, for example, in a new Assembly would this occur, given that

these parties represented people who could still carry out armed actions; or would members of those parties only be debarred from holding any executive office in a new Assembly? The UUP said it had a number of other questions but would leave these until later. In the interim it looked forward to hearing responses from both Governments and the Commission to these questions.

19. The Commission said it had a fourfold mandate. The first was to consult. This the Commission had done and was to some extent still doing on an ongoing basis with the participants. Secondly it had made proposals to both Governments on decommissioning schemes. This task was possibly complete but further advice could still be needed. Thirdly, the execution of those schemes had not yet been possible but the expectation remained, therefore members of the Commission had to remain present. Finally the reporting phase would continue on an ongoing basis, including reporting on any decommissioning which did take place. The Commission said, given the above, it believed it did need to remain in place. The Commission added that it had requested, and the Governments had approved, the assignment to the Commission of two munitions experts who would be trained in procedures in the UK and Ireland, then return home on an immediate respond-to-call basis.

20. The UUP thanked the Commission for its comments and expressed the hope that it would be occupied. The party said it wouldn't pose the question of how long the Commission would be allowed to sit in limbo. Responding to the UUP questions, the British Government said it hadn't been passive regarding the decommissioning

issue. That was why it had set out the steps taken in its opening remarks. Governments had to work within a legal and constitutional framework and it had acted, in this context, in a prompt, fair and expeditious manner. The mechanisms were in place. Decommissioning was available but the process had to start with people giving up their weapons. The British Government said the UUP's earlier criticism was simply not borne out by the facts. Furthermore it was unsure as to whether the answers to the party's questions rested with the Governments. Finding an agreement was not the sole responsibility of the British Government or the joint responsibility of both Governments. Reaching an agreement was not just about asking questions but rather to come up with answers to fundamental issues an approach which all the participants had to fully consider.

21. The British Government said the Liaison Sub-committee on Monday would deal with the issue in a structured approach and, with this in mind, it might be just as prudent for the UUP to consider answers to some fundamental issues which others might pose - such as whether the UUP wanted to see total or partial decommissioning. The British Government said the meeting had heard from the Commission as to how it wished to proceed and the process which underlined this approach. The responsibility was on everyone around the table to set out their fundamental positions on the issue and consider these in advance of the review Plenary on Monday next.

22. The UUP said the Government's reply was very disheartening. The Government put the questions back to the party, but if they tried to

suggest what was practical, they were accused of setting preconditions. The Government had said it was not passive, and had listed a flurry of legislation. The UUP recognised that this Government had been more active than its predecessor, but it still seemed completely bereft of ideas on how to bring about disarmament, which was indispensable to an overall Agreement. The party received only glib answers, and hoped that the Irish Government would not just say it agreed with the British Government.

23. The Irish Government said that, rather than say it agreed with the British Government, it would say that it disagreed with the UUP. Far from being passive, it must be obvious to any objective observer that the Governments had done everything possible to facilitate decommissioning. They had put legislation in place, established the International Commission, provided it with powers and resources, and drawn up draft Regulations and schemes. It would of course be much better to have disarmament now, and the Governments had made it clear that they saw a resolution of the decommissioning issue as an indispensable part of the negotiations. It required a continuous address, and resolution as part of an overall Agreement which met the concerns of all the parties. Posing questions about matters fundamental to the resolution of the problem was not as helpful as putting forward suggestions.

24. The UUP said the only advance here was that the Government had said decommissioning was indispensable. The party was taken aback, however, by the implication of a precondition - that guns would

be traded for concessions, and would only arrive as part of an overall Agreement. Guns were never to be traded for political concessions. These matters were related, but were on parallel tracks. The Government had moved the goalposts. The UUP said it regarded the Governments as passive in the way in which they were content to accept that disarmament was a voluntary process and not a democratic obligation. The party referred to the statement by the PUP that the conditions were not yet right. Did this mean that the Loyalist organisations, seeing themselves as defenders of their tradition, were committed to a pro-rata disarmament if other organisations did likewise? Or did it mean that disarmament would not happen unless the PUP's political wishes were accommodated?

25. The Chairman observed that decommissioning would be discussed again at the review Plenary on Monday. This Subcommittee was a liaison between the International Commission and the Plenary, rather than a forum for full political debate. He urged parties to keep their contributions brief, so as to allow everyone to participate. NIWC said if parties "linked to paramilitaries" were to be excluded, would this include parties who were acting as nominated go-betweens to try and facilitate decommissioning? This should be encouraged rather than penalised. The UUP said there was a clear difference between this hypothetical situation and the three parties who were linked with paramilitaries: the PUP with the UVF, the UDP with the UDA and Sinn Féin with the IRA.

26. Alliance, following up on the PUP's remarks about progress, said it believed significant progress was possible in a very short period, and decommissioning was an issue which might prevent that. It was a major political problem, and participants had to try and deal with it. Even if an Agreement was reached without decommissioning, the issue would still be there. It could be extremely destabilising, both politically and in terms of continued violence. Ongoing violence, and the potential for violence, was a problem for everyone. The weapons could not be left out there, and there was a very real concern about weapons leaking from those organisations which were on cease-fire. The ball was in the court of the paramilitaries and those who had influence with them. The PUP had challenged that view, and Alliance said if there was a way in which the other parties could help, it should be put on the table.

27. The PUP went back over some comments made. There was no way to decommission other than on a voluntary basis, and criticising the Governments in this respect was pointless. If there was total decommissioning, some people present would claim it was only partial. The PUP was just as serious as anyone else about disarmament. It was trying to bring people with it, and encourage them to move towards a peaceful society. Both loyalists and republicans had problems with people opposed to peace. The party was concerned that weapons would get into the hands of criminals. The PUP said it would seriously attempt to bring about disarmament, but this could not be allowed to block progress. The party understood the concern of the UUP and others with law and order, but it was worth remembering that unionists only had

Northern Ireland because Carson and his generation had gone outside the law.

28. Labour congratulated the Governments and the International Commission on their work in getting to the point where decommissioning could now be facilitated. It was opportune to have a serious discussion of this issue now, and the party respected the UUP for bringing it up. There was no doubt that security would continue to be an issue for some time even after an agreement, and all parties had to make clear their determination to see the guns removed. Labour said it was crucial to get a settlement. Participants had discussed decommissioning for a full year in 1996/97 and had made no progress at all. Only a little progress had been made now, and there were only three weeks left.

29. Sinn Féin said Alliance had asked what parties could do. The Commission, schemes and legislation were now in place. Sinn Féin's view was that decommissioning would take place in the context of general demilitarisation, and there therefore needed to be proposals about this. It was crucial to convince people of the possibility of a negotiated, inclusive, democratic settlement. There needed to be proposals for demilitarisation, for a responsible police service, and for changes to affect people's lives.

30. The Irish Government said it was bemused at the UUP's claim that the Government had said guns would be traded for concessions. The Government had of course said no such thing. It was important to

reiterate, as both Governments had said, that the Irish Government continued to see a resolution of the decommissioning issue as an indispensable part of the process. Against the background of seeking a comprehensive agreement in a limited time-frame, the Government wished to see decommissioning addressed in an Agreement, and not traded for concessions.

31. The UDP welcomed the putting in place of a framework for decommissioning. There had been many comments about the relationship of the party with the UDA and UFF. The party had fostered that relationship, and did have some influence. But despite what some people said, it did not have directional influence or control. The party had won some debates, but lost others. It wanted to see all illegal weapons removed, and would continue to use its influence in a positive fashion. However, the party did not accept any linkage between political prisoners and decommissioning. The UDP welcomed the positive attitude of Alliance in asking what parties could do to help. But their other argument, that decommissioning had to take place in case the organisations changed their minds some way down the road, was built on sand. It had to be recognised that decommissioning would be no more than a declaration of (peaceful) intent by an organisation, since it could quickly rearm if it wanted to. The UDP would continue to try to bring about decommissioning, but at this time it was just not possible. The party had said it lost some arguments, and this was one of them.

32. The UUP said these were honest and realistic comments. They prompted the party to ask the International Commission if it had

considered or asked if the parties were the only point of contact with paramilitary organisations, or was there another, more effective, way? The UDP said that, in reality, that was not a matter for the Commission to decide. The paramilitaries themselves would presumably decide who was to speak for them.

33. The Commission said it was here to decommission weapons. If any group wanted to take any step, however modest, the Commission could do it with them safely, honourably and expeditiously. The Chairman said the timing of any further meeting was to be decided, and adjourned the meeting at 13.49.

Independent Chairmen Notetakers
2 April 1998