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FROM: D J R HILL
CPL DIVISION
16 JANUARY 1996

Handling
Am file

cc: PS/Sir John Wheeler (L&B) - B
PS/Michael Ancram (L&B) - B
PS/PUS (L&B) - B
PS/Sir David Fell - B
Mr Thomas (L&B) - B
Mr Steele - B
Mr Watkins - B
Mr Leach - B
Mr Bell - B
Mr Stephens - B
Mr Wood (L&B) - B
Mr Lavery - B
Mr Perry - B
Mr Maccabe - B
Mr Beeton - B
Mr Brooker - B
Mr Priestly - B
Mr Whysall (L&B) - B
Ms Mapstone - B
Ms Bharucha - B
Mr Lamont, RID - B
HMA Dublin - B
Mr Clarke, Dublin - B
Mr Westmacott, W'ton via RID - B
Mr Oakden, No 10
Mr Sanderson, Cab Off (via IPL) - B

PS/Secretary of State (L&B) - B

RESOLVING DECOMMISSIONING BEFORE THE ELECTION

I attach an analytical paper which, essentially, concludes that

- the prospects for securing an agreement on decommissioning before the talks adjourn for the election period look somewhat better than they did at the beginning of the week;
- conversely, alternative options for keeping the talks going or demonstrating constructive ongoing political activity in some other way seem less likely to open up;

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- it is increasingly clear that without early forward movement in the talks the whole process will lose credibility, leaving a dangerous political vacuum; and the Irish Government and SDLP may finally abandon hope and begin to pursue a "new" talks strategy;

1. this really what his truly have mind! they see scope + this more ahead after - need SDLP may to initiate from...

the chances of pulling off a successful resolution of the decommissioning issue before an election may be no better than 50:50 and there would be some downside risk in making the attempt; but in the absence of an alternative and given the risk of losing the whole process anyway, it would be worth making an all out final effort.

high!

2. The paper also introduces and discusses a possible draft "package" which might ultimately be put forward (probably by the Chairmen) with a reasonable chance of securing sufficient consensus support.

3. Finally, the paper identifies a series of tactical handling issues which need to be addressed if any attempt to move forward on the basis set out above is to have the best possible chance of success.

4. Rather than offer a "gameplan", I believe it would be helpful to commence next week with a substantial meeting, ideally on the VCR, to

- consider the analysis and approach set out in the attached paper;
- determine the balance of the "package", and;
- discuss and agree the handling issues.

5. One action point which would then arise would be a letter to No 10, partly in response to John Holmes' letter of 7 January (on

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which I have a draft in hand) but also reporting the Secretary of State's decisions on the way forward and perhaps preparing the ground for a Prime Ministerial intervention with Mr Trimble if that becomes necessary.

(signed) David Hill

D J R HILL
CPL DIVISION
OAB 210 6591

- it would make it possible to get a firm date for the launch of the three strands after the elections. This would be easier to achieve a "hard" target. This should give the UUP and SDLP a firmer ground for discussion.
- the issue will be no matter to either side of the divide, and may even be more difficult if the two parties looked themselves on particular issues being now decided. If the question of Sinn Féin's participation was to stay as a live issue;
- the period of agreement, say 20 years, to put the administrative arrangements in place;
- evidence of unambiguous support for the process to help to stabilise the situation;
- a resolution of the issues, say, by the end of the year, or a five date for the launch of the three strands would put maximum pressure on the parties to proceed to resolve the IRA ceasefire.

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RESOLVING DECOMMISSIONING BEFORE THE ELECTION: A TARGET OUTCOME

Analysis

1. There are a number of reasons for seeking to secure a resolution of the decommissioning issue before any adjournment for the UK General Election:

■ it would boost the general credibility of the talks process during what could otherwise become a dangerous political vacuum;

■ it would make it possible to set a firm date for the launch of the three strands after the elections, thus making it easier to achieve a "soft landing". That should give the UUP and SDLP a firmer electoral platform;

■ the issue will be no easier to resolve after the election, and may even be more difficult if parties have impaled themselves on particular hooks during the election or if the question of Sinn Fein's participation has by then become a live issue;

■ the period of adjournment can be used to put the necessary administrative arrangements for an Independent Commission into place;

■ evidence of constructive forward movement in the talks could help to stabilise the CLMC ceasefire;

■ a resolution of the decommissioning issue and the setting of a firm date for the launch of the three strands would put maximum pressure on the Republican Movement to restore the IRA ceasefire;

■ the surrounding circumstances (progress of Irish Decommissioning Bill, the Prime Minister's statement of 28 November, constitutional nationalist disenchantment with Sinn Fein, IRA attacks making Sinn Fein's entry to the negotiations increasingly remote, the Irish Government's readiness to contemplate the early establishment of the Independent Commission) should all operate to reduce the political pressures on the UUP to hold out for prior decommissioning, and the effect of these may wane over time.

2. More generally, the issue will have to be resolved at some stage: the Irish and SDLP (leaving aside HMG) would not - probably could not - support a talks process which was definitively exclusive of Sinn Fein; and for so long as the process could potentially include Sinn Fein the Unionists will require a prior agreement on how in principle decommissioning should be progressed in those circumstances. Irrespective of the General Election, it will not be possible to carry the process forward in its present form without resolving the decommissioning issue.

Decommissioning

3. The SDLP are genuinely at the end of their tether. They have worked very hard to secure an agreement with the UUP and are now politically exposed and with no more room for manoeuvre. Their mood is brittle and in the absence of early forward movement, on the lines Seamus Mallon has urged the two Governments and the Chairmen to initiate, the SDLP are likely to conclude that it would be better to bring the current talks process to an end, preferably in circumstances which enabled them to blame the UUP. Seamus Mallon is already thinking about the shape of an alternative talks process. Meanwhile, there is widespread support in the party, albeit with some reservations, for John Hume's efforts to bring Sinn Fein in from the cold.

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Brid hand
Tony

Royal Family

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4. The UUP have demonstrated a keen awareness of the potential danger of a political vacuum over the election period and we may be able to exploit that pressure on them. They had clearly concluded by 13 January that Mr Trimble's preliminary thoughts about standing back from the detail of decommissioning and looking at areas of potential agreement in the talks would not work because it would require them to stand up to the DUP and UKUP in adjusting the talks agenda and demoting the address to decommissioning. We now understand that Mr Trimble has asked to see the Prime Minister to develop the ideas originally floated by Mr Molyneaux for some kind of informal consultative arrangements in which the main Northern Ireland parties would co-operate in giving advice to Ministers, especially on social and economic issues. The idea, presumably, is to show that cross-community constitutional political activity can achieve some benefits, even if the talks were in abeyance. Suggestions on these lines seem quite insufficient to stabilise the situation. The SDLP would be most unlikely to co-operate and in those circumstances the suggested approach would fail to achieve its aim. Unless Mr Trimble's suggestions have unexpectedly attractive features we may need to move fast to convince the UUP that some other way needs to be found to address the looming political vacuum and preserve the talks process.
5. So far as decommissioning is concerned, the UUP obviously remain very nervous of appearing to get out of line with the DUP and UKUP especially in a pre-election situation, but the surrounding circumstances (see above) are slightly more favourable than they have been. On the key issue of whether there should be a prior tranche of IRA weapons before Sinn Fein could join the three strands, Mr Trimble has several times (most recently to Mr Thomas) indicated a readiness to drop that requirement if satisfied that decommissioning would indeed happen during the negotiations, starting reasonably soon after the commencement of the three strands.

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6. This all suggests that any attempt to resolve the issue of decommissioning will have to constitute a package which clearly delivers the launch of the three strands. The SDLP will not support anything else and if we are to pull the UUP back from their current insistence on a prior tranche of IRA weapons we will need to assemble a comprehensive range of things they could point to as justifying (or camouflaging) any such movement on their part. The need to secure a "soft landing" also means that any package will need to address the timing of resumption following any adjournment.

The way ahead

7. The UUP and SDLP have, without showing any encouragement, agreed that the Government(s) should explore the scope for achieving agreement on decommissioning. The SDLP has at a more general level invited the two Governments and the Chairmen to seize the talks process by the scruff of the neck and present a proposition intended either to secure the launch of the three strands or illustrate whose intransigence is to blame for any failure to secure "sufficient consensus" on it. The Irish have given us a free hand to explore the possibilities, within the ambit of the Mitchell Report and so long as an agreement achieves the launch of the three strands. The Chairmen are simultaneously exploring the possibilities, albeit in a rather desultory manner, but have recently been more positive about tabling a proposal intended to break any deadlock: we may be able to utilise their independence and moral authority to clinch a deal.
8. All this seems to point inexorably to an approach in which we identify a possible compromise package; clear our lines so far as possible with the Irish and do our best to prepare the Unionists; and then invite the Chairmen to table it as a basis for concluding the address to decommissioning. It would be prudent, however, to bear the following caveats in mind:

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(a) while we might feel that the UUP has some room for manoeuvre and would be well advised to differentiate itself from the DUP and UKUP by supporting a sensible and realistic compromise on decommissioning which opened the way to substantive political negotiations, they may not see things that way. Nervousness has been their hallmark for most of the past seven months and decommissioning has become a highly symbolic issue which the DUP and UKUP are adept at exploiting. The UUP might well refuse the fence; there is a potential downside risk in tabling a compromise package on decommissioning which might fail to secure sufficient consensus support. That would undermine the credibility of the talks process, and perhaps of the Chairmen in particular, and increase the risk of a dangerous political vacuum over the next few months. However, any failure to secure early forward movement in the talks runs the same risk, so it probably remains worth making the attempt.

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A possible target outcome

9. I attach a set of draft conclusions which might be presented to plenary. They aim to
- secure a firm date for the launch of the three strands after the election, as the best basis for a soft landing;
 - achieve agreement on a basis for resuming the talks after the election, taking account of the Northern Ireland District Council elections and the range of possible election dates;
 - capture all the existing elements of agreement between the UUP and SDLP (eg on the "mechanisms" for achieving further

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progress on decommissioning) and all the positive elements of the current situation for the UUP, such as progress on the two Decommissioning Bills;

- incorporate a series of points in support of the concept of parallel decommissioning, which may be sufficient to persuade the UUP to drop their requirement for a prior tranche of IRA decommissioning. These include
 - a statement of commitment to the implementation of the Mitchell report, including its compromise approach to decommissioning, and a general acknowledgement that a successful conclusion to the talks will only be possible on that basis;
 - a mechanism for highlighting the position of those parties which do not live up to their commitments;
 - (possibly) a statement reflecting the expectation of the Government, the UUP (? and others) that the commitment would result in early progress on decommissioning alongside progress in the three strands;
 - an independent mechanism (the Independent Chairmen) for determining, consistently with the International Body's compromise approach, when decommissioning should commence.
11. The Irish Government's package to be floated with anyone else. I may have worried them by reserving our ability to discuss the package with other parties in the context of exploring options; but I did say we would discuss any suggestions they might have.
10. Possible refinements include:
- (a) provision for some ongoing political activity, possibly utilising the talks facilities, during any adjournment. The UUP's promised suggestions might feature here; or we could build on some of our existing ideas for "preparatory dialogue". It may be, however, that it would not be quite

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so necessary to demonstrate ongoing political activity if decommissioning had been resolved and we had achieved a soft landing on the basis of setting a firm date for the launch of the three strands after the election period;

(b) making adherence to the commitment on decommissioning a condition for continued participation in the talks, perhaps bringing in a provision like Rule 29 to deal with representations that a party should be excluded for "demonstrably dishonouring" that commitment. This would have obvious attractions for Unionists but it could provide unlimited scope for procedural ambushes during the negotiations. It would also be easy for Sinn Fein to present this as a new, and unreasonable, "precondition". On balance, it seems best not to pursue this option;

(c) an "opt out" formula which acknowledged the right of any participant to review its continued participation if any other party were invited to join the talks on terms or in circumstances which any existing participant found unacceptable. I tried several formulae for this but they all seemed too defeatist without really offering any significant extra cover for the UUP.

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Can the 1 as well
But to say
try again

Handling Issues

11. The Irish have made clear that they would expect any compromise package to be cleared with them before it was floated with anyone else. I may have worried them by reserving our ability to float aspects of a possible package with other parties in the context of exploring options; but I did say we would discuss any text of a comprehensive package with them before tabling it. They will be expecting sight of something by early next week. Mr Spring is planning to come to Belfast during the week and that may provide an opportunity to seek to resolve any differences of view.

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12. The Chairmen would obviously prefer it if the the two Governments were able to present them with an agreed assessment of what proposals would stand the best chance of securing sufficient consensus, but General de Chastelain seemed receptive when (to Mr Donoghue's dismay) I said it was possible that the two Governments would not be able to reach a common view on every detail of such an assessment and that we might need to ask the Chairmen to exercise a genuinely independent final judgement.
13. Another advantage of routing any compromise package through the Chairmen is that it would minimise any appearance of conflict between the Government and the UUP. If the UUP did not like the package they would not be challenging the Government, but the Chairmen.
14. Of the parties, it is the UUP which will need to shift furthest if any proposition is to secure "sufficient consensus" support, and whose reaction is the most difficult to assess. We will obviously need to take receipt of their proposals for alternative types of political activity: but if the preliminary analysis in paragraph 4 above is correct we would need to make clear straight away that those proposals were insufficient. Thereafter it would be sensible to test out some elements of the package with them; prepare them for the possibility of the Chairmen tabling compromise proposals; and stand ready to deploy all possible influence on them (including at Prime Ministerial level) to agree whatever package is tabled. That may imply that we should plan for an interval between the tabling of any package and the time at which the parties would be expected to signal their reactions.
15. Procedurally, it might be difficult for the Independent Chairmen to put any package on a take it or leave it basis. There might need to be a process of tabling, debating and voting on amendments. That might give the UUP the political cover of being able to vote with their Unionist colleagues on some issues, which would presumably not gain sufficient consensus support; and to present and argue for their own variants on some

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issues. We could reasonably hope, however, that any package would survive unscathed and that it would - at the end of the day - gain sufficient consensus support.

16. There is an issue about the timing of developments. Should we aim for a situation in which the Chairmen table compromise proposals on 27 January, or plan on allowing them a few days to reflect on the two Governments' assessment(s) before inviting them to table a package as a basis for decision?. The longer timescale would see the talks running into February, but the longer the delay in bringing matters to a head the greater the risk that events on the ground would put the whole process at risk anyway. A further consideration is that Senator Mitchell himself will not be back until 28 January. In practice we may not be in a position to decide on the best timing until the end of next week.
17. The impact of all this on the handling of the 27 January plenary may also be significant. It will be seen, including by the media, as an important day and the DUP/UKUP may well ensure that the focus is on the continued presence of the Loyalist parties (and the two Governments' double standards). It would be desirable to substitute a more positive focus by getting on to the table early on a clear statement from the Chairmen, eg to the effect that they intended to finalise and table a compromise package of proposals by, say, 29 January. [We might also plan to preempt any attempt to raise the question of the Loyalist parties' continued presence by preparing a statement to the effect that despite the absence to any representation under Rule 29 the two Governments had considered the question of whether the Loyalist Parties should be excluded and decided that it would not be appropriate to take any action at this stage.]

(signed)

D J R HILL
POLITICAL DEVELOPMENT TEAM
CB x 22298

(16 January 1997)

OPENING PLENARY AGENDA: COMPLETION OF ITEM 2

1. The participants in the multi-party negotiations hereby commit themselves to work constructively and in good faith to secure the implementation of all aspects of the report of the International Body, including the ~~compromise~~ approach to decommissioning envisaged set out in paragraphs 34 and 35.
2. The participants welcome, as an important step towards the implementation of the report of the International Body, the progress made by the two Governments towards the enactment of appropriate enabling legislation in their respective Parliaments which will provide the statutory basis for giving effect to the International Body's recommendations on the modalities of decommissioning.
3. The participants agree that
 - the mechanisms for achieving further progress on decommissioning alongside progress in the three strands should comprise an Independent Commission and a Liaison sub-Committee of plenary. There should also be a sub-Committee of plenary to consider developments in relation to confidence building measures. The respective roles and responsibilities of the Commission and the two sub-Committees should be as set out in the attached Annex;
 - those mechanisms should be formally established [following consultation between the Governments and the parties on the identity of potential members of the International Commission] in time for their first meetings to coincide with the launch of the three strands of substantive political negotiation;

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- if the business of the opening plenary session is not completed before the UK General Election it should resume within [2] weeks of the election (unless that would mean any meeting after [30] April, in which case the opening plenary session should resume on [2] June). In either case the Chairman is invited to ensure that the business of the opening plenary session is completed by [4] June;
 - the three strands of substantive political negotiations should commence on [9] June.
4. The participants agree to work constructively and in good faith with the Independent Commission to enable it to [carry out its role] [develop detailed recommendations regarding the practical implementation of all aspects of the report of the International Body and subsequently to put agreed recommendations into operation], in the context of an inclusive and dynamic process in which mutual trust and confidence is built as progress is made on all the issues of concern to all participants. A reality for all present and future participants is that progress in the negotiations will only be possible on this basis;
- [5. For their part, the British Government, the UUP [and others] would expect to see the commitments referred to in paragraphs 1 and 4 above reflected in early progress on decommissioning alongside progress in the substantive political negotiations; and will work to achieve that.]
6. The participants invite the Independent Chairmen as a group to review progress in the substantive political negotiations on a regular basis; consult with the Liaison sub-Committee on the conditions necessary for mutual decommissioning to occur; and, in the light of that and on the basis of implementing the International Body's compromise approach to decommissioning, offer an opinion, when they judge the time is right, that the circumstances are such that mutual decommissioning should be expected to commence.

7. The participants invite the members of the Independent Commission, following their appointment, to draw attention to any case in which a participant demonstrably dishonours the commitment referred to in paragraph 4 above.
- A sub-committee on decommissioning (the Committee on Decommissioning) shall be established comprised of representatives of all participants in the negotiations. It shall be chaired by the Chairperson of the Plenary and will report regularly to the Plenary.

Responsibilities

The Committee will be charged with assisting the implementation of all aspects of decommissioning as set out in the Report of the International Body. In particular it will be required:

to consider any legislative proposals by either government, and any proposed regulations;

to consider the type of scheme or schemes for decommissioning and the role of the Independent Commission in respect of same;

to consider proposals for such schemes drawn up by the Independent Commission, and to submit any agreed opinion on these proposals for consideration by the Commission.

2. Independent Commission

An Independent Commission shall operate in both jurisdictions with appropriate immunity as determined by the special legislation and regulations on decommissioning enacted by the British and Irish Parliaments. It shall be furnished with independent legal and technical advisors and, where appropriate, shall be given access to the technical expertise of the British and Irish Security forces.

1. Liaison Sub-committee of Plenary on Decommissioning

A Liaison Sub-committee of Plenary on Decommissioning (the Committee on Decommissioning) shall be established comprised of representatives of all participants in the negotiations. It shall be chaired by the Chairperson of the Plenary and will report regularly to the Plenary.

Responsibilities

The Committee will be charged with assisting the implementation of all aspects of decommissioning as set out in the Report of the International Body. In particular it will be required:

- to consider any legislative proposals by either government, and any proposed regulations;

- to consider the type of scheme or schemes for decommissioning and the role of the Independent Commission in respect of same;

- to consider proposals for such schemes drawn up by the Independent Commission, and to submit any agreed opinion on these proposals for consideration by the Commission.

Responsibilities

2. Independent Commission

The Committee will be charged with monitoring developments in An Independent Commission shall operate in both jurisdictions with appropriate immunity as determined by the special legislation and regulations on decommissioning enacted by the British and Irish Parliaments. It shall be furnished with independent legal and technical advisors and, where appropriate, shall be given access to the technical expertise of the British and Irish Security forces.

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Responsibilities

to consult with the Committee on Decommissioning, both Governments, and others whom it deems relevant on the type of scheme or schemes for decommissioning including the role of the Independent Commission in respect of each scheme;

to present to both Governments proposals for schemes having due regard to the views expressed by the Committee on Decommissioning;

to facilitate, observe, monitor and verify decommissioning and to receive and audit armaments, according to the schemes laid down;

to report periodically to the Committee on Decommissioning and to both Governments.

3. Sub-Committee of Plenary on Confidence-Building Measures

A sub-Committee of the Plenary on Confidence-building Measures should be established comprised of representatives of all participants in the negotiations. It shall be chaired by the Chairperson of the Plenary and will report regularly to the plenary.

Responsibilities

The Committee will be charged with monitoring developments in relation to any of the confidence-building measures mentioned in the report of the International Body which participants may raise, and any others which may be referred to it, by agreement, by the plenary. In particular it will be expected

to review developments in relation to such measures

to consider any reports on such measures as may be submitted by those with responsibility for the issue in question