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FROM: S J LEACH  
APD(L)  
5 July 1996

PS/Michael Ancram (B&L) - B

cc PS/Secretary of State (B&L) - B  
PS/Sir John Wheeler (B&L) - B  
PS/PUS (B&L) - B  
PS/Sir David Fell - B  
Mr Thomas - B  
Mr Legge - B  
Mr Bell - B  
Mr Steele - B  
Mr Watkins - B  
Mr Hill - B  
Mr Perry - B  
Mr Lavery - B  
Mr Stephens - B  
Mr Beeton - B  
Ms Checksfield - B  
Miss Harrison - B  
Mr Whysall - B

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NATIONAL RELATIONS

**SPEAKING NOTE: CONFERRAL ON AGENDA FOR OPENING PLENARY SESSION**

1. I attach a revised speaking note for the discussion on the Agenda for the Opening Plenary Session, taking account of recent discussions with Michael Ancram. It is more broad brush than the previous versions supplied by myself and Mr Lavery, and places less emphasis on the 'Opening Scenario' paper of 6 June. The Irish have said that this is "off the table" - but I believe only in the sense that they accept it is no longer the "working document" for the discussions. Their approach will continue to be informed by it, subject to the important proviso that (according to David Cooney) they intend to make clear that they are willing to withdraw the proposal that the Chairman satisfies himself and reports on the "clear indications of good intent", etc. The attached speaking note accordingly includes a similar signal (paragraph 12).
2. On the basis of current progress, it seems likely that discussion on the opening agenda will begin in the sessions starting on **16 July**, although a "Second Reading" debate next week (9 or 10 July) cannot be ruled out. If that occurs, the Minister could base his comments on the attached draft.

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3. The key to achieving a successful exit from the discussion of the Agenda for the opening plenary, and indeed from the opening plenary itself, lies in achieving a position which respects what we regard as essential and which the UUP (and the SDLP) will also be able to support. We hope that this position is represented in the **20 June** agenda, which is broadly agreed with the Irish and which in due course might emerge from the Chairman's office as a compromise proposal following the initial round of discussions.
4. Some arguments to help convince the UUP were set out in my minute of 27 June to Mr Thomas, with which the Minister agreed (Miss Dullaghan's note of the same date). One clear selling point will need to be that the fall back agenda does not close off any options (other than the final "anchor" of launching the strands and the decommissioning machinery in parallel) and genuinely leaves the Unionists with a good deal to play for during the Plenary. One corollary of this is that we may need to be a little less than definite at this stage about the terms of reference of the sub-committee which we and the Irish see as the main vehicle of the exit strategy. Paragraph 10 of the attached speaking note aims to strike a slightly more nuanced note on this subject.
5. Further speaking material will be required to react to the 20 June Agenda if and when it is introduced into the discussions. This will be provided in due course.

(Signed)

S J LEACH

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CONFERRAL ON THE AGENDA FOR THE OPENING PLENARY SESSION

1. I am pleased to have this opportunity to set out the views of the British Government on the shape of the Agenda for the Opening Plenary Session of the negotiations.
2. The British Government, along with the Irish Government, circulated on 6 June an initial draft of how that agenda might appear. That draft has of course to some extent been overtaken, since the first **four** items have already been concluded in the initial session of the plenary which was held last month.
3. Moreover, some further adjustment will be needed as a result of the conferrals on which we are currently engaged. When this process is concluded, we should clearly have reached a position where we could deal rapidly and, I would hope, formally with the two areas on which we have been conferring - that is:
  - the adoption of the Agenda for the Opening Plenary; and
  - the adoption of the Procedural Rules for the negotiations.

I hope we could also then go on to deal with the two further items listed in the Chairmen's note of 3 July as the minimum level of progress we should plan to make by the end of this month:

  - the appointment of the Business Committee; and
  - opening statements by the participants.
4. On this last item, the British Government believes that it would clearly be desirable to have an initial address to the **substance** of our negotiations by providing an early opportunity for participants to make their formal opening

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statements. These opening statements will play an important part in setting out the aspirations and objectives which we all bring to these negotiations.

5. The remaining areas to be accommodated in the draft Agenda would clearly include the need to address the proposals of the International Body on the **decommissioning** of illegal weapons, and the discussion and adoption of a **comprehensive agenda** for the negotiations.
6. Our belief that these issues do need to be dealt with at this opening stage was clearly set out in the Joint Communique issued by the two Governments on 28 February. That Communique identified three elements which the Governments believe are essential to the negotiations. These are:
  - all participants would need to make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body.  
  
(That stage has, of course, now been completed in respect of the parties participating here.)
  - They would also need to address, at that stage, its proposals on decommissioning; and
  - confidence building would also require that the parties have reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.
7. Mr Chairman, I have already referred twice to the Report of the International Body which you and your colleagues submitted in January. Without in any sense wishing to **anticipate** in this discussion on the agenda the **substantive discussion** of the issues which we shall have when the plenary does in fact

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resume, I should make clear that the British and Irish Governments accept that Report in its entirety. In particular, we accept the **compromise approach to decommissioning** set out at paragraphs 34 and 35 of the Report Under this - and I quote - "some decommissioning would take place during the process of all-party negotiations, rather than before or after". The Report goes on to say that this approach of decommissioning **during** negotiations

"offers the parties an opportunity to use the process of decommissioning to build confidence one step at a time during negotiations. As progress is made on political issues, even modest mutual steps on decommissioning could help create the atmosphere needed for further steps in a progressive pattern of mounting trust and confidence".

8. The challenge before us is therefore how to arrange the agenda for the opening plenary in such a way as to facilitate the implementation of this compromise approach, and, indeed, of all other aspects of the Report. We believe that one way of establishing the **necessary balance of confidence** in the reality of mutual progress on both decommissioning and in the wider negotiations is represented by the 6 June draft agenda. We will listen closely to the views which other participants have on this. But in our view the key procedural requirement will have to be an arrangement under which confidence is built through the participants in the negotiations addressing constructively and in good faith the International Body's proposals on decommissioning while, at the same time, agreeing and adopting a comprehensive agenda which will clearly enable a meaningful and inclusive process of negotiations to proceed.
9. As I have said, I do not wish to anticipate the substance of the discussion we will have when the plenary considers the issues of decommissioning and the comprehensive agenda. But it may be helpful to make clear that, in our view, the address to the International Body's proposals will require that there are clear indications of good intent on the part of all the

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participants to work constructively and in good faith to secure the implementation of all aspects of the Report, in the context of an inclusive and dynamic process which builds trust and confidence as progress is made on the issues.

10. Once there is satisfaction on the commitment of all participants, and in the light of the discussions in the Plenary, the Government would intend to propose, as we did on 6 June, the establishment of a sub-committee to secure the implementation of the Report, including agreement on the modalities of decommissioning on the basis of the guidelines contained in paragraphs 36-50 of the Report. Those guidelines include the principle that decommissioning should be **mutual**, - in the sense that decommissioning should take place on the basis of the mutual commitment and participation of the paramilitary organisations.
11. Finally, I should not leave this subject without commenting on the criticisms which have been made of the proposal in the 6 June "Scenario" paper that the **Independent Chairman** should be invited to report to the Plenary on the question of the constructive intent and good faith of participants in this area. With great respect to colleagues who have voiced these concerns, I believe that there may have been some misunderstanding. It was never suggested that the Chairman should make a private and unaccountable judgement which would somehow be binding on the negotiations. As the "Scenario" paper made clear, the Chairman would report his view "after open discussion in the plenary", and it would then be for the Plenary itself to consider and approve what further steps might be taken.
12. Nonetheless, because this feature of the 6 June draft agenda has been a source of controversy in our discussions, and because we do not believe it essential, the British Government will be happy to consider alternative arrangements which do not involve the chairman reporting his judgement on these issues to the Plenary. These arrangements need not, I

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believe, be predetermined now. I hope that colleagues will regard this development in the Government's position as a helpful contribution to reaching agreement on the opening agenda.

13. To sum up, we believe that the balanced and appropriate procedural expression of the International Body's compromise approach lies in providing a full opportunity for participants to discuss and address the International Body's proposals on decommissioning **and** similarly to discuss and agree a comprehensive agenda. The adoption of a comprehensive agenda for the negotiations, followed by the establishment of the sub-committee on decommissioning, would then allow negotiations on the issues in the three strands to be taken forward at the same time as work proceeds to implement a start to decommissioning **during** the negotiations. This **parallel progress** surely offers the best route forward. In our view, to seek to provide that negotiations in the strands could not **begin** until decommissioning had started would depart from the compromise approach set out by the International Body - an approach which the British Government has accepted - and would in reality imperil rather than facilitate the goal which we all seek.
14. I would like now to turn briefly to one other aspect of the Agenda for the Opening Plenary Session which may come up for discussion. This is the question of whether the Plenary should consider - as the DUP draft suggests - the terms upon which other parties might be admitted to these negotiations at a later stage.
15. Although I fully recognise the sensitivity of this matter and the concerns which parties have in this regard, I should make clear that this is one aspect of the negotiations where there is a clear and explicit **statutory duty** which must be adhered to. Under sections 2(2) and 3 of the Northern Ireland (Entry into Negotiations, etc) Act, there is a duty on the Secretary of State to refrain from inviting to these negotiations any

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party in respect of which the requirements in paragraphs 8 and 9 of Command Paper 3232 are not met. In respect of Sinn Fein, that requirement is that there should be an unequivocal restoration of the ceasefire of August 1994.

16. There has, of course, been no such restoration. Indeed, recent events have pointed starkly in the other direction. Therefore, the Secretary of State has refrained, and will continue to refrain, from inviting Sinn Fein to join these negotiations. If the circumstances were to arise in which the Secretary of State **did** consider that the statutory requirement had been met, then he would invite Sinn Fein in accordance with his statutory duty. Quite clearly, however, for any declaration on the part of Sinn Fein to be unequivocal, there would need, as both the Prime Minister and the Taoiseach have said, to be good reason to regard it as not just a tactical device to enable Sinn Fein to enter the Talks. But the point which I believe it is only fair to register with colleagues is that any discussion we might have on this subject in the Plenary would not in practice add to or subtract from the statutory duty laid on the Secretary of State.

17. I hope that these remarks are helpful in amplifying the Government's views on the draft Agenda for the Opening Plenary Session. Our priority is to achieve a realistic and constructive basis for the conduct of business there and in the subsequent negotiations. I very much look forward to following the debate on which we are now engaging.

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