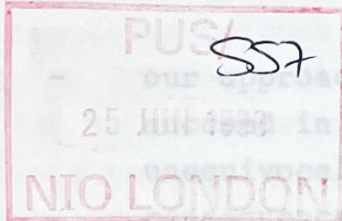


KTalls.

FROM: J A STEPHENS
IPL DIVISION
21 JUNE 1996



cc: PS/Michael Ancram (L&B) - B
PS/Sir John Wheeler (L&B) - B
PS/PUS (L&B) - B
PS/Sir David Fell - B
Mr Legge - B
Mr Thomas - B
Mr Bell - B
Mr Daniel - B
Mr Leach - B
Mr Ray - B
Mr Shannon - B
Mr Steele - B
Mr Watkins - B
Mr Beeton - B
Mrs Collins - B
Mr Hill - B
Mr Lavery - B
Mr Maccabe - B
Mr Marsh - B
Mr Perry - B
Ms Checksfield - B
Ms Mapstone - B
Mr Margetts - B
Mrs Evans, HOLAB - B
Ms K Collins, Cabinet Office - T
HMA Dublin - B
Mr Lamont, RID - B

PS/SECRETARY OF STATE (L&B)

INTERNATIONAL BODY'S PROPOSALS ON DECOMMISSIONING: HMG STATEMENT

At some point, the Opening Plenary will address the International Body's proposals on decommissioning. When it comes to do so, we shall need a statement of HMG's position. I attach a draft of such a statement, which draws on contributions from Mr Perry and others.

4. There is a choice of how openly to make this argument in the attached paper. Paragraphs 25 and 26, currently in square brackets, recognise the possibility that mutual decommissioning may not be

2. This has been drafted with a number of considerations in mind:

- HMG will want to demonstrate that its approach is based firmly on the International Body's report and it is ready to implement all aspects of it; our approach must stand in the event that the IRA succeed in persuading others that they have unequivocally restored a ceasefire and Sinn Fein as a consequence enter the negotiations. Whatever the prospect in reality for this, both unionists and nationalists are likely to scrutinise our approach carefully against this eventuality;

- equally, our approach must remain viable if the current situation, with only the loyalists represented in negotiations and no prospect of unilateral disarmament by them, is maintained.

3. The key to meeting all these considerations is to stand firmly on the International Body's report as a whole. That calls for mutual decommissioning which allows the Government, if it wishes, to recognise that the Report cannot be implemented only by loyalists; but in the event that both sides are represented in the negotiations, mutual decommissioning should proceed during the negotiations. The key to be reached the week after next then next week. If Ministers are content with the broad approach in the attached draft, Loyalists have the fine-tuning until nearer the time it is needed.

4. There is a choice of how openly to make this argument in the attached paper. Paragraphs 25 and 26, currently in square brackets, recognise the possibility that mutual decommissioning may not be

International and Planning Division
OAB Ext 6587

achieved but instead suggest what confidence building measures and progress on arrangements for decommissioning should be looked for from loyalists.

5. Inserting these paragraphs has the advantage that it deals with the issue upfront and in a realistic way, with which it seems likely Mr Trimble would be content. On the other hand, there is a case for not disclosing our hand this early and requiring the loyalists to make the argument and to see what sort of an agreement they are prepared to reach even if, realistically, we know it will fall short of actual decommissioning.

Legislation

6. Paragraph 28 refers to draft legislation. This promises that the participants will be consulted on draft legislation but leaves the draft legislation to be tabled in the sub-committee, or whatever other mechanism is set up to carry forward implementation of the Report. That is the approach, I gather, canvassed in this week's Chilcot-Dalton group.

Timetable

7. The draft may need fine-tuning, in the light of further discussions on the agenda for the Opening Plenary. Decommissioning is more likely to be reached the week after next than next week. If Ministers are content with the broad approach in the attached draft, we can leave the fine-tuning until nearer the time it is needed.

JONATHAN STEPHENS
International and Planning Division
OAB Ext 6587

DRAFT

INTERNATIONAL BODY'S PROPOSALS ON DECOMMISSIONING 17) (21 June 1996)

A paper by Her Majesty's Government

The British Government endorses all aspects of the Report of the International Body, including the compromise approach to decommissioning set out in paragraphs 34 and 35 "under which some decommissioning would take place during the process of all-party negotiations, rather than before or after". This has been the position of the Government since 24 January 1996.

2. Decommissioning is an important issue, because:

- no government can tolerate the existence within its jurisdiction of illegal arms which could be used to threaten democratic institutions or for other criminal purposes;

- the retention of such arms by organisations who have previously used them for the purposes of political violence threatens to undermine the basis of confidence and trust necessary to make progress in political negotiations;

- equally, a start to decommissioning of those arms would demonstrate in practice a commitment to exclusively peaceful methods so helping to build confidence as part of the negotiating process;

- as the International Body noted: "Everyone with whom we spoke agrees in principle with the need to decommission. There are differences on the timing and context but

they should not obscure the nearly universal support which exists for the total and verifiable disarmament of all paramilitary organisations." (paragraph 17)

3. The Government therefore also agrees with the International Body that the total and verifiable disarmament of all paramilitary organisations "must continue to be a principal objective" (paragraph 17) and that:

"Decommissioning should receive a high priority in all-party negotiations." (paragraph 38)

4. At the same time, the Government accepts that decommissioning is one of a number of important issues on which progress needs to be made during these negotiations. As the International Body noted:

"Success in the peace process cannot be achieved solely by reference to the decommissioning of arms". (paragraph 51)

5. That is why the Government is committed to a process of inclusive and comprehensive negotiations in which all participants can raise any issue which they consider relevant.

6. The rest of this paper examines the different aspects of the report of the International Body.

Principles of democracy and non-violence

7. The British Government, along with other participants, has already affirmed its total and absolute commitment to all the principles recommended in paragraph 20.

8. This is an important step forward in addressing what the International Body agrees "is not an unreasonable concern"

(paragraph 22) that the paramilitaries will use force to influence the negotiations or change any aspect of the outcome with which they disagree.

9. Like the International Body (paragraphs 19 and 23), the Government regards these as commitments which, having been made, all participants must adhere to and take steps to honour, in particular by working constructively to secure implementation of all aspects of the International Body's Report.

Decommissioning during all-party negotiations

10. The Government accepted the International Body's conclusion that the reality was that the paramilitary organisations would not decommission any arms prior to all-party negotiations.

11. Progress on decommissioning is made no easier by the abandonment of the IRA ceasefire. In contrast, the contribution of the CLMC in maintaining the ceasefire of 13 October 1994 has enabled the valuable participation of the PUP and the UDP in these negotiations in fulfilment of their electoral mandate and parties committed exclusively to peaceful means.

12. Nonetheless, as the International Body noted, there remains a need for reassurance:

".....that the commitment to peaceful and democratic means by those formally supportive of politically motivated violent, 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." (paragraph 30)

13. The abandonment of the IRA ceasefire has served only to emphasise the need for this reassurance. So the Government's position on decommissioning remains:

- the unauthorised holding of arms by paramilitaries is illegal. The responsible authorities will continue to apprehend such arms, in accordance with the law;
- all parties to these negotiations have declared their commitment to the total and verifiable disarmament and must take steps to honour these commitments by working constructively to secure implementation of all aspects of the International Body's Report.

14. Equally, the Government fully accepts the parallel need for reassurance:

17. "that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of [all] traditions and the need for new political arrangements with which all can identify." (paragraph 31)

15. The Government believes that these negotiations, which offer a comprehensive and open agenda including all significant items which the various negotiating teams consider relevant, meet that need for reassurance. The Government repeats its commitment that it will use its influence in the appropriate strands to ensure that all items on the comprehensive agenda are fully addressed in the negotiating process and will, for its part, do so with a view to overcoming any obstacles which may arise.

16. It is against the background of reassurance having been provided that a meaningful and inclusive process of negotiation is genuinely on offer, that the International Body's compromise proposal on decommissioning needs to be considered. Paragraphs 34 and 35 of the Report state:

"The parties should consider an approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after as the

parties no urge. Such an approach represents a compromise. If the peace process is to move forward the current impasse must be overcome. While both sides have been adamant in their positions, both have repeatedly expressed the desire to move forward. This approach provides them that opportunity.

participants will need:

"In addition, it 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."

would take place.

17. The Government endorses this compromise approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after. It recognises that, under this approach, progress on decommissioning and progress on political issues are both necessary and both build confidence to enable further steps to be taken.

18. In the Government's view, the first step in this "progressive pattern of mounting trust and confidence" is for all the participants to make clear that they accept the International Body's analysis and will accordingly work constructively and in good faith to secure the implementation of all aspects of the report, including an approach under which some decommissioning takes place during negotiations, in the context of the inclusive and dynamic negotiating process now established.

19. Accordingly, as set out in the "Scenario for the Opening Plenary Session" the two Governments have agreed to invite the independent chairman, after open discussion in the plenary, to satisfy himself that there are such clear indications of good intent on the part of all the participants. Once the independent chairman has reported that he is so satisfied, the two Governments intend to

should reflect this (paragraph 39). The Government has

propose that a sub committee of the plenary be established to secure implementation of all aspects of the report of the International Body.

20. To implement the Body's approach on decommissioning all participants will need:

- both to work constructively to secure a start to the decommissioning during genuine and meaningful negotiations;
- and to participate constructively and in good faith in substantive negotiations during which some decommissioning would take place.

21. It will therefore be important for all the participants periodically to review progress across the whole spectrum of the negotiations. The Governments propose a plenary meeting about the end of September for this purpose but envisage further meetings to review progress if necessary.

Guidelines on the modalities of decommissioning

22. The Government agrees with the International Body that:

"The details of decommissioning, including supporting confidence building measures, timing and sequencing, have to be determined by the parties themselves." (paragraph 38).

23. The Government accepts the recommended guidelines on the modalities of decommissioning set out in paragraphs 39-50. Specifically:

- the decommissioning process should suggest neither victory nor defeat, and that the arrangements for decommissioning should reflect this (paragraph 39). The Government has

consistently emphasised that it is not seeking a 'surrender' and is prepared to be flexible in its approach to modalities to take account of this. The International Body clearly accept that it is possible to devise modalities which do not require anyone to be seen to surrender;

- the decommissioning process should take place to the satisfaction of an independent commission acceptable to all parties, and that this should be appointed by the two Governments on the basis of consultations with the other parties to the negotiations (paragraphs 40-42). The Government will seek from Parliament the necessary legislative powers to provide the Commission with appropriate legal status and immunities to operate independently in its jurisdiction, recognising that the precise role and composition of the Commission will be a matter for discussion during the negotiations. It will ensure that the Commission has the resources it needs to carry out its task;
- the decommissioning process should result in the complete destruction of armaments in a manner that contributes to public safety (paragraphs 43-45). The Government is willing to be flexible about the methods of decommissioning and to consider carefully all practicable proposals raised during negotiations, provided these reflect the International Body's guidelines on modalities. It notes particularly the possible methods outlined in paragraph 44 of the International Body's report [and in principle would accept any of these methods although its preference would be...]. It accepts that comparable arrangements will be needed in both jurisdictions in the island of Ireland, and it will continue to work closely with the Irish Government towards this end. It will take the necessary steps to give effect

24. In the in its jurisdiction to the decommissioning arrangements agreed in negotiations. One of its key concerns will be to ensure that those arrangements provide for the safety forward, both of the public and of those directly involved in the decommissioning process;

25. (Despite the abandonment of the IRA ceasefire, it would be wrong to - the decommissioning process should be fully verifiable (paragraphs 46-47). The Government believes that independent and comprehensive verification procedures will be essential for the reassurance of all the parties involved, and the wider public. It agrees that the Commission will have an essential part to play in this respect, and in reporting progress, and will provide all necessary information to enable it to carry out its task;
- the decommissioning process should not expose individuals to prosecution (paragraphs 48-49). The Government will put before Parliament proposals for appropriate statutory measures. These will include appropriate provisions relating to amnesty from prosecution, forensic testing and evidential use. The benefit of these provisions will be linked directly to the agreed decommissioning arrangements;
- the decommissioning process should be mutual (paragraph 50). The Government's position remains that all illegal arms should be handed to the proper authorities immediately in accordance with the law there is no justification for any retention of illegal arms whatever the circumstances. The proper authorities will continue to enforce the law. But it recognises that decommissioning by paramilitaries would take place on the basis of the mutual commitment and participation of the paramilitary organisations' and that this will be an important confidence building measure.

24. In these areas, as in all aspects of the report of the International Body, the Government fully endorses the report's proposals and believes that they constitute a fair and positive way forward.

25. [Despite the abandonment of the IRA ceasefire, it would be wrong to assume now that implementation of all aspects of the International Body's report, including mutual decommissioning, cannot be secured. Even if, over time, this proves to be the case, important confidence building measures can and must be secured: the legislative and practical arrangements will, however, need to secure - a commitment to the principles of total and verifiable Government disarmament of all paramilitary groups; legislation in whatever mechanism is established to secure implementation - agreement on the modalities for decommissioning, along the lines recommended in the International Body's Report;

Further confidence building

- agreement on the possible phasing and the sequencing necessary if mutual decommissioning were to be implemented;

29. In addition, measures which fell outside their remit, which could nonetheless help build confidence - a commitment to implement the start of decommissioning in circumstances where mutual decommissioning could be assured.

30. In paragraph 53, they noted:

26. At the review the Governments have suggested should be held around the end of September, the Government - along with other participants - would want to review the progress made on these and other issues. The Government imagines that participants would want to consider - at that time - whether progress of this sort provided, against the background that mutual decommissioning may be unachievable, sufficient confidence of a willingness to honour the International Body's Report to enable further progress to be made in political negotiations.]

31. The Government agrees that all these measures, along with an end to punishment killings and beatings, would help significantly to

Legislation

27. The Government has worked closely with the Irish Government in considering the practical and legislative implications of the International Body's Report. Effective decommissioning requires a co-ordinated approach in both jurisdictions.

28. As a result of these considerations, the Government has prepared a draft of the legislation which, in its view, will be necessary to implement the International Body's guidelines on modalities. Both the legislative and practical arrangements will, however, need to secure the confidence of the participants. With this in mind, the Government will invite the views of participants on draft legislation in whatever mechanism is established to secure implementation of the Report.

Further confidence building

29. In addition, the International Body noted a number of actions, which fell outside their remit, which could nonetheless help build confidence.

30. In particular, in paragraph 52, they noted:

"Support for the use of violence is incompatible with the 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 forced to leave their communities under threat."

31. The Government agrees that all these measures, along with an end to punishment killings and beatings, would help significantly to

build confidence. The continuation of such activities undermines trust and confidence and calls into question any commitment to exclusively peaceful methods.

32. The International Body recognised that: "... the [British and Irish] Governments made clear their view that our remit is limited to those weapons held by paramilitary organisations. We accept and share that view. There is no equivalence between such weapons and those held by security forces." (paragraph 54)

33. At the same time, the Government has recognised its own duty to take actions to build confidence. Following the ceasefires of 1994, the Government took a wide range of such initiatives, on the advice of the security forces and in response to changes in the level of threat, including:

- changed arrangements for the release of scheduled offenders that reintroduce release at the 50% point of sentence for all offenders;

Conclusion - a review of emergency legislation, due to report in August 1996. That will consider replacement of the current emergency legislation, but its implementation depends on the evolving security situation;

35. The Government believes that its proposals offer a viable way forward to the achievement of the relocation, up until February 1996, of 3 battalions of troops from Northern Ireland, with the ending of routine patrolling by the Army. Since the ending of the IRA ceasefire, two battalions have returned to Northern Ireland and some patrolling resumed as necessary. Further forces will be deployed in Northern Ireland if the security situation requires it;

- the removal of a number of physical security measures,

including the demolition of five security force bases. Further progress, or the reinstitution of some of these measures, depends on the level of threat;

- a review of the firearms legislation governing the holding of legally held weapons is under way, in the interests of updating the legislation as necessary;
- in conjunction with Her Majesty's Inspector of Constabulary, the RUC are reviewing their handling of public order situations including the use of plastic baton rounds (or 'plastic bullets').

34. In all these areas, where the International Body noted the potential for confidence building action by the Government, the Government has consistently sought to take such actions, on the advice of the security forces and as the security situation permits. Some actions have had to be rescinded as the threat has increased since the abandonment of the IRA ceasefire, and all are reversible. Equally, if the threat reduces again, the opportunity for further confidence building measures returns.

Conclusion

35. The Government welcomed the report of the International Body when it was published. It endorses all aspects of the report and believes that its proposals offer a viable way forward to the achievement of both a comprehensive political settlement and the total and verifiable disarmament of all paramilitary organisations.

36. For its part, the Government believes that it is on the basis of working constructively to implement all aspects of the report that the negotiations should be advanced, and it will work with all participants to achieve this.