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Mr Ray - B
Mr Steele - B
Mr Watkins - B
Mr Beeton - B
Mr Hill - B
Mr Lavery - B
Mr Maccabe - B
Mr Perry - B
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Mrs Evans, HOLAB - T
Mr Budd, Cabinet Office - T
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Mr Lamont, RID - B

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DECOMMISSIONING - AVOIDING ANOTHER IMPASSE

When the talks resume in September, we will face an immediate impasse over decommissioning. There is a strong risk - if not a likelihood - that the negotiations will break down over this issue.

2. Whether it is unionists or nationalists who collapse the negotiations (and either might), HMG will take much of the blame. We would be left without any political process to point to, and no prospect of maintaining the loyalist ceasefire or restoring the IRA's.

3. This submission looks at how we might work to avoid such an outcome. The key conclusions are:

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- we should hold to the sort of compromise approach agreed with the Irish Government on 6 June, updated as necessary (see Annex A for some possible conclusions to aim for from the Opening Plenary); and
- we need a clear tactical plan to guide Ministers in co-opting unionists to this approach and keeping the Irish Government on board.

4. This issue will dominate the talks in September: a discussion in late August/early September to settle our approach would be helpful.

The harsh realities ...

5. i Decommissioning will be voluntary: there is no prospect of it unless Sinn Féin has first entered the negotiations;
- ii the IRA will not start decommissioning in the foreseeable future, short of a final settlement: Drumcree has only reinforced that;
- iii Sinn Féin will only enter political negotiations if they are therefore confident that decommissioning will not be an unavoidable stumbling block to political progress;
- iv whether HMG remains interested in Sinn Féin entering the political process or not, the Irish Government and SDLP will. If they judge that unreal requirements over decommissioning will inevitably exclude Sinn Féin, they will wish the blame for those requirements to be placed firmly at the door of HMG and the unionists.

The aftermath of Drumcree

6. Drumcree has fundamentally altered the terms of trade on decommissioning, because:

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- nationalists think the RUC failed to protect their community from sectarian attack: the IRA is therefore under pressure from within its own community to retain its arms in order to defend the community;
- unionists (and HMG) have lost the moral high ground: the Orange Order's use of force of numbers to defy the law and intimidate is seen by nationalists and many in the middle ground as morally indistinguishable from the threat posed by the paramilitaries' arsenals;
- what nationalist support there was for insistence on decommissioning has therefore been eroded.

7. The key conclusion, post Drumcree, is that if the negotiations (and therefore any prospect of a renewed ceasefire) collapse over the issue of decommissioning, HMG and unionists will be blamed not only by nationalists but by much moderate and well intentioned opinion, at home and abroad.

The decommissioning impasse

8. Against this background, it is worth examining the key points behind both sides' positions in the current impasse.

9. Unionists:

- want to tackle the issue against the possibility that Sinn Féin will join the negotiations;
- fear that, in those circumstances, they will find themselves in substantive political negotiations with Sinn Féin without being able to point to any substantive progress on decommissioning;

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- consequently think that, unless a full decommissioning scheme is agreed before political negotiations start, discussions on decommissioning could be spun out endlessly;
- unionists would then get the blame if they pulled the plug on negotiations because there was no decommissioning;
- unionists are also looking over each other's shoulders. The UUP is vulnerable to DUP criticism if they sit down with Sinn Féin without clear evidence of substantive progress on decommissioning.

10. Some unionists are seeking to use decommissioning to ensure Sinn Féin remain outside the negotiations: they are not interested in finding a way through. Others want to construct a 'cage' in which to tie the IRA to specific instalments of arms - but this is a trap Sinn Féin will ensure they do not walk into.

11. But among those who want to see progress, and have some understanding of what is deliverable, the bottom line for unionists seems to be:

- they must be able to point to substantive discussion and progress from the Opening Plenary address to decommissioning;
- they need a process leading to some actual (mutual) decommissioning during negotiations; *which is at least capable of*
- decommissioning must not be seen to be left to the end of negotiations.

12. Irish Government/SDLP:

- want to keep open the prospect of Sinn Féin being able to join the negotiations;

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- have concluded that there is no prospect of the IRA making a start to decommissioning in the foreseeable future;
- think anything which forces Sinn Féin to confront that reality directly risks splitting the IRA, with the result that Sinn Féin will not put itself in that position in the first place;
- in that event, are determined to avoid the blame for a requirement which they believe is undeliverable;
- both look over their shoulders - to Fianna Fail and to Sinn Féin.

13. There may be some in the Irish system who have concluded that the talks will inevitably fail: they will not be interested in trying to find a way through if it means taking some of the risk for failure. *blame*

14. But the Irish Government remain committed to the Mitchell report. For the Irish Government/SDLP the bottom line seems to be:

- there must be no pre-conditions to the negotiations: Sinn Féin should not be required to promise decommissioning before they can enter;
- substantive discussion of decommissioning must continue in parallel with the three strands: otherwise decommissioning is being settled in advance of political negotiations, rather than alongside them;
- there must be no mechanistic link between decommissioning and the negotiations: benchmarks or 'instalments' of arms in return for political progress are, in Irish eyes, bound to fail.

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HMG's compromise approach

15. The approach we negotiated with the Irish Government, reflected in the "Opening Scenario" paper on 6 June, represented a compromise between these conflicting positions, which sought to respect both sets of bottom lines:

- there had to be a substantive address to decommissioning before the three stranded negotiations started;
- but the outcome of that address would be a commitment ("to work constructively ...") and a procedural mechanism, not a hard and fast decommissioning scheme;
- on this basis, further discussions of decommissioning would then take place in parallel with political negotiations, so demonstrating that decommissioning was not a precondition to political negotiations but that discussions on both would continue in parallel;
- but in the context of securing the goal of some actual decommissioning during negotiations.

16. Although details of the 6 June paper (such as Mitchell's role) have been overtaken, it is difficult to see an alternative compromise. Without agreement on such a compromise, one or other side may well be prepared to see the negotiations collapse over the issue.

17. Our aim therefore should be to converge the participants on the broad compromise approach of 6 June.

Achieving convergence: some options

18. Unionists are some way from this convergence yet, and the Irish Government under pressure to abandon it. The rest of this note offers some suggestions on tactics for building convergence.

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(i) Unionists

19. As far as unionists are concerned, we shall need to encourage movement away from the mechanistic approach of benchmarks and instalments which they seem inclined to take at present. We can apply some pressure:

- (a) straight talking - possibly from the Prime Minister - about the consequences if unionists are seen to stymie the negotiations over decommissioning when Sinn Féin are not even there;
- (b) readiness to say at the right time, that HMG is satisfied that sufficient progress has been made to launch the three strands, even if unionists disagree (and we can actually convene Strands 1 and 3 ourselves and encourage the Independent Chairman to convene Strand 2 if justified and necessary).

20. But we can also offer incentives and reassurance:

- (c) develop a work plan for any decommissioning mechanism, to give more substance to the proposed format and in order to demonstrate that the issue is not being pushed into the long grass. A possible workplan is attached (Annex C). It is a developed version of proposals approved by NI Committee in May;

- (d) offer publication by both Governments of the draft Bills, at the right time. These represent a substantial body of work by both Governments, reflecting a good deal of planning and preparation and a common approach. The detail and substance of the Bills, together with the clear signal of intention to legislate that they convey, may well provide the sort of substantive progress the UUP will need to point to if they are to proceed into the

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three strands. If so, the timing of the draft Bills' publication become vital: if played in too early, unionists will grab them without making any corresponding commitment to move into the three strands. If left too late, unionists will simply not make progress. The right approach might therefore be to guarantee publication of the Bills to coincide with the launch of the three strands so that the Bills can be discussed as the first substantive item in any decommissioning committee.

(e) undertake to legislate to a certain timetable. If both Governments undertook this, it could provide significant reassurance and a clear indication of their intent to make progress. But, again, timing will be vital: nationalists will not let the launch of the three strands wait on enactment of the legislation;

(f) play in a report back to plenary from the decommissioning mechanism. This was an element of our 6 June proposal, but it would be worth emphasising it again, as a means of reassuring unionists that the issue cannot be lost sight of (if, at the same time, the plenary also reviews progress in the political negotiations, it provides a useful signal of time frame, which nationalists might find attractive).

(ii) Irish Government/SDLP

21. With the Irish Government, our priority should be to hold them to the 6 June approach and encourage them to engage constructively with both the SDLP and unionists to encourage convergence. This points to:

(g) an "Adare" discussion between the Secretary of State and Mr Spring before the negotiations resume to reaffirm the joint approach and discuss its tactical handling;

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- (h) encouraging the Irish Government to provide direct reassurance to unionists. Unionists fear the Irish Government is not serious about pressing for decommissioning; the Irish Government fears unionists are not serious about political negotiations. Some direct engagement between the two will help address each others fear and lack of trust.

(iii) Loyalists

22. The loyalist ceasefire is shaky. Any discussion of decommissioning (even on a mutual basis) in isolation from political issues will put it under more pressure.

23. If we lose loyalists over this issue, we shall end up with no ceasefire on either side and (most likely) no negotiations. So:

- (i) we need to keep loyalists on board by regarding them as key players on this issue and briefing them accordingly.

(iv) Tactical handling of the Opening Plenary

24. As far as the conduct of rest of the Opening Plenary is concerned, our tactics might be:

- (j) to avoid procedural disputes on the agenda and get straight to the substantive issue. The issue is a substantive one, not merely procedural. Both sides have tried to pre-determine the outcome of the substantive discussion by the writing of the agenda. But this means that we have the substantive discussion over an essentially procedural issue. It would be better to strip the agenda of the opening plenary of all attempts to predetermine the outcome, so ensuring that we got to substantive discussion of decommissioning, rather than breaking on a prior procedural issue. This makes it easier to provide reassurance to unionists by, for

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example, tabling our opening statement on decommissioning (Mr Webb's draft of 26 July attached at Annex D).

(k) so if, when talks resume on 9 September, we find the participants do not rally to the fuller agenda tabled by both Governments on 30 July, we should aim to end the procedural dispute over the agenda by tabling an agenda for the opening plenary which takes a minimalist form, leaving the outcome open and to be determined in the discussion:

- opening statements;
- agenda for the comprehensive negotiations;
- International Body's proposals on decommissioning;
- conclusion of opening plenary;

(l) let the discussion of decommissioning run, so that the parties begin to consider the consequences of a prolonged impasse. This allows unionists to claim the Irish Government have failed in their attempts to have a purely cursory discussion. It also gives the parties the time they need to develop ownership of any solution, if one is to emerge: and time will also build up some pressure for progress (though this should not be over-estimated, since some on both sides would happily see the talks break down over decommissioning).

(m) aim to secure convergence around conclusions reflecting our approach - a possible draft of such conclusions is at Annex A. This is not for tabling now (although it will need to be negotiated with both the Irish Government and the unionists), but as an indication of what we might aim for.

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Conclusions

ANNEX A

(7 August 1996)

25. None of these are magic solutions. The underlying difficulties remain immense. But, if Ministers agree, our approach should be:

Possible Conclusions

(i) to hold to the approach set out with the Irish Government on 6 June, with the aim of achieving conclusions along the lines of Annex A;

(ii) to promote convergence on this approach to enable unionists to adopt it and the Irish Government to hold to it, by means of the tactical handling suggestions (a)-(1) at paragraphs 17-22.

SIGNED

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"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 now urge. Such an approach represents a compromise. 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.

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."

The British and Irish Governments also confirm their commitment to work with all the participants to implement all aspects of the Report. As an important step towards implementation, each Government will publish on [19 September] draft legislation to give effect to the International Body's recommendations on modalities.

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