

NEG 30/96.

NBS 2pm

PST; PSS; Ministers Owen,
de Rossa & Taylor; Attorney
General; Minister of State
Coveney; Messrs. Teahon,
Donlon & Dalton; Amb.
London and Washington; Joint
Secretary; Counsellors A-I.

Meeting of Irish Delegation with UUP Delegation
Castle Buildings, Belfast, 17 September 1996. 11.15 am

Irish delegation: Tánaiste, Minister for Justice, Secretary Tim Dalton, Second Secretary Sean Ó hUiginn, Paul Hickey, David Cooney, Brendan Callaghan

UUP delegation: David Trimble, Ken Maginnis, Reg Empey, Alan McFarland

1. The purpose of the meeting was to enable the Government to outline to the UUP its legislative proposals on decommissioning and to prepare for a trilateral meeting between the Government, the British Government and the UUP the following day. It was preceded by a technical presentation to the UUP delegation by Messrs Hickey, Cooney and Callaghan, which continued later that day (see separate reports) after a meeting between the UUP and the British side.
2. The Tánaiste opened the meeting by saying that he had reported to Government colleagues on their last meeting. He was pleased at the progress made so far and expressed the hope that it could be maintained. Mr Trimble immediately asked what the timetable for enactment of the legislation would be. The Minister for Justice said that the Draft Bill had not yet been published and no decision had been made as to when it would be. A decision was contingent on progress in the Talks. In tandem with the British Government the Irish Government wanted progress on the three strands. She reminded the UUP that the legislation was enabling legislation. The regulations which would be issued under it could not be put in place until the modalities of decommissioning were agreed. The text of the Draft Bill was based on the International Body's report. Mr Trimble described the legislation as broad. The Tánaiste said the legislation could be put through the Dail and Seanad in the coming session, before Christmas, on the assumption that no parties would cause difficulties. The Minister for Justice estimated that it would take about five parliamentary days. (No decision had been made on which days.)
2. Mr Trimble asked what the outstanding issues were. The Minister for Justice said the powers of the Commission still had to be decided. Mr Maginnis asked when the Government saw the Commission being set up and what initial work it would be required to do. Would setting it up necessarily mean that the amnesty was in place? Would it be possible to switch the amnesty on and off? Mr Hickey said the legislation would have to be enacted and an agreement concluded between the two Governments before the Commission was set up. The nature of the Commission would depend on the modalities of decommissioning and the role it would be expected to play, eg. whether it would take possession of arms, destroy them or simply verify that this was taking place. Mr Maginnis emphasised that the Commission would require flexibility in order to play different roles at different times.
3. Mr Maginnis asked how the Irish side saw the amnesty. Would it be concurrent with the work of the Commission? Would it be ongoing? (He noted the different

possible amnesty periods in the Irish and British legislation - no limit in ours, one to five years in the British.) An amnesty would be an inhibiting factor as regards the activities of the security forces. It should only be available in short bursts. Mr Dalton said the amnesty would only be concerned with paramilitary arms. It would not cover ordinary criminals or crimes. They wanted to close off the possibility of someone taking advantage of the prohibition on forensic testing of decommissioned arms to escape detection for an ordinary crime. It was unlikely that this would in fact happen. Mr Hickey noted that different sections of the Draft Bill could be brought into operation at different times. The amnesty could be switched on and off. The prohibition on criminal proceedings against those decommissioning would depend on the amnesty being in operation.

4. Mr Dalton said that with regard to the timing of the legislation they had no intention of playing games. In discussions in the decommissioning sub-committee, when it was established, people would almost certainly make useful suggestions for improvements which they would want to incorporate into the legislation. Mr Empey, repeating a point made in previous meetings, said that the UUP's basic political point was that if no progress was made on decommissioning at this stage there was no guarantee that anything would happen on decommissioning once the three strands were set up and running. They wanted to establish a clear timetable for the decommissioning strand. They accepted that there would be a difference between an all-singing/all-dancing Commission and a more passive one. What they wanted to see was a core Commission set up. If there was some form of a Commission operating in advance of obtaining the agreement of those holding arms, it could undertake work such as looking at possible options. It could be reading itself in. When decommissioning started, it would not be starting from scratch. The Tánaiste said that he did not think that people would serve on a Commission if decommissioning was not actually taking place and if those holding arms were not involved with the Talks process.
5. Mr Trimble said the Irish and British Draft Bills were shells. After their enactment, the next significant step would be an agreement between the two Governments to establish the Commission. Then there would be the making of orders and regulations under the legislation, followed by the publication of the details of the decommissioning scheme. The Minister for Justice said that the timing of the Commission was tied in with progress in the Talks. Triggering the different elements in the Talks was a matter of political judgment. It was not the intention to set up the Commission in advance of it having work to do. Mr Trimble asked how far down the road the two Governments were in terms of discussing the nature of the agreement setting up the Commission and its structure. They wanted to know what the shape and structure of the powers of the Commission would be. The Minister for Justice said there had been discussion of these matters.
6. Mr Maginnis said he was encouraged by the expeditious way in which the legislation could be handled. There was another matter of judgment. The International Body's report (paragraph 34) had alluded to a process of

decommissioning in parallel with negotiations. He personally saw decommissioning and all party negotiations as being in parallel but not linked. If they were moving down one track and not the other they would not be making progress. The two Governments could now be defining the membership of the Commission. For example, General de Chastelain could be part of a core Commission, working on verification and practical matters. It could liaise with the Garda and the RUC. A significant amount of time was needed, for example, to gain information internationally or from people who were aware where arms were hidden. This would be reassurance for those participating in the talks and would be an inducement to those not participating to join. The Minister for Justice asked whether he was talking in terms of a pre-legislative Commission. Mr Maginnis said he was not. The Commission would follow on immediately from the legislation and would not be something dependent on Sinn Féin entering the talks. Judging by what the Secretary of State and the Tánaiste had been saying, the situation in this respect might change over the next three months. He and a lot of people outside were looking for comfort on the parallel (decommissioning) track. The Tánaiste said that if the two Governments could gain information on where arms were hidden they would be working on it. There was nothing extra that the Commission could do in this respect. Mr Dalton said that political judgments would have to be made right through the process.

7. The Minister for Justice said that in her opinion things would fall into place as the legislation went ahead. Mr Maginnis said that, while he found that reassuring, could it be that there would be a wait until Sinn Féin entered the talks and nothing would happen before that? Mr Empey said that in the opening debate on decommissioning he saw the parties as giving a commitment to work towards decommissioning. He asked what would happen if, with everyone at the table, nothing had happened on decommissioning after, say, 13 weeks. The UUP would see this as a failure of commitment on the part of some of the parties. The Tánaiste asked about those on the other side who would ask where the political progress was. Mr Empey said they did not want to buy arms by agreeing to political arrangements. The Minister for Justice noted that paragraph 35 of the International Body's report linked the two aspects.
8. Mr Ó hUiginn said they were talking about two approaches, a peremptory approach and a co-operative approach. The question was which one would work. What we were doing was trying to persuade people who had so far eluded detection to give up arms. How would the peremptory approach work in that situation? Mr Trimble said he interpreted the Tánaiste as saying that there would be no progress on the decommissioning scheme until Sinn Féin entered the talks. The Minister for Justice said it was her sense that the unionists were "precooking" the Commission. Mr Maginnis said that a certain peremptory agenda would be necessary. The loyalist parties were already at the table and pressure would continue to be exercised on them - it was not possible to ignore their responsibility. Mr Dalton said he understood that the unionist side wanted more detail. Mr Hickey said there had already been some discussions between the two Governments on the modalities of

decommissioning, ie. the four options in the International Body's report. The task was to translate these into a working method, breaking them down into requirements, procedures and steps. The International Body's report saw these practical issues being addressed in the Talks process. Mr Empey said that he accepted that until the relevant people were involved in the Talks the precise modalities could not be specified. However, they were anxious to ensure that the capacity for this to happen was in existence. If there was a hiatus while the details of decommissioning were worked out, it could be the middle of next year before this was settled. Decommissioning was a time-limited exercise (although the time could be extended).

9. Mr Empey said he presumed that the paramilitaries would also want to talk to the Commission - they would not be talking to the security forces, or to any of the parties or the Governments. He accepted that nobody could guarantee that any decommissioning would happen. But they had to allow for the possibility. This could be done where independent individuals with no baggage were established as a Commission. The Minister for Justice said the reality was there would be no decommissioning until the necessary parties were at the table. Mr Hickey asked whether the UUP envisaged that the work on modalities would be determined outside the present process by an embryonic Commission. Mr Empey said it would be useful if schemes were worked up by the Commission so that they could be available for use if needed. Mr Trimble asked when would the work of the Commission and the modalities be firmed up, assuming the legislation was in place and ideas were worked out. The Minister for Justice said that in her view they would have a better feel when the legislation had gone to the two Parliaments. Both Governments were agreed that they could not allow the decommissioning issue to create a blockage. Mr Trimble said that what they were looking for was a general idea of what the two Governments had in mind. Mr Maginnis said that one track (the political track) would be inhibited by the other track (the decommissioning track) not being pursued. He repeated that he was not putting in "cross-ties" between the two tracks. Mr Empey said the Government may be assuming that the UUP wanted more details than in fact what they were looking for. The question was what the next step would be. The process must be seen to have momentum. The Tánaiste said that bringing forward legislation would be progress, which would bring momentum to the other track. There was no progress so far on the three strands. He suggested that they talk about this in the trilateral on the following day. Mr Maginnis said they would not have a lot of difficulties with the enabling legislation. Mr Trimble said that a lot of people would say that the meat was not in the enabling legislation. A lot of questions were going to be asked. The British legislation would not get through Westminster if the draft decommissioning scheme was not published for consultation purposes. This was not due to the Government's lack of a majority - it was normal practice when a Bill went to Committee stage.
10. The meeting concluded at this point because Mr Trimble and Mr Maginnis had another engagement. The copies of the Draft Bill were taken up from them.