

British Paper, rec'd 13/9

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

POINTS TO MAKE

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- The two Governments are at one in wishing if possible to consolidate and take forward the signs of UUP flexibility and convergence with the SDLP which became apparent this week.
- The key to further UUP movement appears to be the deployment with them, on a confidential basis, of our two draft decommissioning Bills. To maintain momentum, HMG believes that we should aim to do this next week. The British side looks forward to discussing this issue, including the timing and modalities of any meeting or meetings with the UUP for this purpose, with the Irish side on Monday 16 September.
- The deployment of the Bills is intended to demonstrate the Governments' good faith on the decommissioning issue. But there must be a parallel test of the UUP's commitment to move the process forward. In return for the opportunity to see and discuss the draft Bills, and understandings about dates of publication, timescales for enactment, etc, we would look to secure from the UUP a commitment to supporting an exit strategy from the opening Plenary which would include
 - a joint proposal by the two Governments to establish a mechanism on decommissioning to operate alongside the three strands, for approval by the opening Plenary; and
 - a time-limited agenda for the remainder of the Plenary to bring about an early start to the substantive negotiations.
- The two Governments should clearly aim to agree such texts before they are put to the UUP and SDLP. We accordingly attach drafts of both prepared by the British side (which draw substantially on the joint "Scenario" paper published on 6 June). The British side would welcome the opportunity to discuss these also with the Irish side on Monday.

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- The drafts are meant to be self-explanatory, but the following comments may be useful:

- the drafts assume a target date for starting the three strands, and the decommissioning mechanism, of 21 October. Depending on events it may of course be possible to make faster progress;
- the first sentence of paragraph 3 of the Joint Proposal reads
"The Governments also confirm their commitment to work with all the participants to implement all [respectively appropriate] aspects of the Report."

The phrase in square brackets is meant to address concern expressed by both major Unionist parties that most of the participants cannot be expected publicly to commit themselves to implement "all aspects" of the Report, since some (eg the confidence-building measures) bear exclusively on the Governments and the paramilitaries. The British side believes that some way of meeting this Unionist concern need to be found, although it may be possible to find a better formulation than "respectively appropriate". The British side would welcome Irish views on this issue;

- further on in paragraph 3 there are alternative square-bracketed formulae about when the Governments will be willing to publish the draft Bills, and by what date they might be enacted. These again could be issues for discussion on Monday.

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JOINT PROPOSAL BY GOVERNMENTS ON HANDLING OF DECOMMISSIONING
[to be put to debate on decommissioning in Opening Plenary]

1. The British and Irish Governments put forward for consideration at the opening Plenary the following proposals for taking forward the handling of decommissioning.
2. The two Governments confirm their commitment to all aspects of the report of the International Body including their support for the compromise approach to decommissioning set out in paragraphs 34 and 35, which 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 now 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.

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."

3. The Governments also confirm their commitment to work with all the participants to implement all [respectively appropriate] aspects of the Report. As an important step towards implementation, each Government [has published today/will publish on/will publish at the conclusion of the opening Plenary] draft legislation to give effect to the International Body's recommendations on

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modalities, for the participants to consider and comment on, with a view to introducing legislation in their respective Parliaments early in the forthcoming session and seeking its enactment by [Christmas 1996].

4. The Governments propose that the plenary should agree to work constructively to secure the implementation of all aspects of the Report, including the requirement for mutual commitment and participation, in the context of an inclusive and dynamic process which builds trust and confidence as progress is made on the issues, and that it is on this basis that the negotiations should now advance to substantive discussions in the three strands. All present and future participants would need to accept that progress will only be possible on this basis.

5. The Governments further propose that the plenary should establish a committee to secure implementation of all aspects of the International Body's Report on this basis, with all the participants represented and chaired by the Independent Chairman of the Plenary. The committee would have the attached terms of reference (Appendix 1) and follow the attached workplan (Appendix 2). Its first task would be to consider and comment on the legislation proposed by each Government, so as to facilitate early introduction of the necessary legislation on an agreed basis. It would meet first on [21 October].

6. As part of the arrangements, the Independent Chairman would periodically brief the participants in plenary session on the progress made by the committee. In any event, a plenary session would be convened in [December] to take stock of progress in the negotiations as a whole, including the work of the committee. At this meeting, all participants would review the position, and the progress which has been made across the entire spectrum of the negotiations. It is understood that a successful outcome to the negotiations as a whole requires progress in each of the constituent elements of the negotiations.

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7. The two Governments finally propose that the adoption of the above proposals should conclude the address to decommissioning by the opening Plenary. Following the completion of other business, including the agreement of the comprehensive agenda, statements by participants, and final remarks by the Independent Chairman, the opening Plenary session would then be concluded. Under the agreed rules of procedure the appropriate Chairmen will then convene meetings of the negotiations within the three strands, opening on [21 October] and proceeding in parallel.

International Body, including:

- (a) consideration of both Governments' recommendations provided;
- (b) agreement of the appropriate time for the completion of decommissioning on the basis of the guidelines outlined in paragraph 14 to 15 of the Report of the International Body;
- (c) advice to both Governments, in the light of these discussions on the practical implications of the course which is recommended; and
- (d) agreement on any other arrangements necessary for implementation of the Report.

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Appendix 1

COMMITTEE ON DECOMMISSIONING

TERMS OF REFERENCE

To secure implementation of all aspects of the Report of the International Body, including:

- (a) consideration of both Governments' legislative proposals;
- (b) agreement at the appropriate time on the modalities of decommissioning on the basis of the guidelines contained in paragraph 36 to 50 of the Report of the International Body;
- (c) advice to both Governments, in the light of those discussions, on the practical implications of the course which is recommended; and
- (d) agreement on any other arrangements necessary for implementation of the Report.

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Appendix 2

WORKPLAN FOR COMMITTEE ON DECOMMISSIONING OPERATING ALONGSIDE THE
THREE STRANDS

1. Enabling legislation: consideration of draft Bills published by both Governments on [] to provide the legislative framework to implement the International Body's report.
2. Modalities: consideration of options for, and agreement on outline of, decommissioning scheme, including role of independent commission.
3. Other confidence-building measures: consideration of other aspects of the International Body's report which participants may consider relevant.
4. Detailed scheme: finalisation of detailed scheme, including any necessary subordinate legislation on amnesty, powers and privileges of commission etc.
5. Phasing and sequencing: agreement on:
 - phasing necessary to secure balanced mutual decommissioning; and
 - sequencing, in relation to political negotiations, necessary to lead to 'a progressive pattern of mounting trust and confidence'.
6. Independent Commission: establishment by International Agreement of the independent commission, and activation of the relevant order/regulations.

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7. Promulgation of decommissioning scheme and activation of other relevant orders/regulations.
 8. Other confidence building measures: implementation of mutual confidence-building.
 9. Actual decommissioning: in the context of an inclusive and dynamic process building trust and confidence as progress is made on the issues.
1. POSSIBLE FIVE-DAY PLAN FOR DECOMMISSIONING
(Full day sessions and agreement on agenda for remainder of opening Plenary. 3 days: 22-25 September)
2. Consideration of comprehensive agenda for three-strand negotiations. (3 days: 7-9 October)
3. Statements by participants. (3 days: 9 October, 14-15 October)
4. Adoption of comprehensive agenda; establishment of whatever mechanisms to enable further progress to be made on decommissioning are agreed pursuant to item 1. (4 days: 16 October)
5. Concluding remarks by Independent Chairman. (3 days: 16 October)

Assumptions:

- a. Plenary sessions to run for total of 6 hours per day (10-12.30 and 14.30-18.00).
- b. Each participant allowed 15 hrs for statement (and questions?) under item 3.
- c. Trilateral between British Government, Irish Government and UUP to be concluded before item 1 ends (ideally, before it starts).
- d. Objective is launch of 3 strands and decommissioning sub-committee on 21 October.

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DRAFT: 13 September 1996

POSSIBLE TIME-LIMITED AGENDA FOR REMAINDER OF OPENING PLENARY

[Preliminary stage: Debate and agreement on agenda for remainder of opening Plenary. 3 days: 23-25 September]

1. Consideration of International Body's proposals on decommissioning. [3 days: 30 September-2 October]
2. Consideration of comprehensive agenda for three-stranded negotiations. [2 days: 7-8 October]
3. Statements by participants. [3 days: 9 October, 14-15 October]
4. Adoption of comprehensive agenda; establishment of whatever mechanisms to enable further progress to be made on decommissioning are agreed pursuant to item 1. [½ day: 16 October]
5. Concluding remarks by Independent Chairman. [½ day: 16 October]

Assumptions:

- a. Plenary sessions to run for total of 6 hours per day [10-12.30 and 14.30-18.00].
- b. Each participant allowed 1½ hrs for statement (and questions?) under item 3.
- c. Trilaterals between British Government, Irish Government and UUP to be concluded before item 1 ends (ideally, before it starts).
- d. Objective is launch of 3 strands and decommissioning sub-committee on 21 October.

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e. Several variants are possible - eg

- statements by participants taken as item 1 (this would allow more time to complete the trilaterals);
- statements by participants dropped altogether - or no questions allowed (this would cut down the time between the conclusion of the address to decommissioning and the commencement of the strands - and therefore reduce opportunities for the DUP/UKUP to unpick the deal);
- agenda business proper could start during week of 23 September, if agreement on the opening Plenary agenda were reached early in that week.

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