

CONFIDENTIAL

(4 September 1996)

INTERNATIONAL BODY'S PROPOSALS ON DECOMMISSIONING

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)

CONFIDENTIAL

CONFIDENTIAL

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.

CONFIDENTIAL

CONFIDENTIAL

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. The prospects for a process of mutual decommissioning, as called for in the International Body's report, have been set back by the abandonment of the IRA ceasefire. We urge the loyalist parties to continue their efforts to ensure the maintenance of the ceasefire of 13 October 1994 which has enabled the valuable participation of the PUP and the UDP in these negotiations, in fulfilment of their electoral mandate and as 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 violence, 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;

CONFIDENTIAL

CONFIDENTIAL

- all parties to these negotiations have declared their commitment to the principle of total and verifiable disarmament and should therefore 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:

"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 agenda under which it is open to the various negotiating teams to raise any issue they 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.

CONFIDENTIAL

CONFIDENTIAL

"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."

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, in the context of the inclusive and dynamic negotiating process now established. The parties may wish to do this through a joint statement. After this the two Governments intend to propose that a sub committee of the plenary be established to secure implementation of all aspects of the report of the International Body, with the terms of reference attached at Annex A.

20. On this basis, the Government would be satisfied that there had been a sufficient address to this issue to enable substantive discussion in the three strands to be launched. To implement the Body's approach on decommissioning all participants will need:

- both to work constructively to secure a start to decommissioning during genuine and meaningful negotiations;

CONFIDENTIAL

CONFIDENTIAL

- 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 [November] 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

CONFIDENTIAL

CONFIDENTIAL

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. 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 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 both of the public and of those directly involved in the decommissioning process;
- 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;

CONFIDENTIAL

CONFIDENTIAL

- 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 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 much of the International Body's report cannot be secured. Even if mutual decommissioning is not possible at this stage, important confidence building measures can be secured:

- a commitment to the principles of total and verifiable disarmament of all paramilitary groups;
- agreement on the modalities for decommissioning, along the lines recommended in the International Body's Report;

CONFIDENTIAL

CONFIDENTIAL

- agreement on the verification of decommissioning, including the possible role of an independent commission, along the lines recommended in the Report;
- agreement on the possible phasing and the sequencing necessary if mutual decommissioning were to be implemented;
- a commitment to implement the start of decommissioning in circumstances where mutual decommissioning could be assured.

26. At the review the Governments have suggested should be held around the end of [November], 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.

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 and those whose arms will be decommissioned. 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.

CONFIDENTIAL

CONFIDENTIAL

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:

CONFIDENTIAL

CONFIDENTIAL

- changed arrangements for the release of scheduled offenders that reintroduce release at the 50% point of sentence for all offenders;
- 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;
- the relocation, up until February 1996, of 3 battalions of troops from Northern Ireland, and the 80% reduction in patrolling by the Army. Since the ending of the IRA ceasefire, two battalions have returned to Northern Ireland. 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');
- the Government has engaged in a wide ranging process of policing reform, including a fundamental review of policing needs, and reforms to policing structures, although the extent to which these reforms can be introduced will depend on the security situation;

CONFIDENTIAL

CONFIDENTIAL

- as the Report recommended, we are continuing to work to improve community balance within the police service, within the legal framework that appointment and promotion must be on merit.

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, taking account of 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.

The various handling plans and the recent minute to the Prime Minister set out the approach we have decided to adopt in the resumed Talks. I attach a possible opening statement which is intended to encapsulate and communicate that approach.

We hope to sign the Irish up to our general approach at tomorrow's 'Adare' and to explain it to the Independent Chairman on Sunday evening. The Secretary of State might take the further step at those meetings of suggesting that Senator Mitchell should invite

CONFIDENTIAL

CT/TPU/2095