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FROM: S J LEACH
ASSOCIATE POLITICAL DIRECTOR (L)
20 SEPTEMBER 1996



DESK IMMEDIATE

cc	PS/Sir John Wheeler (B&L)	-B
	PS/PUS (B&L)	-B
	PS/Sir D Fell o/r	-B
	Mr Thomas o/r	-B
	Mr Bell	-B
	Mr Ray	-B
	Mr Shannon	-B
	Mr Steele	-B
	Mr Watkins	-B
	Mr Wood (B&L)	-B
	Mr Beeton	-B
	Mr Hill	-B
	Mr Lavery <i>Mr 24/9</i>	-B
	Mr Perry	-B
	Mr Stephens	-B
	Mr Whysall (B)	-B
	Ms Mapstone	-B
	Mr Campbell Bannerman	-B
	Mr Lamont, RID	-B
	HMA Washington (via IPL)	-B
	HMA, Dublin	-B
	Ms Collins, Cabinet Office (via IPL)	-B

PS/Michael Ancram (B&L) - B
PS/Secretary of State (B&L) - B

DISCUSSIONS WITH IRISH AND UUP: 20 SEPTEMBER 1996

Summary

1. Good understanding with Irish (apart from late intervention by O'hUiginn); mixed messages from UUP, but further meeting fixed for Monday to dispose of UUP questions before main trilateral.

Detail

2. It was arranged at Wednesday's Ministerial trilateral that British and Irish officials would meet the UUP this afternoon to address their list of questions. We received this morning a lengthy draft paper responding to these questions prepared by the

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Irish; and I separately circulated a possible speaking note for use with the UUP. Since Michael Ancram was wary of offering a detailed sequential response, on the lines the Irish proposed - as this might prompt follow-up requests to see the answers in writing, the submission of further lists, etc - he asked me to prepare a draft merging my earlier speaking note with as much as possible of the language in the Irish draft.

3. I gave the resulting text (**Annex A**) on an **ad referendum** basis to the Irish team of David Cooney, Val O'Donnell and Brendan Callaghan when they arrived at 15.30hrs, with the suggestion that we should speak to this to start off the UUP meeting but then draw on their longer paper in dealing with the specific questions. I suggested we should also (subject to any drafting comments they had) seek to agree the Annex A paper by Monday in time to table it with the UUP at the Ministerial trilateral, to complement the "Suggested Conclusions" paper prepared by Mr Hill which they had separately received. They readily agreed to this, and Val O'Donnell in particular saw no difficulty with the paper (including - until we pointed out that the Irish did not agree to it - the proposal that the Committee should include the Chairman designate of the Independent Commission!)

4. We then met the UUP delegation (Alan McFarland, John Hunter, Peter King and - unfortunately only for 15 minutes at the beginning - Peter Weir). Mr Myles will be producing a full note of the meeting, but the most striking feature for me was the contrast between the basically moderate and constructive line (with one exception) taken by McFarland, and the aggressive and suspicious tone of Hunter's contributions (rather like the discord between Trimble and Taylor at Wednesday's meeting, although McFarland was less effective than his leader in sidelining the dissenting voice).

5. I opened the meeting, as agreed, by speaking to the text at Annex A: explaining that, while everyone would prefer legal weapons to be seized with no further ado, **decommissioning** was a separate

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procedure which would inevitably require the co-operation of those holding illegal arms. The modalities therefore had to have their assent, and details of a decommissioning scheme, and the consequent powers and privileges required by the Independent Commission to administer it, could only be settled once that agreement had been reached through essential preparatory work. The Governments proposed that this should be carried forward in a Committee to function alongside the political negotiations. Since that would be the forum for settling the details, the Governments did not and could not have a concluded view on a number of the detailed issues covered in the UUP questions - but we were nonetheless happy to address those questions subject to that caveat.

6. Hunter persisted in trying to regard this as a refusal to address the questions - although eventually, after we had repeatedly stressed our willingness to discuss them as fully as was realistically possible, he retreated into arguing that he did not have enough time to go through them this afternoon. We accordingly agreed with the UUP that we would have a further meeting with them at official level at around 11.30 on Monday, in order if possible to dispose of their questions before the main trilateral in the afternoon.

7. In contrast with Hunter's dogged focus on the details, McFarland tried to respond to our presentation of the big picture, and had clearly absorbed some of the points about the need for confidence-building and the important preparatory role of the Committee. He said that the UUP would wish to consider and explore further the Committee's role. (We said that we would be happy to do so at the Monday meeting). He pressed on the concept of an "inchoate Commission" associated with the Committee to give further substance to its work. Without ruling this out, I commented that the main difference between an inchoate Commission and a Committee supported by technical expertise was that the Committee would include all the participants, which would be a considerable

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advantage in reaching consensus on the arrangements and modalities for decommissioning which would allow the process to go ahead. This led McFarland (under pressure from Hunter) to suggest that the UUP would find it very difficult to sit down with Sinn Fein in any format until they had actually started to decommission their weapons. [This severely agitated Mr Cooney; but Mr Hill and I mollified him somewhat after the meeting by making clear that in our view McFarland had got UUP policy wrong - a key point of the May elections was to enable the UUP to interact with Sinn Fein **without** prior decommissioning].

8. Overall, Mr Perry, Mr Hill and I thought that the meeting was positive in enabling us to register our broad view of the way ahead with the UUP, and to engage their (or at any rate McFarland's) interest in it, with a promise of further engagement. Despite Hunter's spoiling tactics, we hope to be able at the further meeting on Monday to get the UUP questions out of the way before the main trilateral. At the same time, if the Hunter world-view is prevalent in the party, it is difficult to see that Trimble will be able to make the decisive move forward that is now needed.

9. The Irish clearly took a gloomy view of the proceedings, and indicated their Ministers' likely opinion that, if Monday afternoon's trilateral was not exactly the Last Chance Saloon for the Unionists, it was pretty close to it. We said that our Ministers **also** believed that it would be important for the UUP to give a sign of good faith on Monday; but they could not be expected to do so in a vacuum, and we should therefore put them to the test by tabling our **"exit strategy"** - that is to say, our general view of the way ahead to which the Governments might speak at the Plenary debate [that is, **Annex A**, subject to any Ministerial comments and proposals from the Irish] **and** the "Suggested Conclusions", which we would table for approval by the Plenary and which Mr Hill had passed to the Irish the previous evening. In the time remaining, we discussed this draft and **agreed** a slightly revised version **ad referendum** to Ministers - this agreed text is attached at **Annex B**.

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An important task for Monday (among several others) will be to reach final agreement with the Irish on Annexes A and B in time to hand them over to the UUP at the main trilateral scheduled for (I believe) 16.30hrs.

10. Both sides also noted in passing that the "inchoate Commission" idea clearly attracted the UUP, and we agreed to consider over the weekend if there were any ways of giving substance to it without encouraging any Unionist hopes of dispensing with the Committee altogether. (Cooney reiterated Irish concerns about giving de Chastelain the Chairman - designate role, citing the risk of "polluting" strand two.)

11. [Postscript]: in a slightly ominous coda to the day's proceedings, David Cooney returned somewhat apologetically to say that, although he had agreed Annex B apart from some very minor points, Sean O'hUiginn had now instructed him by telephone to reserve the Irish position on one of the key sections - the tirst at the top of the second page beginning "agree to work constructively ...". I said that I could not understand this reservation, since the language was very close to that used in the joint paper of 6 June, save that the participants themselves were being asked to "agree to work constructively to secure the implementation of the Report" rather than the Chairman satisfying himself that they showed good intent to do so. But that could not be reinstated, since we knew that the Chairman did not want this function. Cooney did not dissent, but indicated that O'hUiginn would doubtless be ready to explain his reservations at some length on Monday!

(Signed SJL)

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PDT/1189

DRAFT [Irish considering; ad referendum to Ministers]

DECOMMISSIONING: THE WAY AHEAD

1. Both Governments continue to do everything in their power to recover illegally held arms and prosecute those who possess them. The security forces in both jurisdictions have extensive powers in this area. But clearly, those efforts alone have not been completely successful. The process of decommissioning will be a different and distinct procedure, which can only be based on co-operation designed to secure the removal of all those illegally held arms which have eluded the efforts of the security forces.

2. Because of this need for co-operation, both Governments accept the **compromise approach** to decommissioning set out in the report of the International Body, which envisages **parallel progress** on the political and decommissioning tracks -

"[The compromise approach] 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. Flowing from this interdependence, both Governments have prepared legislation of an **enabling** character which will permit the maximum flexibility in taking forward the decommissioning process. The modalities for decommissioning and the details of the Commission's resources, powers and privileges cannot be settled until there is agreement on a decommissioning scheme. That in turn will require agreement in a process capable of building mutual trust and confidence.

4. What the Governments therefore propose is that a **clear structure of purposive action** should be established to take forward decommissioning alongside political negotiations within the Talks process. This would involve the following:

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- (i) Commitment by both Governments to introduce their enabling legislation early in the coming session with the aim of getting it enacted as quickly as possible and, in any event, before Christmas. That timetable of course assumes a supportive Parliamentary climate which in turn would be affected by the degree of constructive engagement in the negotiations as a whole.
- (ii) A commitment which would be binding on all present and future participants to work constructively on all aspects of the Report of the International Body, including the compromise approach to German reunification. To be specific, were that commitment to be part of the "acquis" when Sinn Féin entered the Talks process, then the same requirement would apply to them as well.
- (iii) As the vehicle to secure that implementation, the Governments propose the establishment of a Committee, comprising all the participants in the Talks and chaired by the Independent Chairman of the Plenary. (Its membership will also include the Chairman designate of the Independent Commission, to minimise any hiatus when the Commission is established). This Committee would, the Governments believe, provide exactly the right forum to make progress on the lines indicated by the International Body, enabling the participants to continue detailed discussions on de-militarising and normalising society of the island.
- (iv) The Governments understand the concern that, unless specific action is taken, there might be little in the way of practical progress between the establishment of this Committee and the full introduction of the Independent Commission in line with the recommendations of the

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- (i) Commitment by both **Governments** to introduce their enabling legislation early in the coming session with the aim of getting it enacted as quickly as possible and, in any event, before Christmas. That timetable of course assumes a supportive Parliamentary climate which in turn would be affected by the degree of constructive engagement in the negotiations as a whole.
- (ii) A commitment which would be binding on all present and future **participants** to work constructively to implement all aspects of the Report of the International Body, including the compromise approach to decommissioning. To be specific, were that commitment to be part of the "acquis" when Sinn Fein entered the Talks process, then the same requirement would apply to them as well.
- (iii) As the vehicle to secure that implementation, the Governments propose the establishment of a **Committee**, comprising all the participants in the Talks and chaired by the Independent Chairman of the Plenary. [Its membership will also include the Chairman designate of the Independent Commission, to minimise any hiatus when the Commission is established]. This Committee would, the Governments believe, provide exactly the **right forum** to make progress on the lines indicated by the International Body, enabling the participants to commence detailed discussion on decommissioning and maintain ownership of the issue.
- (iv) The Governments understand the concern that, unless specific action is taken, there might be little in the way of practical progress between the establishment of this Committee and the full introduction of the Independent Commission in line with the recommendations of the

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International Body. This concern focuses on the absence of technical and legal expertise to enable a particular method or methods of decommissioning to be "operationalised". The Governments will therefore be willing to ensure that no gap exists by making a body of appropriate expertise available to the Committee to get on with the necessary and essential preparatory work. Such expertise would be provided from within the Governments' security and legal resources - although we would also be prepared to explore the possibility of securing the services of outside expertise if the decommissioning committee saw value in that course. In due course the fruits of this expertise - and if appropriate the experts themselves - would be available to the Commission.

(v) With these technical resources, the Committee could undertake from day one an active programme of essential preparatory work. This would include

(a) working up into a series of alternative schemes the different options for decommissioning outlined in the Report of the International Body;

(b) carrying out a rigorous practical analysis of the precise role, powers and privileges of the Independent Commission, as required by each of the possible schemes, as an essential preliminary to agreement on the modalities and the formal establishment of the Commission on the basis of with the appropriate personnel, resources, powers and so on;

(c) considering the necessary timing and sequencing of decommissioning.

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- (vi) The Committee would review this work and make **recommendations to the Governments**, who would then finalise and promulgate a scheme for decommissioning, and precise arrangements for the Commission, as soon as they were satisfied that a workable scheme of decommissioning had been identified which would be capable of finding broad acceptance among the parties and among those expected to decommission.

5. Thus the timing of the establishment of the Commission will enable essential preparatory work to be done - and the Governments propose the Committee, with appropriate resources, as the vehicle for that work. The Committee could also take forward work on the **context** in which a decommissioning scheme could be developed (including progressive confidence building measures) and on the impact of the requirement for decommissioning to be **mutual** as between Republicans and Loyalists.

6. The Governments would **also** propose that a Plenary session should be convened in [December] to take stock of progress in the negotiations as a whole, including the work of the Committee.

7. The Committee would have a **clear work programme** and the **resources to carry it through**. Its work could not be stalled by the absence of any party. Moreover, the commitment which the Governments would be seeking from all parties to the negotiations would be to work constructively to secure implementation of the report of the International Body, including the compromise approach to decommissioning. When that commitment is made everyone will expect it to be honoured in good faith, in the context of an overall process of negotiations which builds mutual trust and confidence. The Governments invite all parties to start to create that mutual trust and confidence through the process of negotiation now.

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BRITISH DRAFT: 19 SEPTEMBER 1996
(Agreed with Irish Officials ad referendum: 20 September)

SUGGESTED CONCLUSIONS TO THE PLENARY ADDRESS TO DECOMMISSIONING
[to be tabled by the two Governments]

The participants in the multi-party talks, meeting in plenary session:

- note the commitment of the two Governments 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".

- note the commitment of the two Governments to work with all other participants to implement all aspects of the Report [and the commitment of the political parties, for their part, to work fully with the Governments in this task].
- note that as an important step towards implementation, each Government will publish at the conclusion of the opening Plenary session draft enabling legislation which will provide the basis for giving effect to the International Body's recommendations on the modalities of decommissioning. Having considered any comments which the committee referred to below may have they intend to introduce legislation in their respective Parliaments in the forthcoming session so that as progress is made on political issues the legislative framework is enacted by Christmas 1996.

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- [agree to work constructively and in good faith to secure the implementation of all aspects of the Report of the International Body, including its proposed compromise approach to decommissioning, in the context of an inclusive and dynamic process in which mutual trust and confidence is built as progress is made on all the issues of concern to all participants. The reality for all present and future participants is that progress in the Talks will only be possible on this basis.]
- agree to establish a committee charged with working to secure implementation of all aspects of the International Body's Report on this basis. The Committee will comprise representatives of all the participants and be chaired by the Independent Chairman of the Plenary. [Its membership will also include the Chairman designate of the Independent Commission proposed in the report of the International Body and which is provided for in the draft legislation]. The two Governments will make available to the Committee a range of relevant technical expertise. The Committee will follow the attached working agenda (Appendix 1). It will first meet on [7/14 October].
- agree that a plenary session should be convened in [December] to take stock of progress in the negotiations as a whole, including the work of the committee. At that meeting, all participants would review the position, and the progress which has been made across the entire spectrum of the negotiations. It would also be possible, under the provisions of paragraph 12 of the rules of procedure, for the plenary to be convened specifically to enable the Independent Chairman to brief participants on the progress made by the committee.
- agree that the adoption of the above proposals should conclude the address to decommissioning by the opening Plenary and that the negotiations should now be advanced, with the opening of substantive discussions in the three strands on [7/14 October].

Note: On this basis, 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 be concluded. Under the agreed rules of procedure the appropriate Chairmen will then convene meetings of the negotiations within the three strands and the proposed Committee on Decommissioning, opening on [7/14 October] and proceeding in parallel.

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COMMITTEE ON DECOMMISSIONING
WORKING AGENDA

- Governments' legislative proposals: consideration of draft Bills and ongoing review of progress towards enactment.
- Conditions necessary for decommissioning: consideration of the circumstances in which mutual decommissioning would be expected to occur.
- Modalities: development of detailed scheme or schemes for decommissioning and determination of the precise role of the Independent Commission in relation to each scheme.
- Role of other confidence-building measures: consideration of those other aspects of the International Body's report which participants may wish to raise in this format.
- Determination of detailed arrangements for decommissioning: agreement on detailed decommissioning arrangements, including commenting on the necessary subordinate legislation.
- Review of implementation: ongoing review of implementation of all aspects of the Report.

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