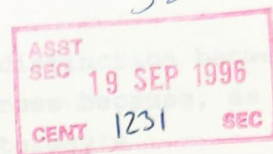


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525/96

FROM: D J R HILL
POLITICAL DEVELOPMENT TEAM
19 September 1996



Mr Leach (B)
(COMMENTS BY 12.15)

cc PS/PUS (B&L)
PS/Sir David Fell
Mr Thomas o/r
Mr Steele
Mr Bell
Mr Watkins
Mr Perry
Mr Stephens
Mr Maccabe
Mr Lavery
Mr Whysall (B&L)
Ms Mapstone
Ms Bharucha

17.19/9.

REVISED "JOINT PROPOSAL" AND THOUGHTS ON CHAIRMANSHIPS

1. We have undertaken to prepare a further revised draft of the Joint Proposal. The intention would be to put something on these lines to the UUP at Monday's trilateral.
2. Meanwhile it provides a useful vehicle for encapsulating a joint Government position on both the substance of the decommissioning issue and our proposed exit strategy; and thus usefully complements the work going on between the two Governments in developing a response to the UUP's "questions". We currently intend to put that response to the UUP tomorrow at official level but it will presumably also be part of the package put to the UUP at the trilateral on Monday.
3. A rather important point which occurred to me while working on this is that there could be a considerable trick to be gained by putting Gen de Chastelain forward as Chairman of the Decommissioning Committee and the Independent Commission. In return, Senator Mitchell might chair Strand II. That would be a far more appropriate distribution of responsibilities; it would enable Gen de Chastelain to chair the Independent Commission (see below);

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PDT/1135

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and it would helpfully (for Unionists) blur the distinction between the Committee and the Commission. The thought arose because, as you will recall, the Irish reacted very badly at yesterday's pre-trilateral meeting to the idea that Gen de Chastelain should chair the Independent Commission: they argued that that would be incompatible with his chairing Strand II (mainly, I presume, because they want to avoid any linkage, or any pollution of the political negotiations by too close an association with the decommissioning "strand" but time pressures could also be a factor). Their reservations would give us a real problem in identifying a suitable alternative candidate (he is the Unionists' favourite); my proposal would avoid all that and have other real benefits. We would of course need to unpick the rules of procedure, the NI decision on who should be offered which chairmanships and the understandings reached with the Chairmen, but I do not think those would be insuperable problems and I think the prize is worth it. I should be very grateful for colleagues' immediate reactions.

4. This thought need not affect the terms of the draft Joint Proposal - it would only require a couple of changes in paragraphs 5 and 6 - and if you and copy recipients are content with that I will seek to clear it urgently with the Secretary of State and Michael Ancram for transmission to the Irish at the earliest opportunity.

5. A few comments:

- (a) the base text is the Irish draft of 18 September. Additions are shown in bold and deletions underlined;
- (b) paragraph 3, the second sentence is now more apt for a Government proposal. We still need to determine the mechanism which should be used to capture those commitments and respond to the point, now noticed by the Irish and the UUP, that there is not currently a mechanism for slinging out those who breach such commitments. Perhaps our opening gambit should be that the failure of any participant to live up to their commitment would render them responsible for any consequent deadlock in the talks process;

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- (c) breaking the paragraph at that point gives more emphasis to the commitment point;
- (d) the changes in what is now paragraph 3bis are intended to respond to Unionist concerns that the legislation is nothing to do with the Committee and should not be subject to delay as the result of any need to seek agreement in the Committee;
- (e) the original wording of paragraph 4, in square brackets, is largely hallowed text but remains impenetrable and may look unconvincing to Unionists. I hanker for something much clearer on the lines of the alternative. This will require careful consideration;
- (f) paragraph 5 is beefed up to incorporate an allusion to the proposed expert back-up and to the involvement of the Chairman designate of the Commission: more detail could be provided in the response to the UUP's questions or in statements made in support of the Joint Proposal. I have deleted the reference to it considering the draft legislation - see (d) above;
- (g) Mr Cooney gave me to understand that the Irish would be content with our revision of the Working Agenda, which I have sought to beef up a little further still: the rubric under item 2 is a hint of mutuality and phasing/sequencing; the adjustment to the rubric of 3 is intended to respond to the Unionist desire that the Committee (or, in their book, the Commission) should get on with drawing up decommissioning schemes; while 5 reminds them that finalising a scheme can only happen at a later stage and again implies that subordinate legislation could proceed without having to wait for agreement in the Committee;

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- (h) the insertion in paragraph 7 would not be necessary if we stuck with the original wording on paragraph 4; but actually fits more logically here as the punchline for the whole Proposal.

(Signed)

D J R HILL
Political Development Team
CB 22317

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PDT/1135

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BRITISH DRAFT: 19 SEPTEMBER 1996 (11.00)

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 aspects of the Report. They look to each of the political parties, for their part, to commit themselves to cooperating fully with the Governments in this task, in respect of all areas relevant to them.

3bis As an important step towards implementation, each Government will publish [at the conclusion of the opening Plenary] draft enabling legislation which will provide the basis for giving effect to the International Body's recommendations on the modalities, for the participants to consider and comment on in of decommissioning. Subject to any comments which the committee referred to in paragraph 5 below with a view to introducing 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].

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

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advance to substantive discussions in the three strands. All present and future participants would need to accept that progress in the negotiations will only be possible on this basis.]

The Governments propose that all participants should therefore now commit themselves 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; and to contribute to the maximum possible extent to the development of an inclusive and dynamic process in which mutual trust and confidence can be built as progress is made on all the issues of concern to all participants. All present and future participants would need to accept that progress in the Talks will only be possible on this basis.

5. The Governments further propose that the plenary should establish a committee [IRL: charged with working] to secure implementation of all aspects of the International Body's Report on this basis. The Committee should comprise representatives of all the participants represented and be chaired by the Independent Chairman of the Plenary. [UK. 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 committee would have the attached working agenda (Appendix 1). 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. It would first meet on [7/14 October].

6. As part of the arrangements, 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 would also be possible, under the provisions of paragraph 25 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. [UK: It is understood that a successful outcome to the negotiations as a whole requires progress in each of the constituent elements of the negotiations.]

7. The two Governments finally propose that the adoption of the above proposals should conclude the address to decommissioning by the opening Plenary and that the negotiations should now advance to substantive discussions in the three strands. With 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

1. Governments' legislative proposals: consideration of draft Bills and ongoing review of progress towards enactment.
2. Conditions necessary for decommissioning: consideration of the circumstances in which mutual decommissioning would be expected to occur.
3. Modalities: preparation of a detailed draft decommissioning scheme or schemes and determining the precise role of the Independent Commission in relation to each scheme.
4. 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.
5. Other arrangements necessary to secure implementation of the report: finalisation of a detailed decommissioning scheme, including commenting on the necessary subordinate legislation.
6. Review of implementation: ongoing review of implementation of all aspects of the Report.