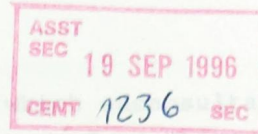


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525/96

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



DESK IMMEDIATE

cc PS/Sir John Wheeler (B&L)
PS/PUS (B&L)
PS/Sir David Fell
Mr Thomas o/r
Mr Legge
Mr Leach
Mr Steele
Mr Bell
Mr Watkins
Mr Perry
Mr Stephens
Mr Priestly
Mr Maccabe *NA - 20/9.*
Mr Lavery
Mr Whysall (B&L)
Ms Mapstone
Ms Bharucha
Mr Campbell-Bannerman
Mr Lamont, RID
HMA Dublin
Mr Clarke, Dublin
Ms Collins, Cabinet Office

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

REVISED "JOINT PROPOSAL"

In the light of yesterday's trilateral with the UUP we are currently working on:

- a "response" to the UUP questions. The Irish have volunteered to produce a first draft which we hope to see this afternoon but Mr Leach is also preparing a version which might in due course serve as a speaking note which Ministers could use to convey the same messages to the wider talks community during the plenary address to decommissioning.

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a revision of the "joint proposal" which encapsulates the two Governments' proposed exit strategy from the address to decommissioning. This needn't be put to the UUP tomorrow but would need to be part of the package presented to them at Monday's trilateral. Meanwhile it provides a useful vehicle for communicating to the Irish our view of where the two Governments should be heading in the trilateral process so it would be desirable to get it to them as quickly as possible.

2. I should therefore be glad to know that the Secretary of State was content for the attached draft to be sent to the Irish (via the Secretariat), preferably tonight. There will be an opportunity for officials to discuss it with Michael Ancram on the VCR at 4.00pm.

3. Some brief comments on the revised draft are set out below, but two main issues arise:

- (a) Should any commitment to the implementation of "all aspects" of the International Body's Report (including its compromise approach to decommissioning) be given by individual participants, as was the case for the commitments to the Mitchell principles, or by plenary as a whole. A requirement for commitments from individual participants would catch Sinn Fein but we could face a problem if the DUP and UKUP, for example, refused to sign up to such a feeble commitment; there would also be a problem over the point that many of the parties have no contribution to make to implementing most aspects of the report. On those grounds a "plenary" commitment would be much easier but may not satisfy the UUP concern to see Sinn Fein nailed down. In either case there is no provision anywhere for excluding or otherwise dealing with any participant which fails to live up to any such

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commitment: that could only be achieved by inventing a "Rule 29A", to the effect that if a representation is received that a participant has demonstrably failed to live up to this (plenary) commitment that will be circulated and the two Governments will take appropriate action having due regard to the views of the parties. The draft favours a plenary commitment coupled with such a sanction, but Ministers will wish to consider the options carefully;

- (b) the chairmanship of the Independent Commission. At yesterday's pre-trilateral the Irish reacted very badly to the idea that General 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 - which were not repeated when the General's name was mentioned in passing at the trilateral itself - would give us a real problem in identifying a suitable alternative candidate (he is the Unionists' favourite). We should probably wait to see whether they press their case. A desirable long-term outcome might be that General de Chastelain should become chairman of the Decommissioning Committee and the Independent Commission, with Senator Mitchell moving over to chair strand II. That would be a far more appropriate distribution of responsibilities; it would enable General de Chastelain to chair the Independent Commission; and it would helpfully, (for Unionists) blur the distinction between the Committee and the Commission. We would 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 they may not be insurmountable problems

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Senator Mitchell's availability (and possible departure) may determine the issue, or open up the possibilities. For the moment, I suggest we continue to promote General de Chastelain as our candidate for the independent commission. and again implies that subordinate legislation could proceed without having to wait for agreement in the

4. Detailed comments on the text:

- (a) the base text is the Irish draft of 18 September with main changes in bold;
- (b) 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;
- (c) 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;
- (d) 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 (b) above;
- (e) 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

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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;

- (f) 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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BRITISH DRAFT: 19 SEPTEMBER 1996 (15.00)

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 the political parties, for their part, to commit themselves to [working] [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, of decommissioning. Subject to any comments which the committee referred to in paragraph 5 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].

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 the plenary should 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. [All present and future participants would need to accept that progress in the Talks will only be possible on this basis. If any participant makes a formal representation that another participant has demonstrably failed to live up to this commitment, that should be circulated to the other participants and the two Governments will take appropriate action having due regard to the views of the parties.]

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 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 would have the attached working agenda (Appendix 1). 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 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. [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 be advanced, with the opening of substantive discussions in the three strands on [7/14 October]. 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.