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Ms. McN.

FROM: D J R HILL
POLITICAL DEVELOPMENT TEAM
12 NOVEMBER 1996

DESK IMMEDIATE

cc: PS/Sir John Wheeler (L&B) - B
PS/PUS (L&B) - B
PS/Sir David Fell - B
Mr Thomas - B
Mr Steele - B
Mr Stephens - B
Mr Watkins - B
Mr Bell - B
Mr Leach - B
Mr Wood (L&B) - B
Mr Lavery - B
Mr Perry - B
Mr Maccabe - B
Mr Priestly - B
Mr Whysall (L&B) - B
Mr Campbell-Bannerman - B
Ms Mapstone - B
Ms Bharucha - B
Mr Lamont, RID - B
HMA Dublin - B
Mr Clarke, Dublin - B
Mr Westmacott, W'ton via RID - B
Mr Oakden, No 10
Ms Collins, Cab Off (via IPL) - B

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

TALKS: HANDLING PLAN FOR WEDNESDAY 13 NOVEMBER

The immediate task will be to get a read out from the UUP and SDLP following their bilateral this afternoon. [STOP PRESS:

Jeffrey Donaldson reports a constructive, good-tempered exchange, mainly devoted to probing each other's positions and resulting in agreement to meet again tomorrow.] As the Secretary of State will be meeting the Parades Review team, Michael Ancram might take this on during the morning.

2. It would then be desirable to have a substantive exchange with Mr Spring about the possible outcome of the decommissioning debate. (Unless there are further developments this evening or overnight there is probably no more to be said on "Hume/Adams" than we said to

Mr Coveney earlier today.) We may be able to pick up points from the UUP/SDLP bilateral, but otherwise it would be helpful to run through with the Irish the various arguments which seem to point inexorably to an external source of at least moral authority on decommissioning, and the practical ways in which the two Governments' "Committee" approach, Ken Maginnis' emphasis on the need for an inchoate Commission and the Alliance Party's views on the need to "decouple" decommissioning and substantive political negotiations could be brought together into a generally acceptable package. I attach (Annex A) a checklist of possible arguments to deploy. Mr Bell is exploring the Tanaiste's availability for a meeting in the late morning or early afternoon.

3. If that exchange goes well it might become appropriate to float with the Irish something on the lines of the revised "suggested conclusions" at Annex B, which Mr Stephens first circulated on 1 November. The attached version is further revised to reflect initial Irish, UUP [and SPOB!] reservations about giving the Independent Commission powers to determine when decommissioning should start. The Irish and the UUP both, for different reasons, want to ensure that the talks participants have the final say, but it would strengthen the UUP's position if they knew that (if reasonable progress were being made in the three strands) they could expect the Commission to make recommendations about the commencement of decommissioning which would add to the political and moral pressure on the Republican Movement. Annex B encapsulates our fallback approach and is quite close to what the UUP indicated this morning might be acceptable to them. If the discussion with Mr Spring goes well we might consider floating the text with them before the end of the week (perhaps after having tried it on the UUP if that can be fitted in) with a view to tabling it for discussion before plenary resumes next Monday.

4. However, if the Irish seem unlikely to respond favourably there would be a case for keeping the text back and playing it in as part

CONFIDENTIAL

of any endgame so that in the event of a breakdown we have a reasonable compromise position to point to which does not align us with either Irish or the UUP.

5. Looking slightly further ahead, I do not in any event think it is crucial to stitch up an agreed exit from the decommissioning debate this week: there are several more devices we could use in the search for an agreed outcome. The summary "conclusions" or "proposals" which each delegation has been invited to table by tomorrow morning may open up other areas of discussion: in any event it will be helpful to have a set of fairly succinct, relatively focussed proposals to work with in place of the rather discursive initial presentations. If a plenary debate on these proposals makes no progress, or seems unlikely to prove constructive, we might suggest the establishment of a small committee to identify the areas of agreement and disagreement and report back. At the very least this could be expected to produce a more precise statement of the areas of disagreement and the reasons why the various delegations disagreed over particular propositions. It could generate greater mutual understanding and might even begin to identify ways of resolving those disagreements. (This kind of approach worked very well in Strand 1 in 1992. Part of the secret may lie in restricting numbers to a maximum of two per delegation and discouraging the attendance of party/delegation leaders - in 1992 that appeared to facilitate frank and open discussion and a readiness to explore or float ideas "without commitment".)

6. Everything else being equal, we could keep the decommissioning debate going reasonably constructively for a while yet, which may begin to generate pressure on the Irish Government and SDLP to identify or agree to a way of bringing it to a conclusion on an agreed basis.

(signed)

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THE DECOMMISSIONING DEBATE: A POSSIBLE FALLBACK EXIT STRATEGY

Points to make to the Irish

1. For so long as there is a prospect of Sinn Fein joining the Talks (as we both hope they will) this issue is not academic.
2. The reality is that if Sinn Fein join the talks the DUP and UKUP will almost certainly leave. The only prospect of keeping the talks process going in those circumstances (and laying the foundations for a permanent peace) will lie in ensuring that the UUP have something to point to which would justify their remaining at the table in the face of virulent criticism and extreme political pressure from the DUP and UKUP.
3. They have said they would find it politically unsustainable to be engaged in substantive political negotiations with Sinn Fein while Gerry Adams was able to say, without contradiction, that no undertakings of any sort had been given or expectations set in respect of the decommissioning of IRA weapons.
4. Hence the requirement identified in their paper of 30 September for an effective guarantee that the Mitchell compromise approach (of some decommissioning during the negotiations) would in fact happen - reflected in a bid for some IRA weapons to be handed in after Sinn Fein join the negotiations but before they join the three strands, and for prior commitment to a schedule of decommissioning. We have made clear that such requirements are not deliverable.
5. Equally they have made clear that the two Governments' suggested approach under which the decommissioning issue would be remitted to a Committee running in parallel with the three strands is not acceptable to them. An arrangement in which progress on

decommissioning could in principle be vetoed by the Irish Government or SDLP would not give them the political cover they would require. They realise that they can hold the launch of the three strands hostage to a satisfactory (to them) outcome to the decommissioning debate and are prepared to do so.

6. However, they would prefer to operate on a more constructive basis and are keen for their own reasons to resolve the decommissioning debate quickly and get the three strands under way.
7. Against that background it did seem to us that the principle behind the Alliance Party proposals regarding the Independent Commission might offer a way forward. Lord Alderdice spoke of "decoupling" the "decommissioning" and "political" tracks but providing for each to be taken forward purposively and in parallel, with a loose liaison structure in place. This would avoid the trap of appearing to trade arms for political concessions or vice versa, but would be true to the spirit of the Mitchell report in that progress in both tracks would be intended to build confidence on both sides on a reciprocal basis.
8. The notion of establishing the Independent Commission sooner rather than later and underlining its autonomy and authority would
 - play to Ken Maginnis' continued emphasis on a need to establish the Commission as soon as possible, and
 - tackle the Unionist concern that the "Committee" approach would leave the Irish Government and SDLP with a veto over progress.
9. We have been very encouraged by the UUP reaction to the Alliance Party's ideas. They now appear to take the view that so long as there was a general prior understanding that the Commission's task would be to secure implementation of all aspects of the

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International Body's report, including its compromise approach to decommissioning, they would be prepared to see an embryo Commission established and the three strands launched. They would want to maintain contact with developments on decommissioning via a liaison committee but seem prepared to drop their requirement for a prior commitment to a firm schedule of decommissioning.

10. Believe we may be able to make something out of these elements
- secure delegations' commitment in principle to implement all aspects of the Report of the International Body;
 - proceed to establish embryo Commission charged with developing detailed recommendations regarding the practical implementation of all aspects of the report of the International Body, including its compromise approach to decommissioning. Its views on when it would be appropriate for decommissioning to commence would have significant moral authority;
 - establish a Committee with an ongoing liaison role;
 - launch the three strands.

SUGGESTED CONCLUSIONS TO THE PLENARY ADDRESS TO DECOMMISSIONING
[to be tabled by the two Governments] *4/11/67*

The participants in the multi-party negotiations, 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;
- note that as an important step towards implementation, each Government [will publish at the conclusion of the opening Plenary session/have published] draft enabling legislation

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which will provide the basis for giving effect to the International Body's recommendations on the modalities of decommissioning. They [intend to introduce/have introduced] legislation in their respective Parliaments in the forthcoming session with a view to securing enactment [by Christmas 1996];

- note that, to secure the remaining steps necessary for implementation of all aspects of the International Body's report, the two Governments will establish at the conclusion of the Opening Plenary an Independent Commission [chaired by] with the attached terms of reference. This Independent Commission will, among other matters, make recommendations (on the basis of implementing the International Body's compromise approach to decommissioning and taking account of the conditions necessary for mutual decommissioning) on when decommissioning should start;
- agree to work constructively and in good faith with the Independent Commission to enable it to develop detailed recommendations regarding the practical implementation of all aspects of the report of the International Body, 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. A reality for all present and future participants is that progress in the negotiations will only be possible on this basis;
- agree to establish a Liaison Committee charged with co-operating fully with the Independent Commission for this purpose. The Committee will comprise representatives of all the participants and be chaired by the Independent Chairman of the Plenary. The Liaison Committee will be available for consultation by the Independent Commission, may assist the Commission as appropriate and shall regularly be informed by the Commission of progress in its task. But the Independent

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Commission shall be independent of the Committee and solely responsible for its own decisions and judgments. The Liaison Committee will be able to draw on the range of relevant expertise which both Governments will make available to the Commission;

- agree that a plenary session should be convened in [.....] to take stock of progress in the negotiations as a whole and in the work of the Independent Commission. At that meeting, all participants would review the position, and the progress which has been made across the entire spectrum of issues relevant to 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 basis of reports made to the Liaison Committee, on the progress made by the Independent Commission;
- agree that, on this basis, the address to decommissioning by the opening Plenary is concluded; and
- agree to complete the remaining business of the opening plenary session in time for the appropriate Chairmen to convene meetings of the negotiations within the three strands opening on [.....].

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TERMS OF REFERENCE

Need to secure information
The task of the Independent Commission shall be to ~~develop detailed recommendations regarding the practical~~ implementation of all aspects of the International Body's report. In particular:

- to prepare for consideration detailed draft schemes for decommissioning in co-operation with the two Governments, consistent with the draft legislation both Governments have put forward;
- to determine the precise role of the Commission as regards implementation and verification in respect of each draft scheme;
- to make recommendations (~~determine~~) following consultation on these draft schemes and having regard to the need for both Governments to be satisfied that the arrangements are workable, regarding the detailed arrangements for decommissioning and verification in accordance with the recommendations of the International Body;
- to consider, and make recommendations as appropriate, on other aspects of the International Body's report which may be relevant;
- to ^{adjust} ~~(make recommendations)~~ on the basis of implementing the International Body's compromise approach to decommissioning and taking account of the conditions necessary for mutual decommissioning, on when decommissioning should start;
- to implement the detailed arrangements for decommissioning and verification in co-operation with the two Governments;

CONFIDENTIAL

- to draw to the attention of the Independent Chairmen, for circulation to all participants and appropriate action by the two Governments, any participant who demonstrably fails to co-operate constructively and in good faith with the Commission;
- to report progress in these tasks to participants in the negotiations on a regular basis and, in the first instance, no later than 3 months after the Commission is established.

The Independent Commission shall consult with participants in the negotiations through the Liaison Committee established for this purpose, but may also consult participants individually or otherwise and may consult any other persons who may be of assistance. The two Governments will make a range of relevant expertise available to the Commission.