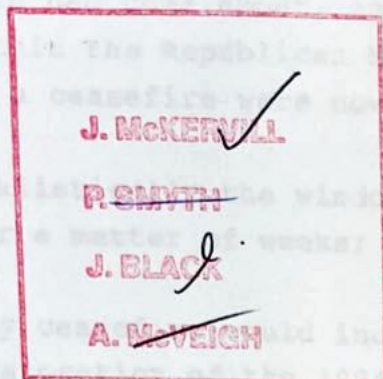


FROM: JONATHAN STEPHENS
IPL DIVISION
21 OCTOBER 1996

POLITICAL AFFAIR
DIVISION
22 OCT 1996
N.I.O. BELFAST

cc: PS/Michael Ancram (L&B) - B
PS/Sir John Wheeler (L&B) - B
PS/PUS (L&B) - B
PS/Sir David Fell - B
Mr Steele - B
Mr Thomas (L&B) - B
Mr Bell - B
Mr Ray - B
Mr Watkins - B
Mr Beeton - B
Mr Hill - B
Mr Lavery - B
Mr Maccabe - B
Mr Perry - B
Ms Bharucha - B
Ms Mapstone - B
Mrs Evans, HOLAB - B



Mr Maccabe O/R.

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

CONDITIONS OF ENTRY FOR SINN FEIN: REVISED TEXT

As the Secretary of State knows, legal advisers have expressed some concern that the proposed text on conditions of entry for Sinn Fein run some risk of opening the Secretary of State to a challenge that he was fettering his discretion.

2. Mr Thomas and I met Mrs Evans on Friday to discuss these concerns. Working on the basis of the existing text, we agreed that the attached text reduces the risks of a successful challenge without significantly changing the approach Ministers took. The first sentence of the second of the attached paragraph is particularly helpful in reducing risks - it asserts the fundamental principle that the Secretary of State must consider the matter in the circumstances at the time.

Lunch with Mr Spring

3. I shall not be at this evening's washup, but perhaps I could offer a few reflections on today's lunch.

4. The Irish position seemed to be:

- there was a serious prospect of a ceasefire;
- this had come about, not because of a shift in opinion within the Republican Movement, but because those in favour of a ceasefire were now prepared to take on the opposition;
- realistically the window of opportunity would only stay open for a matter of weeks;
- any ceasefire would indeed purport to be "an unequivocal restoration of the 1994 ceasefire" and we could expect it to be no more and no less than that;
- three months was too long a delay, but four/six weeks might be reasonable;
- any delay would have to be presented in a neutral fashion, ie not just as a "decontamination period";
- further specific requirements, eg on surveillance or targeting, would be difficult;
- it was inevitable that the talks would stall during whatever delay period was set.

5. I suspect that the Irish Side would have interpreted our position to be:

- prepared to consider bringing the delay period down to two months;

Order - prepared to drop specific references to surveillance,
targeting and weapons preparation for a more general
requirement that there should be nothing inconsistent with
the declared ceasefire.

6. Essentially, we face a choice between proceeding to respond to Hume without having secured the support of the Irish Government, or adapting our position in order to secure it. If we go ahead without them, then it is unlikely to help matters in the talks and leaves the Irish Government able to claim that we bore the responsibility for spurning what they believed to be a genuine opportunity for a ceasefire. But the sort of terms which the Irish Government would be prepared to support seem unlikely to take many tricks with the Unionists.

7. To give some idea of where the Irish Side may be coming from, my second attachment offers a speculative idea of the sort of text - to replace our paragraph in bold - that they might be prepared to wear.

(signed)

JONATHAN STEPHENS
IPL DIVISION

Under the legislation setting up the talks, there must be an unequivocal restoration of the IRA ceasefire of August 1994 before Sinn Fein would be invited to nominate a team to join the negotiations at that stage. This reflects the position of both the British and Irish Governments as set out in their Communique of 28 February.

The matter would fall to be considered by the Secretary of State in light of all the circumstances at the time. But, as things stand and in the light of recent events, both the British and Irish Governments expect that, unless there were some incontrovertible developments supporting it, a dependable judgment that any restoration was indeed genuinely unequivocal could only be formed over a period of some three months. In forming a judgment in that period, it would be right to consider any words, actions or other circumstances which were demonstrably inconsistent with there really being a ceasefire in place. For example, whether or not any paramilitary activity, including surveillance, targeting and weapons preparation, continued would be relevant.

Beyond the unequivocal restoration of the IRA ceasefire, the British and Irish Governments are agreed that these negotiations are without preconditions.

Under the legislation setting up the talks, there must be an unequivocal restoration of the IRA ceasefire of August 1994 before Sinn Fein would be invited to nominate a team to join the negotiations at that stage. This reflects the position of both the British and Irish Governments as set out in their Communiqué of 28 February.

Ministerial dialogue with Sinn Fein would be re-established as soon as practicable following the declaration of an unequivocal restoration of the ceasefire. The purposes of this dialogue would include:

- exploring what assurances there were that any ceasefire was for real;
- noting progress in the negotiations so far;
- exploring what confidence-building measures could be established.

In the absence of anything demonstrably inconsistent with the declared ceasefire, an invitation will be issued to Sinn Fein to join the negotiations within 2 months.

Beyond the unequivocal restoration of the IRA ceasefire, the British and Irish Governments are agreed that these negotiations are without preconditions.