

ANNEX A

DRAFT INITIAL REPORT OF THE INDEPENDENT INTERNATIONAL COMMISSION ON DECOMMISSIONING

JOINT DEPARTMENT OF JUSTICE, EQUALITY AND LAW REFORM/NORTHERN IRELAND OFFICE BRIEFING NOTE

1. The Draft Initial Report was made available by the Commission to officials of both Governments at a meeting in the Commission's offices in Belfast on 28 October, at which the members of the Commission also raised a number of ancillary points. The Commission are anxious to finalise the Report with a view to making it available to the Talks Sub-Committee on Decommissioning as soon as possible.
2. Officials of the Department of Justice, Equality and Law Reform and the Northern Ireland Office have considered the Draft Report. They believe that it provides a useful basis for further discussions with the parties in the Talks on certain key issues which will be fundamental to any future schemes for decommissioning. They are equally clear, however, that as it stands the Draft Report does not represent proposals for the schemes for decommissioning which the Commission have been tasked to prepare. They also believe that, were the Draft Report to be tabled or made available to the parties in its current form the drafting of certain sections could create difficulties for the Commission's future work, not least with the parties close to the paramilitary groupings, and could therefore hamper its efforts to reach agreement on decommissioning schemes. Officials are currently preparing suggested amendments, taking on board the comments of security and legal experts in both jurisdictions.
3. One particular issue which the Commission raised with the Governments is the suggestion that the Commission might, in advance of decommissioning by paramilitary groups and the promulgation of schemes for this purpose, become engaged in

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decommissioning of illegally-held arms by third parties which might approach the Commission. This raises various legal, practical and policy issues on which further work by the DOJ and the NIO is required before a considered view can be offered to the Commission.

5. The text of the Governments' response will be submitted for Ministerial clearance

4. Officials are therefore preparing a joint response to the Commission which, if Ministers are content, will make the following points:

- the two Governments welcome the Draft Report as a valuable contribution to taking work forward on the decommissioning issue;
- they have, however, some reservations about the handling of certain matters in the Draft Report and wish to offer some suggested amendments covering those particular points before the paper is tabled;
- in their view, while helpful in clarifying the issues, the Draft Report does not itself provide a basis on which the two Governments can draw up schemes for decommissioning, and further engagement both with and by the Commission on detailed modalities will be needed;
- they hope therefore that the Commission will be prepared to table the Draft Report (following any amendments that may be made) in the sub-Committee as a discussion document intended to facilitate the process of consultation with the participants to the Talks and others, and the subsequent development of detailed proposals for decommissioning schemes.
- they would also strongly suggest a further round or rounds of discussions with the parties in advance of the tabling of the Draft Report in the Liaison Sub-Committee on Decommissioning, in order to prepare the way for discussion there; and

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- they will wish to give further detailed consideration to the Commission's proposals for the handling of non-paramilitary illegal arms, and suggest that these proposals be held back for the present.

5. The text of the Governments' response will be submitted for Ministerial clearance before being passed to the Commission. Ministers will also wish to consider the level at which the Governments' response to the Commission should be delivered; advice on this will be provided separately.

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INITIAL REPORT

I. THE COMMISSION

LEGAL MANDATE, OVERALL STRATEGY AND GUIDING PRINCIPLES

A. Establishment

1. The Independent International Commission on Decommissioning was established by the Governments of the United Kingdom and Ireland on September 24th 1997. The Commission's mandate and status is codified in the Northern Ireland Arms Decommissioning Act 1997 (United Kingdom) and the Decommissioning Act 1997 (Ireland).

2. Legislation to create the Commission follows on recommendations made in the January 1996 Report of the International Body, in which paragraph 46 states:

"The decommissioning process should take place in the satisfaction of an independent commission acceptable to all parties. The commission would be appointed by the British and Irish Governments on the basis of consultation with the other parties to the negotiating process."

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