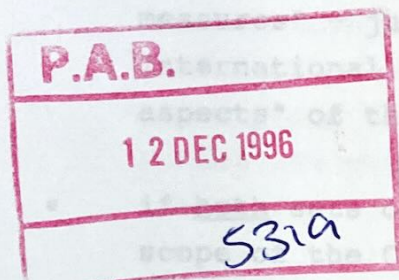


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FROM: D J R HILL
POLITICAL DEVELOPMENT TEAM
12 DECEMBER 1996



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 Watkins	- B
	Mr Leach	- B
	Mr Bell	- B
	Mr Stephens	- B
	Mr Wood (L&B)	- B
	Mr Lavery	- B
	Mr Perry	- B
	Mrs Collins*	- B
	Mr White*	- B
	Mr Maccabe	- B
	Mr Beeton	- B
	Mr Priestly	- B
	Mr Whysall (L&B)	- B
	Ms Mapstone	- B
	Ms Bharucha	- B
	Mr Lamont, RID	- B
	HMA Dublin	- B
	Mr Clarke, Dublin	- B

(* with previous papers)

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

TALKS: DEALING WITH CONFIDENCE-BUILDING MEASURES (CBMS)

This note considers possible ways round this issue now that we have seen the UUP/SDLP/Alliance Party paper of 11 December. It takes account of the information (from the SDLP) that the essence of the UUP concern is no longer the jurisdictional point but their desire to avoid any linkage between decommissioning and the CBMs identified in the International Body's report.

2. There are a number of relevant points which arise from a consideration of the trilateral paper (text attached):

- it does not explicitly say that the Liaison sub-Committee will have no decision-taking powers, although we believe this is the understanding between the three parties;

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- the Commission's remit is clearly limited to Decommissioning and Verification etc. There is no mechanism for it to take cognisance of any (other) CBMs;
- with or without the words in square brackets, there is no explicit reference in the text to "confidence-building measures" - just references to "implementing the International Body's report" or to considering "all other aspects" of the report;
- if both sets of words in square brackets were deleted the scope of the Committee's terms of reference would still implicitly cover the CBMs identified in Section 7 of the International Body's report. Sean Farren said last night that the SDLP could live with that as a second best outcome;
- if both sets of words in square brackets were retained it would establish a clear parallelism between decommissioning (first paragraph of the terms of reference) and "other aspects" of the report of the International Body (second paragraph); although the role of the Committee in respect of decommissioning would be to "assist with the implementation" whereas it would only "consider" the other (ie CBM) aspects.

3. The UUP presumably want the words in the first set of square brackets to be retained (limiting the Committee's remit to decommissioning) and the words in the second set deleted. The SDLP would prefer the retention of both sets of words but could live with the deletion of both.

4. The Government obviously shares the UUP desire to avoid any explicit linkage between progress on decommissioning and progress on the various CBMs which bear on HMG's responsibilities (prisoners,

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policing, security measures, emergency legislation, PBRs etc). However, I believe there are powerful arguments for giving the Liaison sub-Committee a remit which covers the CBMs identified in Section 7 of the report of the International Body:

- the issues have already been identified by the International Body as relevant to the issue of decommissioning, and HMG has consistently argued for (and tabled proposals which refer to) the implementation of all aspects of the report of the International Body. We cannot now credibly claim that these CBMs cannot be taken into account; and the Irish, SDLP and Sinn Fein would denounce us if we tried;
- the issues will inevitably be raised in the talks context by the paramilitary parties. (The UDP has already suggested a "prisons sub-group".) Under the rules of procedure any participant can "raise any significant issue of concern to them and receive a fair hearing for those concerns". Coralling such issues in the proposed Liaison sub-Committee may reduce the risk of them clogging up progress in the substantive political negotiations;
- several of the CBMs are ones on which we will want to press the paramilitaries (location of bodies, return of exiles, end of paramilitary activity etc). We would lose some leverage if we tried to limit others' ability to raise other CBMs;
- the Liaison sub-Committee is a good "home" for the "consideration" of such issues as it is intended to be a non-decision taking body where no substantive negotiation can therefore take place;

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- virtually all the CBMs identified in Section 7 of the International Body's report are clearly identified as being within the responsibility of either or both Governments (or of the paramilitaries). Any which might be amenable to substantive negotiation have a clear and acknowledged home in "strand one". Giving the Liaison sub-Committee a role in relation to those CBMs would therefore not open us to any requirement to negotiate on those issues. [The report also explicitly rules out any "equivalence" between security force weapons and paramilitary weapons];
 - in fact HMG has a very good story to tell on all the CBMs relevant to its responsibilities and it could be valuable to have a forum in which these could be deployed in a way which would maximise the pressure on Sinn Fein/the IRA to begin decommissioning.
5. Even so it would be desirable to underline the point that the sub-Committee is not an appropriate forum for negotiation on these issues.
6. Looking at the trilateral text in the light of that analysis, the following conclusions might be drawn:
- a) HMG could probably live with anything the UUP and SDLP could agree on, but they have so far failed to reach agreement and suggestions from us (whether fed in to them or to the Chairmen) may be helpful;
 - b) we could probably live with the deletion of both sets of words in square brackets, but that may not be acceptable to the UUP;
 - c) it would be desirable to secure a formula for the second set of words in square brackets which underline the fact that these "other aspects" are not for substantive

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consideration in the Committee. Something like, "The Committee will also review any developments reported to it in relation to any other aspects of the International Body's report which the participants may raise", might be more acceptable to the UUP without losing the Irish Government and SDLP;

- d) a balancing adjustment might be to limit the scope of the first paragraph of the Committee's terms of reference to Sections 5 [the "compromise approach"] and 6 [modalities of decommissioning] of the International Body's report, in place of the somewhat clumsy, "all aspects of decommissioning" formula. We might suggest, ".... assisting in the implementation of the practical recommendations set out in Sections 5 and 6 of the Report of the International Body".

7. Subject to Ministers' views, many of the arguments in paragraph 4 above could be deployed with the UUP and we could consider playing in the suggestions in paragraph 6 (c) and (d) if this point remains a stumbling block on Monday.

(signed)

D J R HILL
POLITICAL DEVELOPMENT TEAM
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CB x 22298

AGENDA FOR REMAINDER OF OPENING PLENARY

Item 2(c) 'Consideration of, and agreement on mechanisms for achieving further progress on decommissioning alongside progress in three strands'

1. Liaison Sub-committee of Plenary on Decommissioning

A Liaison Sub-committee of Plenary on Decommissioning (the Committee) shall be established comprised of representatives of all participants in the negotiations. It shall be chaired by the Chairperson of the Plenary and will report regularly to the Plenary.

Responsibilities

The Committee will be charged with assisting the implementation of [all aspects of decommissioning as set out in] the Report of the International Body. In particular it will be required:

- to consider any legislative proposals by either government, and any proposed regulations;

- to consider the type of scheme or schemes for decommissioning and the role of the Independent Commission in respect of same;

- to consider proposals for such schemes drawn up by the Independent Commission, and to submit any agreed opinion on these proposals for consideration by the Commission.

[The Committee will also consider all other aspects of the International Body's Report as may be raised by participants.]

2. Independent Commission

An Independent Commission shall operate in both jurisdictions with appropriate immunity as determined by the special legislation and regulations on decommissioning enacted by the British and Irish Parliaments. It shall be furnished with independent legal and technical advisors and, where appropriate, shall be given access to the technical expertise of the British and Irish Security forces.

Responsibilities

- to consult with the Committee, both Governments, and others whom it deems relevant on the type of scheme or schemes for decommissioning including the role of the Independent Commission in respect of each scheme;

- to present to both Governments proposals for schemes having due regard to the views expressed by the Committee;

- to facilitate, observe, monitor and verify decommissioning and to receive and audit armaments, according to the schemes laid down;

- to report periodically to the Committee and to both Governments.

11/12/96(3)