



# An Chartlann Náisiúnta National Archives

**Reference Code:** 2021/98/17

**Creator(s):** Department of the Taoiseach

**Accession Conditions:** Open

**Copyright:** National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

Ms. Nolan  
copy of submission given to me by  
Assistant-Secretary, Val O'Donnell, D/Justice (25)  
on 10.9.96. Please put on  
Talks file  
LHK  
12.9.96.

**URGENT: DECOMMISSIONING LEGISLATION**

1. Secretary,  
To see please.
2. Minister,

Aside from the issue of the continued participation of the two Loyalist parties in the all-party talks, which was discussed in the Plenary session on the first day of the resumed Talks, there was an important engagement focussing on the issue of the decommissioning legislation at a series of subsequent bilaterals which the Irish side had with the SDLP, UK Government (twice) and the UUP.

A. **UUP Position**

In a nutshell, the UUP are putting a strong and consistent position to all of these parties as follows

- (a) They want to make quick progress in the Talks.
- (b) They have no problem with the remaining items on the Agenda for the opening Plenary session except the Decommissioning issue.
- (c) They referred to the commitment which they say was given to them by the Irish Government in March to introduce legislation to provide for decommissioning and want to
  - (i) See the proposals that both Governments have for legislation at this stage.
  - (ii) Get a commitment from both Governments that legislation on decommissioning will be enacted within a reasonable time frame (they appear to have in mind the next session of the two Parliaments).
  - (iii) Satisfy themselves that the legislation is adequate from their point of view - particularly with regard to the establishment of a Verification Commission on Decommissioning, including matters of its structure, powers, terms of reference etc), and that the legislation is based on the guidelines set out in the International Body's report. The issue of amnesty provision limited to offences related to the decommissioning process, was also mentioned.
  - (iv) Engage in consultations with the Governments on a trilateral basis regarding the contents of the legislation. (Rather than via a separate sub-committee of the plenary which they had preferred initially).
  - (v) Have a joint statement made by both Governments on the issue of decommissioning in the Plenary session

If it is all done, they would be happy to "park" the decommissioning issue after a debate limited to about 3 days in the opening Plenary session and to move into substantive negotiations in the 3 strands.

They made reassuring commitments about their wish to see decommissioning “put out of the way” and to create “a decommissioning vehicle with the key in the ignition, and ready to drive off when the time was right”. Trimble said that if they can get clear announcements as to legislation and decommissioning from both Governments now “that helps to sell the Talks to the Unionist Community”.

**B. UK Government Position**

The Secretary of State believes that a clear commitment by both Governments to enact legislation on decommissioning within a certain time frame will “unlock the door”. They apparently accept the bona fides of the UUP to press into full negotiations if they receive the commitments sought (at A above). They are convinced that the UUP are projecting “a very different picture compared with the end of July”. They would be prepared to let the UUP have sight of the draft legislation being prepared by both Governments as soon as they are finalised, and before they would be published - for which cabinet approval would be needed on their side. They would also have to make special arrangements to facilitate early enactment of their legislation ( a target of early November was mentioned by the UUP in that context.)

**C. The SDLP Position**

They are aware of the broad nature of the UUP’s demands regarding the legislation on decommissioning, and the priority they attach to it. They did not express any strong views on these aspects. They are willing to maintain contact with the UUP on a bilateral basis regarding

- (a) The agenda for the substantive negotiations.
- (b) The Decommissioning issue.

They rejected the UUP suggestion that they (SDLP) engage in quadrilateral discussions with both Governments and the UUP.

**D. The Irish Governments Position**

Led by Minister Coveney, we elicited the following elaborations of the UUP’s position at A above.

- (a) They accepted that all the practical detail governing the decommissioning process could not be spelt out in the legislation at this stage and that certain “loose ends” would remain to be tied up at a later stage.
- (b) Notwithstanding (a), they would not give an unqualified commitment to proceed into substantive negotiations, before seeing the contents of the legislation proposed by both Governments.
- (c) They accepted that it would be unrealistic to expect the Irish Government to proceed to enact decommissioning legislation within a definite time scale, independently of political progress being made in the Talks in the interim (i.e. after a commitment was given to enact the legislation). Minister Coveney told the UUP that our legislation was 90+% ready, with a few details to be

finalised. We would consider what they had said and would revert to them in bilateral format today, when the Tánaiste would be in attendance.

E. **Position about the Irish Legislation on Decommissioning**

This is summarised in the attached briefing note of 4/9/96, prepared in connection with the meeting on 5/9/96 between the Tánaiste and the Secretary of State. Since then there was a meeting with the Parliamentary draughtsman on 6/9/96 and he is preparing, what, should be a final draft, for examination by the AG's Office and ourselves. I understand that it should be possible to finalise the draft this week. (P. Hickey is in the best position to judge this). A full meeting of the full Dalton/Chilcott Group is due to be held before officials "sign off" on the Bill. Neither yourself or the Cabinet sub-Committee on N.I. have seen the draft legislation yet. Presumably they would need to see it and clear it before it would be given to the UUP.

You will see from the note that we have always adhered to the line that the legislation should not be published until a subgroup on Decommissioning is established - the 4th strand. The UUP want earlier publication and seem to be discounting the need for a separate 4 strand to be established on decommissioning at least for the moment.

It appears that the UUP (with the support of the UK Government) want to see the legislation before the issue of decommissioning is addressed in the Plenary session, and to engage in consultations with the Governments on the adequacy of the legislation - particularly (but not exclusively) in regard to the provisions for the independent verification commission. They accept that some detail will have when "fleshed out later" - but also want a definite commitment to enact the legislation within a reasonable time, before they would enter into substantive negotiations in the three strands.

F. **Our response to today's resumed bilateral with UUP**

The response to be made to the UUP today in regard to their demands on the decommissioning legislation is primarily a matter for political consideration and judgement. Normally, the Cabinet subcommittee on N.I. would need to be involved in any decision to release our draft legislation to any other party at this stage. The subcommittee might also need to consider any domestic implication of such a decision e.g. whether the contents of the draft legislation should be revealed to a Dail committee (security and legislative; Foreign Affairs), or to opposition party leaders. There could be no guarantee that details of the legislation if given to the UUP, would not "leak", with repercussions at domestic level. Also, disclosing to the UUP alone could provoke responses from the other Unionist parties, with demands for immediate publication. (The British Governments' attitude on this point is that the real politics requires us to "square" the UUP and Loyalist parties only).

Our reservations on earlier publications of the draft legislation (i.e. earlier than the establishment of a separate decommissioning strand) to date had been

- (a) The legislation could be "pocketed" by the UUP who could make more

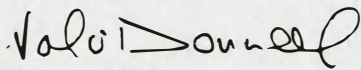
demands at that stage.

- (b) It could lead to an unhelpful technical discussion of the decommissioning in the Plenary session.

These concerns would not be eliminated in the scenario put to us by the UUP yesterday, but they appear to be anxious to avoid any reopened debate on the decommissioning issue in the Plenary session. They might also be willing to consider dealing with any demands they have for changes on the draft legislation in parallel with the commencement of substantive negotiations in the 3 strands. But this can't be assured at this stage - a lot would depend on their reaction on seeing the proposals in the draft legislation.

- G. In the absence of the Taoiseach abroad you may wish to consider agreeing the line of our (interim ?) response to the UUP with the Tanaiste and the Minister for Social Welfare before the resumed bilateral with the UDP this afternoon at which the Tanaiste is due to lead the Government team.

We would also need to clear the position we would wish to adopt on decommissioning with the SDLP, before giving any commitment to the UDP. As far as Sinn Fein is concerned our best assessment is that while the handling of the decommissioning issue is a key issue in relation to a restoration of the PIRA ceasefire, publication of the legislation in itself may not present a particular problem in that regard.



Val O'Donnell  
Castle Buildings  
Stormont  
10 September 1996

- P.S. Also attached is a summary of developments yesterday prepared by Department of Foreign Affairs. You will see it refers to the developments covered in this minute