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Reference Code: 2021/106/21

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Received 14/11 from Br. side

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PST
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Mr Teahan
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COPY TO:

THE DECOMMISSIONING DEBATE: A POSSIBLE FALLBACK EXIT STRATEGY
MR O'DONNELLMR HICKEY
Speaking Note

MR BROSINAN

MR FAY. For so long as there is a prospect of Sinn Fein joining the

MR CALLAGHAN talks (as both Governments hope they will) this issue is notMR. ROUGHNEE 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

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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 we have reviewed the points made in the parties' initial presentations, during last week's discussion and in bilaterals earlier this week. It does seem to us that there are a number of areas of emerging common ground on which it might be possible to build a revised set of "conclusions" to the decommissioning debate and which might be capable of winning general support.
8. The elements include:
 - the early establishment of a "shadow" Commission. This would respond to the Ken Maginnis' continued emphasis on the need to establish the Commission as soon as possible, a thought that was specifically supported by the Alliance Party and Labour. The SDLP do not appear to see any problem with this and there seems to be no real objection from the two Governments' perspective. It would at least deliver "continuity" and provide something concrete on the decommissioning track to which the UUP could point as evidence that the issue was not being sidelined;
 - the establishment of a Committee on broadly the lines proposed by the two Governments but with perhaps more emphasis on the role of working and liaising with the Commission. Apart from the Alliance Party, everyone seems to see a continuing requirement for the talks participants to maintain close involvement with the decommissioning

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issue. The SDLP in particular see it as a key means of ensuring that progress is made in a balanced way on political issues and on decommissioning in a pattern of reciprocal confidence building as envisaged in the International Body's report:

- some development in the role of the Commission. It does seem to us that there are some important new elements in the Alliance Party's proposals, and these seem to have struck a chord with the UUP. 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. If the Commission were given a high degree of authority and autonomy it might at least tackle the Unionist concern that the "Committee" approach would leave the Irish Government and SDLP with a veto over progress; but (as noted above) there seems little support for this.

9. However, we and the Alliance Party have drawn some encouragement from the UUP's initial informal reactions to the Alliance Party's ideas. While anxious to maintain a decisive role for the talks participants they seem ready to explore the possibility of establishing an embryo Commission and launching the three strands on the back of a general prior understanding that the intention was to secure the implementation of all aspects of the International Body's report, including its compromise approach to decommissioning which envisages some decommissioning taking place during the negotiation process. Much would turn on the terms of that prior understanding and on the terms of reference of the Commission, but the UUP indicated to us that if satisfied on those counts they might be prepared

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to drop their requirement for a prior commitment to a firm schedule of decommissioning. They felt that if (on the assumption that reasonable progress was being made in the three strands) the Commission were to opine that decommissioning should commence it would add to the political and moral pressure on the IRA and give them greater political cover.

10. All this seems to us to point to the possibility that a relatively small adjustment to our original "suggested conclusions" could offer a way forward. A revised draft is attached as a basis for discussion. In essence it proposes that we should:

- secure delegations' commitment in principle to implement all aspects of the Report of the International Body;
- proceed to establish an 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.

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(Draft 13.11.96)

SUGGESTED CONCLUSIONS TO THE PLENARY ADDRESS TO DECOMMISSIONING
to be tabled by [the two Governments] [HMG]

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, offer a judgement (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 and subsequently to put agreed recommendations into operation, 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, including in respect of modalities and on the conditions necessary for decommissioning, that is the circumstances in which mutual

recovered from P. Hickey's draft of 20/11/96

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decommissioning would be expected to occur. It may also assist the Commission as appropriate and shall regularly be informed by the Commission of progress in its task. But the Independent 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

The task of the Independent Commission shall be to work to secure 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, 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 offer a judgement, 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;

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- 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.