



An Chartlann Náisiúnta National Archives

Reference Code: 2021/107/19

Creator(s): Department of Justice

Accession Conditions: Open

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

Changes from our draft of
7. 11. 97 - manuscript version
of 7. 11. 97

Draft 12/11/97

INITIAL REPORT

L THE COMMISSION

LEGAL MANDATE, OVERALL STRATEGY AND GUIDING PRINCIPLES

[New text from the original draft is shown in bold type (titles are already shown in bold type). Text of the first draft, suggested for deletion, has been deleted in this draft where agreed. Text changes proposed to be made to the first draft, where not shown in bold type, have not been included]

A. Establishments

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 in **both jurisdictions** is codified ^{by} in the Northern Ireland Arms Decommissioning Act 1997 and the Decommissioning Act 1997 **respectively and the regulations and orders made under those acts.**

2. Legislation to create the Commission follows on recommendations made in the January 22nd 1996 Report of the International Body, in which paragraph 40 states:

"The decommissioning process should take place to 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 consultations with the other parties to the negotiating process"

3. The legislation which created the Commission results from considerable effort by the two Governments, and the Commission believes it appropriate at the outset to acknowledge that circumstance. Two Governments, with significantly different structures, have produced separate but compatible legislation which enables the decommissioning process to go forward. They have gone to considerable effort to provide the Commission with every assistance, including offices in Belfast and Dublin. This accommodation was made ready for the Commission several weeks in advance of the formal launching of the Commission's work, and as a result the Commission was able to get down to business immediately after September 24th.

3. Commission Mandate

4 The two Governments have tasked the Commission to perform four broad tasks:

- a. To consult with the participants in political negotiations in Northern Ireland, including both Governments, and others whom it deems relevant, on the type of scheme or schemes for decommissioning including the role it might play in respect of each scheme;
- b. To present to the two Governments proposals for schemes for decommissioning, having due regard to the views expressed by those it has consulted;
- c. To undertake, in accordance with any regulations or arrangements made under the Decommissioning Act 1997, and any decommissioning schemes within the meaning of Section 1, and in accordance with Section 3 of the Northern Ireland Arms Decommissioning Act 1997, such tasks that may be required of it to facilitate the decommissioning of arms, including observing, monitoring and verifying decommissioning and receiving and auditing arms; and
- d. To report periodically to both Governments and, through whatever mechanism they may establish for that purpose, the other participants in political negotiations in Northern Ireland.

5 This report addresses key issues related to the first two tasks of the Commission's mandate.

These derive from our consideration of the requirements likely to arise in giving effect to any scheme of decommissioning.

Our intention is to assist and inform the process of consultation with both governments and the participants in the political negotiations in Northern Ireland and thus facilitate the subsequent preparation of more detailed proposals.

6 Regarding the scope of this report, the Commission believes it must focus its efforts on decommissioning of weapons, ammunition, and explosives held by paramilitary groups engaged in the ceasefire. Items in the hands of ordinary criminal elements, or which are held by paramilitary groups not engaged in a ceasefire, are not covered by this report as we believe that neither group has any present intention of considering decommissioning in a serious way. **The broader question of the**

recommends proposals for decommissioning schemes in line with the second of the tasks in the mandate.

The Commission will nevertheless want to consider, and consult in

due course with the governments, on the broader question of the possible application of the legislation in both jurisdictions to illegally-held arms in the hands of members of the general public.

possible application of the legislation in both jurisdictions to illegally-held arms in the hands of members of the general public would require further consultation with the two Governments.]

7 In preparing this report the Commission met several times with relevant policy and security officials of both jurisdictions, as well as with the political leaders (or their representatives) of eight of the ten political parties participating in the peace process. While invitations to consult with the Commission were issued to the Democratic Unionist Party and to the United Kingdom Unionist Party, meetings with them have not yet taken place.

8. All discussions with the Commission were held in a businesslike and constructive atmosphere. While many were skeptical about the likelihood of decommissioning in advance of a negotiated settlement, it was clear that many hope the Commission's efforts can assist the parties in their political negotiations and that decommissioning will succeed. [The Commission is working to ascertain the

views of the relevant paramilitary organisations as it takes forward its work.] The Commission is satisfied / is working to satisfy itself that the contacts it has made will ensure that the views of the relevant paramilitary organisations will be available to it as it takes forward

9. [The Commission intends to continue its efforts to have discussions with the representatives of its work the paramilitary groups on both sides. In particular it will attempt to inform them of the Commission's essential requirements in the decommissioning process, as well as to seek their cooperation in implementing the decommissioning methods.]

C. Basic Elements of the Commission's Approach

10. In its Report, the International Body suggested six guidelines for the decommissioning effort. The Commission has reviewed these guidelines and believe they remain valid in light of the discussions the Commission has had with parties and individuals. These guidelines are:

- a. The decommissioning process should suggest neither victory nor defeat;
- b. The decommissioning process should take place to the satisfaction of an independent commission;
- c. The decommissioning process should result in the complete destruction of armaments in a manner that contributes to public safety;

- d. The decommissioning process should be fully verifiable;
- e. The decommissioning process should not expose individuals to prosecution; and
- f. The decommissioning process should be mutual.

11 These guidelines have been used by the Commission as the strategic basis on which its proposals in Section II below are built. Regardless of their relative optimism or reserve about the prospects for success, no one consulted by the Commission had any fundamental objections to these principles as a guiding strategy for decommissioning when it occurs.

new

D. Making The Principles Operational

12. The Commission's assessment of operational considerations, after extensive discussions in both jurisdictions, led to a number of conclusions. These are:

new

- a. Whatever decommissioning schemes are developed, at least at the beginning, they must be simple and easy to understand and execute;
- b. Flexibility must be maintained to allow for operations in two jurisdictions and in dealing with different groups with different levels of armament holdings;
- c. Public safety is of fundamental importance and strict safety procedures will need to be part of every decommissioning event;
- d. Since the decommissioning act will be voluntary, the Commission must ensure that trust in its actions is foremost in gaining the co-operation of paramilitary groups. To that end the Commission will insist on close and personal supervision of all armaments delivered for decommissioning to ensure compliance with the statutory prohibitions on forensic testing;

winning the trust of those engaged in the decommissioning process will be essential to the success of any scheme and could be facilitated by the Commission taking a role in supervising not only the decommissioning process but also the disposal of arms, thus page 4 of 15 being in a position to guarantee compliance with the statutory prohibitions on the forensic testing of decommissioned arms etc.

e. Verification will equally be important in ensuring public confidence in any decommissioning process. The Commission believes that the information to be recorded for this purpose should include the following *matters*

- (1) Type and make of weapons including explosives;
- (2) Quantity in the case of ammunition and explosives;
- (3) Name of group on whose behalf decommissioning is taking place;
- (4) Date, time and place of decommissioning.

f. The Commission's consultations have elicited the need to differentiate between a plan of action for decommissioning and the actual operational plans for each individual act of decommissioning. [The initial proposals on decommissioning set out in Section II offer a possible roadmap for this process. However,] operational plans will [need to] be developed to deal with each decommissioning event, as and when it occurs.

The issues addressed in Section II will be essential to any plan of action. In addition, of course,

E. Decommissioning and Political Will

13. The Commission believes the fundamental challenge for decommissioning is not technical but psychological. There is nothing new in this conclusion. The call for a "decommissioning of mind-sets" has existed for some time and remains valid today. But the decommissioning of mind-sets is not a task for the Commission; it is for the Governments, the political parties and for the people themselves.

14. The Commission is acutely conscious that voluntary decommissioning has never been tried on the island of Ireland before and there are no historical precedents for what we are proposing. We recognise that successful decommissioning will depend on the co-operation of the paramilitary organisations themselves. We recognise also that, in their joint statement on 15 September, the Prime Minister and the Taoiseach stated that the two Governments would like to see the decommissioning of some paramilitary arms during negotiations as progress is made in the

{ political talks and believe that this could be a major
 contribution to confidence-building and
 momentum towards agreement. ^{Against that background} It is our strong hope that those with illegal weapons can find the
 necessary political will to take the first steps forward along the road ^{of} decommissioning. [In this
 regard, we ~~too~~ believe an initial "down payment on peace" would help the political process and allow
 the parties to see that decommissioning can work successfully.]

II. THE MECHANICS OF DECOMMISSIONING

A. Nature and Location of Arms, Ammunition and Explosives

15. An important issue is the physical nature of the decommissioning task facing the
 Commission. It is ^{obviously} important to estimate how many weapons (factory-built and improvised), how
 much ammunition, and what quantity of explosives will have to be decommissioned. Other
 important factors include location of those arms and the proportions in which they are held by
 different groups.

16. The Commission's consultations with the security forces in both jurisdictions have
 addressed all these issues and detailed estimates of holdings have been provided to it. Holdings
 embrace a wide range of conventional and improvised weaponry including large numbers of
 rifles, machine-guns, handguns, and more limited numbers of rocket-launchers, flame-throwers,
 improvised mortars and other weaponry. There are also significant quantities of both
 commercial and home-made explosives as well as associated bomb-making equipment. The
 greater proportion of these arms is generally believed to be held by republican groups and to be
 located in caches in both jurisdictions. Arms held by loyalist paramilitary groups, on the other
 hand, are believed to be held almost entirely in Northern Ireland. [While it is impossible at the
 moment to offer an exact and comprehensive list of all illegal weapons, ammunition and explosives] in
 both jurisdictions sufficient information is available to the Commission to allow for realistic plans
 to be made to decommission the arms in question. ^{new}

17. The Commission ^{also} is satisfied that the nature and size of those arms holdings and the
 manner in which they are dispersed will have important implications for the decommissioning
 task. Decommissioning is unlikely to be a one-time event but is more likely to involve a series of
 such events. Moreover, ^{adjacent} two jurisdictions are involved and operational plans for
 decommissioning will have to be capable of meeting that situation.

B. Options for Decommissioning

18. In January 1996 the International Body identified four basic options for decommissioning. The Commission categorizes these options as follows:

- a. Weapons/ammunition/explosives are transferred by paramilitary groups to the Commission ~~or to the designated representatives of either Government.~~ *or to the designated representatives of either Government.*
- b. Weapons/ammunition/explosives are deposited by paramilitary groups ~~at an agreed~~ collection or destruction point.
- c. Weapons/ammunition/explosives are collected by the Commission ~~or by the designated representatives of either Government~~ as the result of information provided by paramilitary groups; and
- d. Weapons/ammunition/explosives are destroyed by paramilitary groups themselves with verification by the Commission ~~or by the designated representatives of either Government.~~

19. The Commission has found no new suggestions for options beyond the four listed above. Some of those consulted were willing to offer views on the possible or probable acceptability of these options to the paramilitary groups. Most expect the Commission's work to center around the last two options, that is, collection on the basis of information or actual destruction by the groups themselves. Nobody the Commission consulted believes that paramilitary groups will simply ~~transfer~~ *deliver* their stocks to the Commission directly.

20. Given that assessment, the Commission ^{proposes} ~~envisages~~ a decommissioning process that includes a series of events, ~~probably taking place in numerous locations and~~ ~~possibly requiring a number of different methods.~~ *each having potentially different operational features in each of the two jurisdictions*

21. While the need for flexibility in the approach is accepted, the Commission is satisfied that any scheme must make provision for a number of key elements irrespective of the method or location of decommissioning chosen. These include:

- a. A set standard for verification;
- b. Complete destruction of the arms, ammunition or explosives made available for decommissioning;
- c. Compliance with the statutory prohibitions on forensic testing; and
etc
2
- d. Acceptance that the requirement for public safety cannot be compromised.

C. Operational Features of Decommissioning

22. While every decommissioning event will be different, the Commission believes that each will share certain common features and the decommissioning scenario proposed is based on this assumption. The Commission sees the process incorporating four general phases: contact leading to agreement; deployment to the decommissioning site; verification and destruction; and post-decommissioning stand-down and reporting. Thus:

- a. The Contact Phase:
 - (1) Meeting with paramilitary groups or their authorized representatives;
 - (2) Agreement on the type and amount of items to be decommissioned, the modality of decommissioning, the site to be used, and procedures to provide for public safety, control and verification; and
 - (3) A commitment to proceed.
- b. The Deployment Phase

- (1) Detailed planning and logistical preparations (consultation and communication with technical experts, and the preparation of the needed decommissioning personnel and verification equipment);
- (2) Notification to the appropriate Government officials as required;
- (3) Assembly and deployment to the site of decommissioning; and
- (4) Securing of the site to ensure public safety.

c. The Decommissioning Phase

- (1) Verification of the items to be decommissioned. This process will include recording the information decided on for verification purposes, e.g., make, quantity etc.; and
- (2) Destruction or neutralization of the items while ensuring compliance with statutory prohibitions [on forensic testing]. Before this phase is complete, there could be movement to another site for firing, smelting or other destruction procedures impossible to be carried out *in situ*.

d. The Post-Decommissioning Phase

- (1) Debriefing and stand-down, during which experts and equipment are returned to their home base; and
- (2) Reporting to Governments, the Liaison Sub-Committee, negotiators and the public.

D. A Basic Scenario for Decommissioning

Background

23. The vast majority of illegal weapons on the island of Ireland are held by paramilitary

groups which claim to have tight control and discipline over them. The Commission does not expect decommissioning to be a casual or random event. When paramilitary groups take the decision to proceed with decommissioning, the Commission expects and believes they will communicate this decision through some trusted and carefully chosen person. As a result, the decommissioning scenario envisaged in these paragraphs is not one that contemplates a random phone call by an unknown voice, stating that weapons can be picked up at a certain site.

24. The decommissioning process proposed to the contact-person must be kept simple but will of necessity embrace all procedures agreed to provide for verification, [control] and [protection of] public safety. ^{to protect} [Each time a decommissioning event is in progress, certain security measures at the site will have to be implemented. The Commission must make clear what these measures comprise and that they will take time.]

Contact Phase

25. This scenario is based on the expectation, confirmed beforehand, that the Commission will be dealing with an authorised representative of the paramilitary organization concerned. Thus when the initial contact to discuss an individual act of decommissioning occurs, the Commission will wish to know it is dealing with such a person. It would be understood, however, that that person may not be able to commit to a certain course of action without referring back to the paramilitary group he or she represents.

26. Discussion at this stage must cover a predictable range of topics. The Commission will wish to know:

- a. The type of weapon, explosive or ammunition contemplated for the event;
- b. The quantity (numbers or weight);
- c. The general condition of the items. The assessment at this stage could simply be the paramilitary group's estimate of the ^{new} ~~safety~~ or state of the item;

- d. The decommissioning modality anticipated (i.e., by reference to the four options listed in para 18 above; and *as provided for in schemes made by the Government*)
- e. Whether any member or representative of the paramilitary group will accompany Commission members to the site or be present at the site.

27. The contact-person will be given confirmation of the Commission's requirements for verification, destruction, control and safety during the event.

28. This phase of the process will come to a conclusion when the Commission has a clear commitment from the contact-person that the paramilitary organisation concerned is ready to proceed with the decommissioning event. **[If the decommissioning event is not taking place at a pre-designated location,** the question of timing and location can be left open, with the paramilitary group itself given the option of suggesting these. At least at the beginning, the plans must be simple and easy to understand and execute.

Deployment Phase

29. Once it is confirmed that a signal to proceed with decommissioning is genuine, the Commission will:

- a. Conduct detailed planning and logistical preparations to account for the specific circumstance affecting this particular event;
- b. Give the appropriate notification to the authorized officials of the relevant jurisdiction that a decommissioning activity is about to proceed; and
- c. Assemble the personnel and equipment designated in advance for this purpose.

30. Depending on the circumstance the Commission will take **[the necessary]** equipment to the scene in transport acquired for that purpose. **[This equipment** ^{which} **may include** **[such things as]** a portable computer, a global positioning system, weighing scales, and portable welding or cutting machinery. If

the need is anticipated to transport items for decommissioning to a burning, smelting, or firing location, suitable transport to accomplish this task will be sent to the scene.

31. At least one member of the Commission or a member of its staff will be present at every decommissioning event. Other technical staff for recording or verifying the items decommissioned may also be present.

32. The Commission also anticipates that a certain number of site security team and explosive ordnance disposal (EOD) personnel will need to be on hand at decommissioning events to secure the site and assess the safety conditions. The question of where these personnel might come from is discussed in sub-section E below

33. Some decommissioning events will require the participation of representatives of the relevant paramilitary organisation (i.e., ^{from the event that of} the self-destruction ^{being the chosen} option. Those groups may also wish to have an authorised representative present in the event of other options being employed or at other stages of the process. The Commission would facilitate such a presence subject to a clear understanding in regard to the respective roles and responsibilities of the different participants.

Decommissioning Phase

34. The site secured, the decommissioning phase can begin. Given confirmation from EOD and site security technical personnel that the operation may safely proceed, the Commission representatives will record the information required for verification. ^{purpose!} Depending on the nature of the items and the decommissioning option being implemented, arms could be destroyed in situ or transported to a secondary site for destruction, smelting, or firing. Receiving arrangements could also be provided-for if required. Implementation of the self-destruction option may require some variation on these arrangements while leading to the same result.

35. Decommissioned items will remain under the control of the Commission from the time they are made available until the Commission certifies they have been destroyed. ^(eg.) The Commission would then be in a position to confirm that all [the] relevant statutory prohibitions ^{on forensic testing} had been observed and that the arms in question had been safely destroyed.

36. The Commission's strong preference will be to **facilitate the destruction of a decommissioned item on the same day it is received**. Whether this is *feasible* or not will depend on the **nature and condition of the particular item**, and the location of the decommissioning site agreed with the paramilitary group. For example, firearms could be cut by acetylene torch in a number of places, rendering the weapon incapable of ever being put in service again, e.g., cutting the barrel in a number of places, the trigger mechanism and breech block in halves. Additional procedures would be required for other types of explosives, arms or ammunition. The Commission has already investigated the location of firing ranges and EOD sites in both jurisdictions, and has received assurances from both Governments that these sites will be available to the Commission as required.

37. If an item cannot be destroyed immediately, the Commission will need to arrange storage. This circumstance will not only require a 24-hour Commission presence, but also appropriate site security and the personnel to ensure that the integrity of the decommissioning process is not called into question.

The Post-Decommissioning Phase

38. The fourth or Post-Decommissioning Phase involves a safe departure from the decommissioning site (if decommissioning requires burning, firing, or other destruction in a location other than the pick-up site, the operational plan will take this into account), **evaluation and assessment of the event, debriefing, stand-down for the personnel (e.g., EOD and site security) and equipment, and reporting to the Governments, the Liaison Sub-Committee, negotiators and the public.**

E. Technical Assistance to the Commission

39. While the Commission recognizes that the issue of who carries out or ~~assists~~ in the decommissioning process may be sensitive to one or more paramilitary groups, it must nevertheless be addressed. The Commission is operating in the jurisdictions of two sovereign Governments and will be expected to ensure public safety during the decommissioning process. The involvement of Government agencies may be necessary to this end. Moreover, contact between the Commission and such agencies will be necessary to ensure the smooth operation of the decommissioning process and to protect those involved ^{inadvertent} against interference.

40. A number of possibilities exist for effecting the necessary Government involvement, such as:

- a. EOD and site security (and possibly other technical personnel) could be brought on site to act as "agents" of the Commission;
- b. The Governments could second technical personnel to the Commission on an "as-required" basis, on the condition they not reveal information acquired during the performance of their duties for the Commission; and
- c. [The Governments could authorise] the Commission ^{could} to [could] bring in outside experts who would perform the required technical work in liaison with Government personnel.

[47.] How these options would apply in any given case, or in the different jurisdictions, would **III CONCLUSION** depend fundamentally on the two Governments and on the paramilitary groups holding the armaments.

41. Nearly two years have passed since the International Body called on the people of Northern Ireland to "take risks for peace", urging that they seize the moment to ensure a "future of peace, equality and prosperity for all the people of Northern Ireland".

42. The creation of our Commission is tangible evidence of the commitment of the two Governments to take these risks for peace. We welcome the opportunity to contribute our initial proposals, on decommissioning for consideration by the two Governments and other interested parties in the peace process.
 { on some of the key issues which will arise in the context of the development of our proposals for schemes

43. The ideas contained in this report are merely a possible "roadmap for decommissioning" Our ^{approach} proposals have been guided by the need for simplicity, flexibility, verifiability, observance of the statutory prohibitions on forensic testing or use as evidence in prosecutions, and a fundamental respect for public safety. These principles will not change, and while there are certain to be technical complexities, all can be overcome if there is the will to do so. We also remain open to alternative approaches which respect those principles.

Those who are being asked to decommission can count on the Commission's help.

44. [While we have provided a possible roadmap, it is up to those who hold the illegal weapons to decide whether they are ready to take risks for peace.] If they are prepared to walk down the road we have traced, they have our word: we shall walk down the same road together, we are prepared to

[5.] We look forward to the news of the Governments and the participants in the political negotiations in Northern Ireland on this initial report. We are keen to progress our work and are confident that it will be possible to put forward to the Governments our actual proposals for schemes for decommissioning in the light of

share its difficulties and dangers, and we will jointly celebrate the achievement. We will do so with the support of the two Governments and those who have a direct concern for protecting public safety.

45. Whatever the date, when the parties are ready to act, we shall be ready as well.