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An Approach to the Decommissioning Roadblock

Paper by Irish Officials for the Liaison Group

1. The experience of six months during which the Talks participants addressed and grappled with the decommissioning issue established beyond all dispute its capacity to wreck the entire negotiation process. There must be a strong common interest across all participants to avoid this outcome, since it would frustrate equally the objectives of securing decommissioning and of advancing substantive negotiations. Determined new efforts are required by both Governments, in close consultation and cooperation with the Talks Chairmen and all the participants, to overcome this roadblock.
2. Both Governments are resolutely committed to the total disarmament of all paramilitary organisations. They are convinced that the best and only realistic path to this crucial goal lies in the implementation of all aspects of the Report of the International Body. Their consistent approach has been to work with all other participants to advance the negotiations on this basis.
3. At the same time the two Governments are conscious that while all participants have a shared and equal interest in a satisfactory resolution of this issue as part of the overall process, the operational and practical implications of securing this outcome do not affect all participants in the same way or in identical measure. There are many aspects which, without prejudice to the equal right of all participants to see a satisfactory resolution of the issue, relate specifically or exclusively to the responsibilities of the two Governments. The commitment of the two Governments to the goal of decommissioning, and the acknowledgement of responsibilities specific to the Governments alone, are reflected in the implementation of the Decommissioning Act 1997 and the Northern Ireland Decommissioning Act

1997. It is also a matter of common sense that those parties with some record of influence or insight relating to the paramilitary movements whose cooperation is needed for decommissioning have an obvious importance in regard to this agenda, and that it is unlikely that it can be significantly advanced in the absence of a fully inclusive process.

4. In their communiqué of 28 February 1996 the two Governments stated:

“The Taoiseach and Prime Minister expressed their hope that all parties with an electoral mandate would be able to participate in all-party negotiations. They recognise that confidence-building measures will be necessary. As one such measure, all participants would need to make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy, and non-violence set out in the report of the International Body. They would also need to address, at this stage, its proposals on decommissioning. Confidence-building would also require that the parties have reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.”

In the light of the very exhaustive exchanges between all participants in the course of the address to decommissioning so far, the Governments and the parties now require to decide how both these inter-related confidence-building measures can be advanced.

5. There are already commitments in the agreed rules of procedure and a potential agreement on the headings of a substantive agenda which, taken together, would provide a workable framework for meaningful negotiations.

There is however no corresponding understanding on the handling of the decommissioning issue. The Governments must take the lead in remedying this failure and finding agreement on how the International Body's recommendations on decommissioning can be taken forward without blocking the negotiations.

6. At the appropriate point, soon after the resumption of the Talks, the Governments will therefore propose to the Independent Chairmen to take forward the opening address to decommissioning on the following basis:
 - (i) A time-limited further round of discussion will be held to afford all participants an opportunity, should they so wish, to state their current position in the light of the six months of discussion so far. In the course of this discussion the two Governments will:
 - (a) formally reconfirm their commitment to resolving the decommissioning issue on the basis of the implementation of all aspects of the report of the International Body;
 - (b) appeal for the cooperation in good faith of all participants in taking the negotiations forward on this basis; and
 - (c) give a joint formal undertaking that the decommissioning issue must be resolved to the satisfaction of the participants as an indispensable part of the process.

This formal intergovernmental guarantee should enable the participants to proceed to create the progress on political issues which the report saw as the necessary enabling condition for decommissioning, in the

knowledge that this cannot jeopardise their fundamental requirement for a satisfactory outcome on this issue.

- (ii) After this round of statements, the Independent Chairmen will be invited to establish from the debate, from bilateral contacts or any other appropriate means at their discretion, whether each party is prepared to work constructively and in good faith to secure the implementation of all aspects of the Report in the context of an inclusive and dynamic process which builds trust and confidence as progress is made on the issues (and with the added reassurance of the position of the Governments as set out in paragraph 6 (i) above).
 - (iii) The Chairmen will then report to both Governments the position of each participant in this respect. If their judgement is that any party is not prepared to work in good faith, they will further offer their judgement whether such refusal amounts to a contradiction of any of the six principles in paragraph 20 of the Report, to which participants committed themselves on their entry to the negotiations or whether, in the alternative, it relates not to the fundamental goal and principles, but to aspects of the process which would be capable of resolution in the course of future discussion of this issue in the negotiations.
7. If it appears that there is general agreement to proceed on the basis of a good-faith implementation of all aspects of the Report, or that any reticence or refusal in this regard by any individual participant is not fundamental and wrecking, but rather capable of resolution in the course of the process, the Governments, in the light of their particular responsibilities, will then make proposals on how to take the issue forward.

8. Bearing in mind the realistic requirement set out in paragraph 50 of the Report that "decommissioning would take place on the basis of the mutual commitment and participation of the paramilitary organisation", it is suggested that these proposals would come into effect only when the negotiations were sufficiently inclusive to offer the prospects of these conditions being fulfilled. Once agreed, they would not however be open to negotiation by those who might wish to join the process at any later stage.
9. The Government's proposals would seek to ensure that their own role and influence in the negotiations respected and reinforced the high priority which the Report of the International Body urged that decommissioning should receive in all-party negotiations (paragraph 38 and passim). This would involve:
- (a) Insistence on subscription to and respect for the six principles of the Report by all participants, as a basic requirement to ensure confidence that the negotiations will be conducted on a level and exclusively democratic playing field, and with equal respect for all participants.
 - (b) Provision in the structures of negotiations to ensure that all parties have the capacity and opportunity to have the necessary input as envisaged in the Report.
 - (c) A reporting mechanism so that all participants can be kept fully apprised (by the Governments, the Chairmen, the future independent Commission or others as appropriate) on developments in this area, in the light of their common interest

to have the issue satisfactorily resolved, notwithstanding their potentially different contributions to this goal.

- (d) Adequate mechanisms to ensure the modalities of decommissioning envisaged in the Report can be implemented as needed and that no delay or obstacle is caused by any lack of Governmental preparation or provision in this respect.

10. The Chairmen will be invited to convene a committee of the Plenary, to include all delegations willing to work in good faith to advance the implementation of all aspects of the Report, or to do so subject only to reservations of a nature which the Chairmen judge not fundamentally incompatible with its essential goals and premises. Its terms of reference would be on the lines of Annex I. However, in line with the Governments' agreed goal of securing the implementation of all aspects of the Report, it would be open to any participant to raise in that format any aspect of the Report, and to have its viewpoint considered, without prejudice to the participants' right to decide collectively that an operational discussion or decision on any such issue might more appropriately be pursued in some other format of the negotiations.
11. On the foregoing basis the Governments will invite the Chairmen to propose the launch of substantive negotiations in all strands. If, notwithstanding the above, there is still not sufficient consensus for the launch of the three Strands, the Chairmen, in order to advance work and make the maximum use of participants' time, will be encouraged to begin such preparatory discussion on the substantive issues as the consensus among the participants in any of the respective strands will permit.

12. In the event of the negotiations becoming fully inclusive, and assuming that substantive negotiations have been launched at that point, the two Governments will proceed with the early establishment of the Independent Commission envisaged in Section VI of the Report. The draft terms of reference proposed (Annex II) would be open to modification in the light of the consultation with the participants which the Governments would propose to undertake in the first instance in the subcommittee format envisaged in paragraph 10. Provisions relating to the appointment of such a Commission have already been established in the legislation passed by the respective Parliaments.
13. As part of the dialogue on the proposed Commission, the Governments would also invite the Chairmen to seek from every participant a formal commitment to work constructively and in good faith with the Independent Commission, when it is established, to enable it to carry out its role, in the context of an inclusive and dynamic process in which trust and confidence is built as progress is made on all issues of concern to all participants. The two Governments would make clear that for their part they would hope to see these commitments reflected in due progress on decommissioning alongside progress in the substantive political negotiations, and would work to achieve that.
14. The Report of the International Body envisaged mutual progress on political issues and decommissioning as helping to create a progressive pattern of mutual trust and confidence. With a view to encouraging this, and to allowing the participants in the negotiations to review and discuss progress across the negotiations as a whole (including the three strands, decommissioning and other confidence-building measures), it is proposed that the Chairman of the Plenary should convene a meeting of the Plenary every

two months, specifically to review and consider developments across the entire spectrum of the negotiations, including the areas listed above.

- Annex I** -- Proposed mandate of the Committee of the Plenary
- Annex II** -- Proposed mandate of the Independent Commission

Annex I

Committee of the Plenary Proposed Mandate

To consider:

- the type of scheme or schemes for decommissioning and the role of the Independent Commission in respect of the same;
- proposals for such schemes drawn up by the Independent Commission, and to submit any agreed position on those proposals for consideration by the Commission;
- any regulations or schemes to be made in accordance with the Decommissioning Act 1997 and the Northern Ireland Arms Decommissioning Act 1997;
- any other aspects of the International Body's Report as may be raised by the participants.

Annex II

Independent Commission

Proposed Mandate

To consult with the two Governments, the participants in the negotiations 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; and

To present to the two Governments proposals for schemes having due regard to the views of those whom it has consulted; and

To undertake such tasks, in accordance with any regulations, schemes or arrangements made under the Decommissioning Act, 1997, and the Northern Ireland Arms Decommissioning Act, 1997, as may be required of it to facilitate, observe, monitor and verify decommissioning and to receive and audit arms; and

To report periodically to the two Governments on the progress being achieved.