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Pages: 10, including this cover sheet.

From: Tim O'Connor

Subject:

COMMENTS:

SECRET**Decommissioning and the Shadow Executive - Breaking the Logjam****The Problem**

1. There is a strong case for this being the moment to confront and resolve the stand-off between a start to actual decommissioning and the establishment of the Shadow Executive. There is a wind behind the process right now which could provide a strong push for a breakthrough. That favourable wind might not be there in a few months time.
2. Put more negatively, it could be argued that it would be a fundamental mistake, and a fundamental undermining of the integrity of the Agreement, not to insist on the immediate establishment of the Shadow Executive. In real terms, the Executive, as the embodiment of a new, inclusive approach, is the heart/engine of the whole Agreement and the longer its establishment is delayed, the greater the damage to the Agreement overall. Whichever way one looks at it, therefore, the case for "cracking" the issue now is compellingly strong.
3. An irony of the situation is that Adams and Trimble are both correct, in a technical sense, in their interpretation of the Agreement. At the same time, both may well be in breach of its "politics". Technically, Trimble is correct in saying that there is no specific timetable for the formation of the Shadow Executive; however, the politics of the Agreement clearly call for the inclusive and prompt setting up of all institutions. Likewise, Adams is technically correct in insisting that there is no explicit linkage between decommissioning and the formation of the Shadow Executive (or, indeed, of the full Executive); however, it can be said that the politics of the Agreement, notably the divisions within unionism and Trimble's consequent vulnerability, require a somewhat

more tangible address to the issue by Sinn Féin than has taken place to date (notwithstanding recent welcome developments).

4. Given the positions of Adams and Trimble vis-à-vis their respective constituencies, it will be essential that any solution enables face to be saved by both, and to be evenhanded in terms of pain and gain. Realistically, however, both have to show some flexibility. In this regard, it is extremely worrying that Trimble has been publicly raising the hurdle so high for Sinn Féin on decommissioning and, thereby, limiting that party's (and indeed his own) room for manoeuvre. There is also a real danger at present of (a) the UUP moving to long-finger any movement in order, progressively, to increase the decommissioning pressure on Sinn Féin, and (b) Sinn Féin responding in kind by refusing to show any flexibility on decommissioning.
5. A further factor, of particular relevance to the Government, is that, in the absence of a Shadow Executive, we would be extremely reluctant to hold a first meeting of the Shadow North/South Ministerial Council. This, in turn, would lead to delay in substantive progress on North/South issues, which could presentationally be somewhat embarrassing if Trimble pressed for a meeting (his Irish News interview of today makes clear that he envisages a first meeting of the Council "within a month.")

Possible Way Forward

6. Overall, there is a pressing need for a renewed process of choreography to break the impasse. There are a number of ways this can be done. Inevitably, private, shuttle diplomacy, similar to the recent exercise which produced the "four steps", and again driven by the two Governments, will play a vital role.

A supplementary possibility would be use of the Review Mechanism in the Agreement (para 4, page 31; see attached extract). This allows for aspects of the Agreement to be reviewed, inter alia, under the chairmanship of the two Governments, or of an Independent Chair.

7. The advantage of a review meeting is that it might represent a fresh context and space in which to tackle the problem. However, it would not in itself, without careful private preparation, resolve the substance of the issue. It would, of course, have to be carefully timed. If set for some months ahead therefore, as suggested below, it would serve to buy time, in the expectation that sufficient progress and trust would have been developed - with the institutions up and running for some months - by the time of the review to make the problem more manageable. It would also, in this scenario, be particularly helpful to Sinn Féin, as there should by then be significant change (their word) in a wider context, in particular on issues such as prisoners, demilitarisation, etc..

8. As the core element of a package to give effect to this strategy, a clear distinction would be drawn (as is indeed envisaged in the Agreement) between the creation of the Shadow Executive and that of the full Executive (likely to be next spring). It might be that Trimble could be induced, on the basis of such a distinction, to move to the formation of the Shadow Executive without actual decommissioning. To do so, however, he would in political terms need to be able to point to some movement on decommissioning, and to be able to say to his followers that he would insist on further tangible progress before moving to the formation of a full Executive. While we probably have to take it that actual decommissioning is not on for now , a refusal on the part of republicans to show any further flexibility (even if they are adhering to the letter of the Agreement) would make it next to impossible for Trimble to move and would

plunge the Agreement into crisis - which is contrary to the clear wishes, and interests, of the vast majority of the nationalist community.

Possible Review Package

9. The possible elements of a review package as described above are set out in the attached note. The text of the relevant paragraph of the Agreement setting out the review provisions (paragraph 4 of the Section on "Validation, Implementation and Review") is also attached.

Presentation of Proposal to respective Constituencies

10. The presentation of the package by Trimble and Adams to their respective constituencies will clearly be a critical aspect.
11. From Trimble's point of view, and given what he has said publicly, he will clearly have difficulties in selling a proposal which involves an immediate place for Sinn Féin in the Shadow Executive without an actual start to decommissioning (in terms of handover of material). On the other hand, he can point to a clear distinction between the Shadow Executive and the assumption of full powers by it. He would be sitting down at Cabinet with Sinn Féin only after a full scale review of the entire implementation process, within which tangible progress on decommissioning would have to be demonstrated. In that regard, he could point to several elements of the possible package (eg the reassurance by Sinn Féin on their commitment to the decommissioning element of the Agreement, together with the McGuinness/de Chastelain memorandum) as real immediate gains. In addition, movement by the IRA on the "disappeared" could also be used as a further demonstration of good faith. (Mitchel McLoughlin said privately this week that Sinn Féin should be able to

bring forward the timing of a helpful statement on this). Moreover, Trimble could present the invoking of the review mechanism in January/February as responding directly to the call he has made for the need for progress on all fronts; the review would be a means by which that could be assessed and demonstrated.

13. From Adams's perspective, there is no doubt that a proposal which requires explicit movement towards actual decommissioning probably cannot be sold at this time. On the other hand, Adams could point to the achievement of a major Sinn Féin objective, namely the immediate establishment of a Shadow Executive. He could also point to the impetus which this would give to the process of change, and also to the ongoing implementation of the other elements of the Agreement of importance to the party, including the establishment of the North/South structures, the equality agenda, demilitarisation, etc. Moreover, he could present the review session in January as a means for the party to ensure that the dynamic of change was maintained. Crucially, he could argue that the alternative to breaking the logjam now was paralysis, and point to the real damage that that would do to the interests of nationalists and republicans.

Conclusion

14. There are clear risks involved in the strategy proposed, and real difficulties involved for both Trimble and Adams. However, the alternative is almost certain to be paralysis, in the process and the dangers that this would bring. Moreover, it is a balanced package, with each side both getting and giving. As mentioned, the presentation of the package by Trimble and Adams will be particularly important. It will be crucial that both seek to avoid further hostages to fortune to the greatest extent possible in their public utterances. On Trimble's side, for instance, it is likely that he will seek to insist on saying

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explicitly that he will not sit down in the full Cabinet with Sinn Féin without an actual start to the handover of weapons; it would be important that he be as restrained as possible in this regard. On the Sinn Féin side, by the same token, similar restraint will be required in regard to statements on the likelihood or otherwise of actual decommissioning taking place.

15. Finally, it would seem sensible to consider some brokering roles for John Hume and Séamus Mallon on the above - Hume given his continued influence with Sinn Féin, Mallon given the trust he has built up across all the parties in his role as Deputy First Minister and the access he would have in that capacity. As mentioned above, General de Chastelain could also have a very useful role in the whole process, in particular in helping tease out the terms and timing of any possible Sinn Féin move on decommissioning.

Anglo Irish Division

10 September 1998

Possible Review Package

By end-September

- Formation of the Shadow Executive;
- First meetings of North/South Council and British-Irish Council;
- Publication of British paper on normalisation of security arrangements, with well-publicised initial steps taking place immediately;
- Statement by Sinn Féin reiterating its commitment to the implementation of the decommissioning element of the Agreement;
- Drawing-up of a memorandum by General de Chastelain and Martin McGuinness setting out a detailed work programme for the period up to the New Year: essentially, by the end of this period all technical steps necessary to allow for the immediate beginning of decommissioning would have been taken. Similar joint programmes might be agreed with the loyalists;
- Statement by IRA indicating progress on the issue of the "disappeared"; and
- Statement by Governments and parties that there will be a review of the implementation of the Agreement in January/February, before its formal entry into force.

By end-October

- Areas for North/South implementation bodies identified and agreed; and
- British Northern Ireland Bill to have passed Parliament

November - February

- Work on setting up North/South bodies, Human Rights Commission etc.

January/February

- Review meeting confirms satisfaction with progress. Agreement enters into force; institutions established.

Extract from Agreement on Review

4. In the interim, aspects of the implementation of the multi-party agreement will be reviewed at meetings of those parties relevant in the particular case (taking into account, once Assembly elections have been held, the results of those elections), under the chairmanship of the British Government or the two Governments, as may be appropriate; and representatives of the two Governments and all relevant parties may meet under independent chairmanship to review implementation of the agreement as a whole.