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ROINN AN TAOISIGH

Uimhir.....

To: Mr Kirwan, Assistant Secretary

From: Simon Hare

Re: Initial Review of Current Approach of the Irish Government, in conjunction with the British Government, to Promoting an Acceptable Settlement of the Northern Ireland Question

You suggested that I might now formally submit the paper which I had prepared as above and had passed informally to you and the Secretary.

The paper was of course prepared in advance of the British General election. However, I do not see any particular need to revise it in the light of the election results - and I believe that it is important to debate alternatives to the round-table approach to negotiations, against the possibility that this should prove to be unworkable.

S.H.

12 May 1997

SECRET

Initial Review of Current Approach of the Irish Government, in
Conjunction with the British Government, to Promoting an
Acceptable Settlement of the Northern Ireland Question.

1. Current Approach Summarised

Briefly, the Government's approach to date has been:

- (a) to secure, through the multi-party talks, sufficient consensus, at a minimum, on a political package covering the three core relationships at the heart of the Northern Ireland question,
- (b) to ensure Sinn Féin's inclusion in these talks in the event of a genuine and credible ceasefire by the IRA, and
- (c) to have the package put to the people of this island for their decision by way of referendums, North and South.

2. Current Position

Despite having been launched almost a year ago, the multi-party talks have not yet got down to substance. Much attention and effort has been focused on the decommissioning issue as the key obstacle in this regard. However, in the view of the undersigned, Unionists have been using the decommissioning issue as a talisman to ward off any prospect of their having to engage in face to face negotiations with Sinn Féin - and arguably, with Nationalists generally - on the future of Northern Ireland. In other words, the key obstacle to progress is the concept of round-table talks and not decommissioning as such. If this is the case, the prospects for Unionist cooperation in squaring the circle on the decommissioning issue must be remote. Equally, Unionists are unlikely to buy into the time-lock idea (which is of course problematic in other respects), since it would simply involve postponing the potential for Sinn Féin's entry into talks. Indeed they might find it even more difficult to entertain the prospect of Sinn Féin's entry into the talks at a late stage to, as it were, award marks out of ten for the work done to date.

3. It will obviously be necessary to return to the talks on 3 June and to make a further effort to resolve the decommissioning impasse. If this can be done successfully (and the admittedly subjective view expressed in para 2 be shown to have been mistaken), so much the better: no-one could lightly contemplate the jettisoning of an initiative in which so much time and effort has been invested. At the same time, it is difficult to see how the UUP could resile to any significant extent from the positions already adopted by them on decommissioning - whatever about elections being out of the way, the ghost of Lundy seems to be ever present in Unionist minds.
4. It is also difficult to see how the talks could credibly be spun out to the end of their natural term viz. May, 1998 - even allowing for protracted debate on decommissioning, adjournments to allow for bilaterals/trilaterals etc., breaks for holidays and the marching season - and periods for "reflection".
5. Leaving aside the possibility of an IRA ceasefire, which would provide a credible justification for a lengthy talks adjournment, the conclusion seems inescapable that we will need to (a) bring the current talks to a close in advance of May, 1998, and (b) develop an alternative.

6. **Suggested Alternative Approach - Consultations Followed by Referendums**

It is suggested that consideration should now be given to the suggested strategy for a talks failure outlined in the Northern Ireland Strategy Paper of September, 1995, viz:

- (a) Seek the British Government's agreement to setting a time-frame of one month (but see below) for intensive bilateral discussions, focused particularly on the SDLP and UUP, to secure agreement on a package based around the FD.
- (b) Indicate, as an incentive to agreement by the parties, that at the end of this period, the two Governments would consult with a view to making a call on outstanding issues and putting a package to referendum (North and South).

7. **Time-Frame for Consultations**

It is suggested that the one month period provided for consultations in the September paper should be extended to, say, six months. It is

hardly likely, on reflection, that the work could be completed in a month. In addition, such a short time-frame would be likely to smack too much of a diktat - and to provoke/fuel a negative Unionist reaction. There is also the consideration that in the event that the Republican movement decided to buy into the new approach - with a ceasefire - they would need some time in which to change gear - and time would of course be needed to test the ceasefire (no less than a Tory Government, a Labour administration is certain to insist on this).

8. **Advantages of Above Approach**

The most obvious advantage of the consultations/referendums approach is that it would allow us to leap over the decommissioning quagmire onto firm political ground. More importantly, however, it would restore the initiative to the two Governments instead of leaving it in the hands of the Unionists, who are most unlikely to voluntarily concede in the multi-party talks the level of change which will be needed to assure lasting stability in Northern Ireland. It would, in other words, inject a much needed dynamic into the search for a settlement. It would also serve to renew faith in the political process - which has undoubtedly been damaged by the lack of progress in the talks - and counter the resulting cynicism which can only help to fuel extremism and terrorism in Northern Ireland.

9. **Disadvantages Considered**

The consultations/referendums approach would mean the abandonment of the round-table approach. Arguably, the concept of round-table negotiations is of considerable symbolic importance to the Republican movement and its abandonment might risk an escalation of violence on their part. At the same time, Republicans could hardly object to the two Governments taking on the proactive role which they are continually calling for - and they would presumably also count the time-frame element of the proposal as a plus. In addition, there would of course be no question of excluding Sinn Féin, given that they would be included in the consultative process in the event of a genuine and credible ceasefire. Indeed their path to negotiations would be eased - Republicans would surely be able to see the advantage for them of removing the Unionists from the negotiations ticket box and replacing them with the two Governments.

10. There is a further point. Mr. Adams is confident that even if Unionists walked out following Sinn Féin's entry into round-table talks, they would

eventually walk back in. However, given that Unionists are likely to see themselves as the inevitable losers in any process of negotiations, such confidence may well be misplaced. The suggested approach gets over this, by freeing the Governments from the multi-party talks straitjacket and enabling them to play a proactive role. It is also arguable that the version of round-table negotiations which Republicans are seeking is undeliverable and that we should face that reality. Finally, it is arguable that we should face up to the further reality that with the continuing IRA campaign of violence - and Loyalist retaliation - the concept of fully inclusive talks is looking increasingly academic.

11. Moving on, another possible downside of the approach suggested in this paper relates to likely Unionist/Loyalist reactions. Having worked so hard at developing ownership of the talks process, Unionists could well react belligerently to a return to an inter Governmental led approach. At the same time, it would be difficult for Unionists to sustain an argument that the talks were cut off in their prime. In addition, there would be no question of the two Governments imposing a solution: Unionist politicians would be consulted; the maximum degree of consensus would be sought; and the people would have the final say. Finally, at the end of the day, Governments have to govern and those who feel they have a right to deprive the people of Northern Ireland of the chance of lasting peace and stability will have to be faced down. Also, if Governments don't give a lead, the extremists will.
12. A further possible downside of the consultations/referendums approach is that Unionist politicians will refuse to cooperate with it, in the consultation and/or post-referendum (i.e. implementation) phases. It has to be conceded that, as with every initiative on Northern Ireland, the suggested approach may fail. However, that is not an argument for not undertaking it but rather for (a) seeking to maximise its chances of succeeding, by its design and delivery and (b) having a 'B' Plan (para 16 refers).
13. Furthermore, Unionists are far more likely to co-operate in an approach which would not require them - after a ceasefire - to talk to Sinn Féin than they are to cooperate in the current exercise. They might also find it preferable to have the Governments exercise a more proactive role than at present: it would presumably be easier for them to swallow the medicine of change if administered - in part at least - by the Governments, instead of having in effect to volunteer to take it

themselves, as the current talks process requires. The point should also be made that the knowledge that the two Governments were going to go ahead anyway with referendums would act as an incentive to Unionists to become involved in the consultations. In any event, it must surely always be better to take an initiative - and if need be fail - than to allow a political vacuum to develop, as will happen if the talks remain bogged down over decommissioning.

14. **Timing of New Initiative as Above**

A major factor here will be the attitude of the next British Government, which will take office on 2 May. Assuming it is a Labour administration, it seems unlikely that the new Government will be predisposed in favour of taking immediate or early action (i.e. before the autumn) to fast-forward matters. Reasons for thinking this include the following:

- * that the new Government will presumably wish to concentrate in the first instance on Scottish devolution.
- * that there is likely to be a reluctance to embark on any major initiative with the Irish Government in advance of our own General Election.
- * that, again, there may well be an unwillingness on the part of the new administration to call time on the talks process as it currently stands without having been seen to have given it a chance - and, conversely, a predisposition to using the talks as they stand as a way for the new team to read themselves into Northern Ireland matters.
- * more generally, that the Government is likely to be very cautious about - and therefore slow to undertake - any new departure on Northern Ireland, for fear of ending the bipartisanship on which Mr. Blair seems to set great store.
- * that the new Government may feel that it would be best to defer any major initiative until after the marching season, when the "troops" have dispersed.
- * and finally, that it seems from e.g. Mr. Blair's IT article of 28 April and Mr. Mowlam's BBC Radio Ulster interview of 6 March (copies attached) that the new administration may be predisposed to concentrating on putting in place confidence building measures before tackling the core political issues. [The question of the likely approach of a Labour administration to Northern Ireland is dealt with

*Overfaken
, to a
degree, by
the actual
stance of
the new
Govt,
bolstered
by their
landslide
majority*

in more detail at para's 21 - 22]

It is of course conceivable that "events", including recent events in Britain, will force the next British Government to take a more proactive approach immediately on assuming office or soon afterwards. However, at the time of writing, it seems more likely that the new Government will wish to pedal softly.

15. In addition to the above, it should also be borne in mind that time will be needed (a) to buy the British Government in to the suggested approach, and (b) to develop with them the political package which will form the basis for the consultation process and, suitably adjusted, in the light of this, the referendums. It is suggested therefore that consideration should be given to the following as a time-table:

May to September, 1997

Sell/Develop Concept

June to July, 1997

Final Effort to Make Talks Work

October, 1997 to March, 1998

Launch/Complete consultations on Political Package

April, 1998

Referendums, North and South, on Package

16. **Plan 'B'**

It is proposed that this should be on the lines suggested in the Northern Ireland Strategy Paper of September, 1995, viz: secure the British Government's agreement

- (i) to a more pro-active working of the Anglo-Irish Agreement on the basis of an agreed work programme and associated time-frames covering parity of esteem issues such as fair employment, oaths of allegiance, job and Board quotas in the public sector, flags and emblems, police reform, parades, economic regeneration especially in the most deprived areas - as well as issues such as integrated education, and
- (ii) to the introduction of human rights legislation backed (as suggested by Mr. Robin Wilson of Democratic Dialogue and the Boyle,

Campbell and Hadden consultancy study for the Forum on human rights) by the establishment of a new constitutional court for Northern Ireland, accompanied by a new or revamped human rights commission with enhanced advocacy powers.

It has of course to be emphasised that this is very much a "B" Plan and would really only buy time before a further political initiative of some sort was launched, as it would have to be. As argued in greater detail at paragraph 20, confidence building measures are no substitute for political progress, in terms of bringing stability to Northern Ireland.

17. **Handling of Issues of Sinn Féin Entry and Decommissioning**

It is unfortunately quite conceivable that under the consultations/referendums - as with any - scenario, the IRA would not deliver a ceasefire and/or that the Loyalist ceasefire would be conclusively broken. However, we should obviously plan for a more positive turn of events. Key considerations here would presumably include:

- * the need to provide for a period in which any renewed ceasefire could be tested.
- * the need to pre-empt any "last minute" entry into the process designed to thwart any possibility of testing the ceasefire and/or of decommissioning during the consultation process (although Sinn Féin, the PUP and the UDP would presumably wish to maximise the length of their participation in the process, thereby arguing against a last minute entry).

Bearing these considerations in mind, it is suggested that:

- (a) Sinn Féin and - in the event of a definitive breakdown of the Loyalist ceasefire - the PUP and/or UDP should be given one month in which to decide whether they want to buy into or stay out of the process.
- (b) A period of two months should be provided for testing the reliability of any ceasefire.
- (c) The two Governments, Sinn Féin and the PUP and UDP would agree, following Sinn Féin (and, in the event as at (a), UDP and PUP) entry into the consultation process, on a package of confidence building measures - including decommissioning - which would be implemented during that period and beyond.

(d) It would be made clear that failure to deal seriously with - and deliver on - decommissioning by either Republicans or Loyalists would result in their exclusion from the consultations process. 7

18. It may be objected that this suggestion is flawed for a whole variety of reasons, including, for example, that:
- Republicans would not accept their being treated differently from other parties by being subjected to a two month delay.
 - it has too much of a peremptory flavour.
 - to exclude the paramilitaries in the event of a failure by them to deliver on decommissioning would guarantee a return by them to violence.
19. It could of course be argued in response that Republicans/Loyalists were being treated differently because of their campaign of violence and its renewal; that the consultations/referendums proposal in its entirety has a peremptory flavour, so that Republicans/Loyalists shouldn't feel too singled out; and that a failure to deliver on decommissioning during the consultations process would indicate a degree of readiness to return to violence in any event.
20. All this said, it has to be acknowledged that there are difficulties with the suggested approach. It may be possible to get over these by developing a variant/fine-tuning. If not, the question that the Sinn Féin, the UDP and PUP will have to answer is whether or not they are prepared to pay a price for political progress, over and above a ceasefire. And the question the Governments will have to answer is whether they are prepared to take the risks involved in insisting on (a) testing a ceasefire in advance of consultations with the relevant party or parties and (b) securing some decommissioning in advance of an agreed settlement.
21. **Likely Approach of a Labour Government to Northern Ireland**
A reading of recent articles, interviews and reports of discussions involving Labour politicians and advisers, as well as British Government

officials, would seem to suggest that a Labour Government would tend to:

- (a) concentrate - at least in the first instance - on confidence building measures, and
- (b) include in confidence building, measures such as constitutional change and the Bill of Rights which have up to now been treated as matters for resolution in negotiations on a comprehensive, three stranded settlement.

There may even be a tendency to abandon the idea of a comprehensive three stranded package in favour of piecemeal change.

22. Obviously, this is impressionistic and based on second hand information, about the views of people (Labour politicians) who are presumably still feeling their way on Northern Ireland matters. In the event, however, that it turns out to be well founded, any such tendencies would have to be resisted. There is obviously a place for confidence building alongside progress on the core political issues. But confidence building cannot be substituted for political progress. Indeed, a programme of confidence building - in the absence of a parallel political project - could well heighten, rather than diminish tensions. Nationalists could see it as a ruse to defer a resolution of the core political issues indefinitely - as an attempt at "normalisation". Unionists could see it as an additional layer of ice on the slippery slope to a United Ireland. Put simply, tension and the potential for violence will not diminish until the core political issues have been addressed and resolved - until everyone knows where they stand. And as regards the idea of piecemeal change, it is difficult to believe that either Nationalists or Unionists would be prepared to give on any particular issue without knowing what they were going to get in return on a different issue. As for the particular idea - recently mooted by Jonathan Stephens and separately (although presumably on foot of contact between them) Nigel Warner - of an initiative by the Irish Government on constitutional change, it would in the words of Sir Humphrey be a "very brave" Government which undertook such an initiative.

Simon Hare
29 April, 1997