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10 DOWNING STREET
LONDON SW1A 2AA

14 July 1997

THE PRIME MINISTER

Sean Bertie,

When we spoke on the telephone on Friday, we agreed on the need to ensure that the joint paper on decommissioning would be approved on the planned timetable, to open the way for the substantive talks in September. I explained the difficult position the UUP find themselves in and the need, as we saw it, to find ways to bind them in.

As you know, officials are in touch about what might be said in reply to the questions asked by David Trimble. I am also reflecting on the relative merits of responding in writing or orally. Meanwhile, it has become clear from recent contacts with the UUP that their single most important concern about the joint paper is that it does not provide for any scheme for decommissioning to be in place on 15 September, so that actual decommissioning will not even be theoretically possible then or for some time. Without this the UUP do not believe they can defend themselves from the inevitable criticism from others that they are sitting down with Sinn Fein when it is already clear that there will be no decommissioning during the talks. I therefore believe we need to consider whether we can find some way of meeting this concern, without making any shift of substance on our joint proposals themselves.

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It seems to me that the UUP may be satisfied if we can make clear that the Independent Commission will be in place rapidly, and also ensure that a scheme or schemes for actual decommissioning are worked up and available to the Independent Commission for consideration when it begins work on 15 September, even if they could not at that stage have legal force. The point is not that arms would have to be given up at the start of the process (which is not our position) but that the possibility of early decommissioning would clearly exist.

To balance this, we might also agree that there should be active preparation for the substantive talks during the summer, so that the substantive talks could get down to real business straightaway on 15 September. For example, the two governments (and others) could work up discussion papers ready to table on 15 September. Preparatory work for decommissioning would therefore fall naturally into an overall programme of preparation.

I would be grateful if you could look at these ideas very quickly, so that we can sort out our position together in good time before Wednesday's plenary, and the bilateral which I hope Ray Burke will be able to have with David Trimble and his team that morning. Of course we would need to be very careful to avoid giving the impression of presenting David Trimble with a *fait accompli*. In any case, I hope officials can get together very quickly to discuss details. By way of illustration I attach a first draft of the sort of thing we might both say if you were able to agree with our ideas.

As we discussed, I believe there is now a real chance for progress, if we can work on all sides to make the necessary moves. In particular I want Sinn

Fein to move decisively towards a ceasefire, and the UUP to be in a position to accept our joint proposals on decommissioning. These are the key next steps.

Yours sincerely
Tommy

Mr Bertie Ahern TD

CONFIDENTIAL**DRAFT "RESPONSE" TO UUP CONCERNS ABOUT THE
ESTABLISHMENT OF THE INDEPENDENT COMMISSION
AND THE MAKING OF SCHEMES FOR DECOMMISSIONING**

It has obviously been impracticable to take steps to establish the Independent Commission in the absence of agreement on what its role should be. It would in any event have been premature to establish the Commission before the talks had reached item 4 of the agreed agenda for the remainder of the opening plenary session ("Launch of three-stranded negotiations and establishment of agreed mechanisms on decommissioning").

However, the necessary enabling legislation is in place in both jurisdictions and the two Governments have, on a contingency basis made preparations such that if the "possible conclusions" they have suggested are agreed, they will be able to:

- make the necessary Commencement Order[s] under the Northern Ireland (Entry to Negotiations etc) Act 1996 [and the Irish Act] before the end of July. The necessary Order under the UK legislation can be made by the Secretary of State by statutory instrument. {Irish Order?};
- sign the necessary International Agreement between the two Governments on 29 July;
- formally establish the Independent Commission under item 4 of the agenda for the remainder of the opening plenary session on 29 July;
- nominate a Chairman for the Independent Commission, on 29 July, following discussion with the other participants;

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- engage in consultation with the other participants about other possible members of the Commission, with a view to making the necessary appointments by the end of August if at all possible;
- as part of the wider programme of preparatory activity envisaged in paragraph 5 of the joint paper of 25 June, engage in preparatory discussions with the Commission in the period before 15 September;
- present the Commission by 15 September with a portfolio of workable draft schemes for decommissioning, reflecting those modalities mentioned in paragraph 44 of the Report of the International Body;
- invite the Commission in consultation with those identified in the first tier of its proposed terms of reference to make rapid progress after 15 September in refining those schemes as necessary and drafting further schemes for decommissioning.

A scheme can under the UK legislation be made by the Secretary of State without reference to Parliament [and under the Irish Act ...] so there need be no delay at that point. Both Governments have given an undertaking that no delay or obstacle in achieving decommissioning will be caused by any lack of Government preparation or provision. In particular they undertake that they will immediately give effect to an appropriate scheme as soon as there is any indication of any intent by a paramilitary organisation to commence decommissioning.

A response as

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Oifig an Taoisigh
Office of the Taoiseach

14 July, 1997

The Right Honourable Tony Blair, M.P.,
The Prime Minister,
10 Downing Street.

Dear Tony

Thank you for your letter of today's date.

We are entirely at one in wanting Sinn Féin to move decisively towards a ceasefire and the UUP to be in a position to accept our joint proposals on decommissioning.

I believe we will maximise our chances of ultimately securing both goals by maintaining a line that is both consistent and realistic, and which is also presented as such to all the key protagonists.

We both know that it is not in our power to compel disarmament by either set of paramilitaries, beyond the successes our security forces have fortunately been able to notch up, and will continue to pursue for the future. So does everyone else. I believe the authority and credibility of our Governments can be damaged if, even with the best intentions, we appear to promise that a peremptory approach to this issue will actually deliver our joint goal of decommissioning. The peremptory approach is really a transparent proxy for excluding Sinn Féin.

The more we indulge that proxy agenda the more we are in danger of taking very major decisions regarding the inclusive nature of the process obliquely and almost unawares. I do not want that to happen.

We share your desire to do anything we can to assist the UUP, provided of course it is consistent with the joint policies we have so carefully elaborated, our commitment to the implementation of all aspects of the Mitchell Report and our reluctance to endorse, even passively, expectations we both know to be unreal. If the Talks are to founder on unrealistic demands, it is probably as well to face that candidly now rather than to purchase a brief deferral of the problem at the cost of greater recrimination and even accusations of bad faith later.

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Office of the Taoiseach, Government Buildings, Dublin 2.

Oifig an Taoisigh
Office of the Taoiseach

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I have therefore examined very carefully how we might go the "extra mile" to assist the UUP, and our joint objectives on the process as a whole.

The formal establishment of the Independent Commission on 29 July can be agreed on the following basis.

I am willing to arrange the signature of the necessary International Agreement between the two Governments on 29 July - subject only to the successful conclusion of the negotiations on the terms of that agreement on the basis of the text transmitted to the Northern Ireland Office by the Department of Justice on 8 July.

I can also agree that the statutory orders required to bring the relevant sections of our Decommissioning Act into force and to guarantee the independence of the Commission, its legal status, privileges and immunities will be implemented before the end of July.

The nomination of a Chairman by 29 July is obviously more problematic. It would be important that the membership of the Commission should as far as possible command confidence on all sides, not least those whose co-operation will be necessary for actual decommissioning. I suggest our officials be asked to refine our consideration of this issue and put proposals to us for decision. The same applies to the other members of the Commission.

The preparatory activity referred to in paragraph 5 of the joint paper relates specifically to substantive political negotiations. We would, however, agree for our own part to informal discussion with the members of the Commission in that period.

We would feel that the proposal to present a "portfolio of workable draft schemes" to the Commission by 15 September is questionable. It could be seen as the first step of a peremptory approach which presumes to dispense with the input of those whose co-operation is actually needed for decommissioning. Our own draft terms of reference envisages that it is the Commission itself which will present us with such proposals. Moreover, it is also at variance with the very explicit premise in paragraph 38 of the Mitchell Report that the details of decommissioning, including supportive confidence-building measures, timing and sequencing have to be determined by the parties themselves. This is the position I put to you in our discussion in London. I remain convinced that attempts to elaborate upon the Mitchell Report will inevitably suffer rejection by whichever side believe that elaboration favours the other side.

Oifig an Taoisigh
Office of the Taoiseach

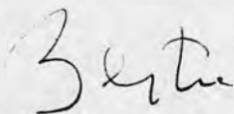
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I do wish, without running that risk, to be as helpful as possible and, consistent with the Mitchell Report, I could envisage that the preparatory work of the Commission should include, not only discussions with the Governments, as envisaged in the appendix to your letter but also consultations with the necessary security experts on both sides, to enable the Commission to formulate options which would later be put to the participants, in conformity with the Mitchell Report and their terms of reference.

That would provide the basis for the rapid progress referred to in the final indent of the appendix to your letter, which I fully support.

I understand our officials will have discussions tomorrow. They might settle, for our agreement, the form and content of a response to David Trimble which, as you say, we need to agree jointly - and in good time, such that Ray Burke can draw on it in his meeting with David Trimble on Wednesday.

Yours sincerely,



Taoiseach.