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DEPARTMENT OF FOREIGN AFFAIRS
ANGLO - IRISH DIVISION
80, ST. STEPHENS GREEN
DUBLIN 2
IRELAND

URGENT

C O V E R

S H E E T .

SecureFAX

To: Joint Secretary

From: Colm Ó Floinn

Fax Nr.:

Subject: Normalisation of Security Arrangements - response to the British draft paper.

Date: 29 June 1998

Pages: 10, including this cover sheet.

COMMENTS

Please find attached the response to the British draft paper which has been cleared by Secretary Gallagher. Grateful if you would convey to the other side and emphasise in particular the importance of further extensive consultation on the envisaged strategy statement.

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Confidential

Normalisation of Security Arrangements and Practices
Response of the Irish Government to the British Draft Paper

Overview

1. In the context of the current close consultation and cooperation between the two Governments on the implementation of the Good Friday Agreement, the Irish Government offers the following observations and queries on the British draft paper on normalisation. Given the significance of this issue to the overall credibility of the Agreement, combined with the complex series of factors involved in the process of dismantling the security arrangements and practices accumulated over decades of conflict, the Government anticipates that the strategy statement will be the product of further extensive consultation.

Normalisation and the Good Friday Agreement

2. The section of the Agreement dealing with security envisages a published overall strategy to normalise the security arrangements and practices in Northern Ireland. It proposes approaching this complex and demanding strategy on four fronts - levels of troop deployment, removal of security installations, ending of emergency powers and, importantly, other measures appropriate to and compatible with a normal peaceful society. The importance of this latter category should not be underestimated. It is a broad rubric under which ongoing concerns affecting confidence in the process of normalisation can be addressed. Any aspects of security arrangements and practices incompatible with a normal society and not covered under the other headings fall into this category.

3. Clearly, if the security strategy of de-escalation was to be contingent solely on the

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level of threat, there would be no need to include this security section in the Agreement - presumably security arrangements are consistently reviewed in the light of such assessments. It would be a highly unusual and inefficient - not to say perverse - system that preserved security arrangements in excess of such assessments. Indeed, this was made clear in the British Government's paper on security issues to the liaison sub-committee on confidence building measures issued on 23 March (i.e. prior to the Agreement).

4. Its inclusion arises because the acceptance of the Good Friday Agreement by all sides directly addresses and resolves the issues which might be said to underline the conflict in Northern Ireland. In light of this historic settlement, the Agreement naturally addressed how to move from the abnormal security arrangements to ones compatible with the new, peaceful society arising from the settlement. Specifically, the Good Friday Agreement (and its endorsement North and South on 22 May) represents an historic settlement, the terms of which directly address key underlying political issues which have had a direct, indeed causative, bearing on the security situation in Northern Ireland, arguably since its foundation but particularly since the beginning of the 'Troubles'.

5. Since paramilitary organisations and their activities are driven principally by overriding political and strategic considerations, the settlement represented by the Good Friday Agreement - in the context of the enduring cease fires - is profoundly and intimately connected to the level of threat these organisations represent. The section of the Agreement dealing with security and normalisation is, therefore, an integral part of the settlement and should, in the context of its implementation by the authorities (of which the published strategy represents the blueprint), be addressed in a manner consistent with the Agreement's resolution of the issues generating the conflict of the past two and a half decades.

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6. In this context, the Government believes that the promised security strategy ought to complement and give effect to the letter and spirit of the Agreement. It should be a blueprint for security arrangements and practices compatible with a normal peaceful society and how to get there. It should describe in detail the British Government's proposed approach on all the aspects of security arrangements and practices in Northern Ireland which fall outside the 'normal'. This approach should be exhaustive and ambitious, seeking to progress towards security arrangements and practices consistent with a normal society within a reasonable time-frame. Such a time-frame should, in our view, be calibrated to achieve its objective by between one and three years.

7. Given the genesis of the published security strategy as part of the overall political settlement, the Government believes that the strategy must be proactive and visionary, that it cannot be contingent solely on the assumption of a persistent and ubiquitous threat of violence. To do that would allow the initiative slip from the authorities to the paramilitary dissidents, the very elements most likely to benefit from a failure to fulfill the objectives of the Agreement.

8. Clearly, in light of these observations, we believe that the British draft document requires not only substantial alterations but a re-appraisal of what are apparently its underlying premises. To aid and clarify our further consultations and discussions, the remainder of this papers offers a commentary on the current British draft followed by a series of issues and queries which outline what, from our perspective, we deem appropriate for consideration and address in the overall security strategy.

Comments on the British Draft

9. We wish to make the following comments on specific aspects of the British draft.

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(i) The draft is in substance and text effectively indistinguishable from the paper circulated in March in response to discussions at the sub-committee on confidence building. Since the current draft does not depart in substance or approach from that earlier draft, it *ipso facto* fails to take appropriate account of the significance of the Good Friday Agreement itself. We, naturally, could not endorse a paper which suggested that the Agreement was not directly relevant to the security situation. In our view, the security strategy must pay due regard to the direct and intrinsic connection between the security situation and the terms of the Agreement. Indeed, any comparison between the two documents might lead the public to the view that the significance of the Agreement counted for little in terms of the overall security situation. The political liabilities of such a situation are all too obvious.

(ii) The current draft offers little of substance in terms of a clearly identifiable strategy of normalisation/de-escalation. The scenarios remain very much scenarios - aspirational and without commitment or content. By the paper's own admission, the scenarios are presented for "illustrative purposes" - by that measure alone they fail to meet the requirements of the commitment in the Agreement. We believe that the fundamentally altered security context - in terms of actual events on the ground, the disposition of the main paramilitary organisations and the terms of the Good Friday Agreement - allow for substantial and immediate progress on de-escalation. Indeed, the continued and very evident presence of the security forces on the ground in the current context is causing concern across the board within the nationalist community. We do not, therefore, believe that nationalist communities in Northern Ireland will be convinced by the draft paper's argument that "the security forces have already demonstrated in their wide-ranging and flexible response to the cease-fires, their commitment to the

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goal of a return to normality in terms of security." On the contrary, such assertions will be likely to diminish rather than encourage confidence. In the absence of a substantive and qualitatively improved response by the security forces to the ongoing cease-fires and the significance of the Agreement, we believe that nationalist concern about the authorities' willingness to make real the promise of the Agreement will deepen. The purpose of de-escalation, the manner in which it is addressed in the Agreement and the content of the published security strategy are meant, on the contrary, to develop and encourage confidence in the new reality presaged by the Agreement.

(iii) We question the assertion in the draft that the 'terrorist threat' cannot be assessed. On the contrary, we presume that such assessments are made on an ongoing basis. Indeed, it would be difficult to believe that such a massive security presence as that maintained in Northern Ireland operates effectively in the dark about the likely extant threat to both the public and to security force personnel.

(iv) It follows, therefore, that we do not share the view of the drafters of the paper that "it is not possible to set out a firm blueprint or timescale for reductions in the security force profile". It is certainly possible to set out a blue-print even if the timescale remains relatively flexible. De-escalation is clearly a major logistical undertaking and we presume that the British security forces are likely to have given some thought to the contingency plans necessary to deal with this complex process. In such an exercise, we feel that the British Army would be likely to establish a scale of possibilities based on maintaining the maximum flexibility at least in the initial stages. Thus de-escalation would follow a clear and logical sequence from initial troop withdrawals to a progressive dismantling of security

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installations in reverse order to their importance. It is our view that such considerations should naturally be reflected in the text of a major strategy statement on de-escalation.

(v) On at least ten occasions in this short text (much of which is given over to reviews of what has already been done) reference is made to de-escalation as contingent solely on the 'terrorist' threat; "as quickly as the activities of terrorist organisations allow", "only terrorism stands in the way of normality" and so on. In terms of presentation alone, this conveys an unfortunate impression of a minimalist approach rather than a pro-active one based on confidence in the overall settlement. As has been noted above, this approach cedes the initiative either to small dissident paramilitary groups (or even deranged loners) rather than with the authorities. Were this premise to endure as the sole operational point, it would undermine the whole section on security in the Good Friday Agreement.

(vi) Scenario 1 introduces two apparently unalloyed preconditions for a return to 'normality' which do not feature in the Agreement and which if adhered to would provoke very serious concerns about the intentions of the authorities in terms of de-escalation. We are extremely surprised, for instance, that paramilitary disbandment and disarmament have been introduced at this point in the current British draft as necessary components to the achievement of the objectives of the Good Friday Agreement in terms of normalisation. Scenario 2 repeats this delinquency. Indeed, Scenario 2 is so broad-ranging (by its own admission) as to be of little value. The obviousness of Scenario 3 renders it equally of little or no value.

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(vii) Paragraph 8 of the British draft illustrates the paper's overall deficiency. The possibilities of (a) refer merely to vague "changes in the way the security forces operate" in line with the security threat and a reduction and "eventually" an end to "routine" military support for the RUC. This is the kind of prospect that could have been offered at any time over the twenty five years of conflict. If (b) is being offered as the substantive response to tiret (I) of the Good Friday Agreement, it is clearly unacceptable. It is so vague as to be virtually meaningless. The reference to a progressive return to barracks by resident and Royal Irish units is a patently inadequate an address to the very real concerns about the *raison d'etre* of the RIR. Neither sub-paragraph (c) nor (d) add anything of substance to what is outlined in the Good Friday Agreement.

(viii) The commitment in the Agreement that the published security strategy will deal with "other measures appropriate to and compatible with a normal peaceful society" is dealt with in the current draft through the simple expedient of ignoring it.

Issues for Clarification

10. We believe that there needs to be substantial changes in the current draft on offer if it is to fulfill the terms of the Agreement and set out a clear, convincing and tangible strategy of de-escalation and normalisation. As a guide to what we consider to be the issues which require address in the published security strategy, if security arrangements and practices in Northern Ireland are to progress towards those compatible with a normal peaceful society, the following series of issues and queries are offered for consideration and further consultation.

How soon is a complete withdrawal to barracks by the **British Army** likely? How quickly can this withdrawal be effected? Beyond the withdrawal of the roulement

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battalions, what is the likely sequence of withdrawal? At what point are the specialist British Army units to be withdrawn? Does withdrawal of units mean that certain areas are no longer patrolled by the Army, or is overall military coverage in Northern Ireland to be progressively slimmed down?

How soon will the **RIR** be withdrawn to barracks? What role remains for the RIR in a normal peaceful society? How can that be defined and what steps are required to achieve that role, if any such role exists?

When will the **holding centres** be closed?

What is the precise sequence of closure of **military installations**? At what point, for example, would the dismantling of the observation towers occur generally - and specifically in such areas as South Armagh?

What is anticipated in regard to the law on **inquests**? How can the concerns regarding inquests be addressed and resolved?

When will **Public Interest Immunity Certificates** be lifted?

Has consideration be given to amendments to the law on the **use of force**? i.e. that the current criterion of "reasonable force" be replaced with "minimum force which is no more than absolutely necessary".

When will **plastic bullets** be withdrawn? What proposals are being considered to allay concerns about the use of plastic bullets?

Is it envisaged that the **EPA** and **PTA** will be repealed?

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Will the **derogations** from the European Convention on Human Rights and the International Covenant on Civil and Political Rights be ended?

When will the **Diplock courts** be ended and replaced by trial by jury?

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