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AN RÚNAÍOCHT·ANGLA-ÉIREANNACH
BÉAL FEIRSTE

ANGLO-IRISH SECRETARIAT
BELFAST

Mr Ly Carey
Not passed on to the Taoiseach
9.3.99.

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TO: Colm O'Floinn,
Anglo-Irish Division

CC G1/Secretariat

FROM: P. Hickey, Belfast

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Copied directly to Mr. D. Cole, Assistant Secretary, DOJELR

SUBJ: Proscription of Orange Volunteers / Red Hand Defenders
Despecification of INLA for purposes of the NI (Sentences) Act 1998

The Joint Secretary's SF 1806 of today's date refers.

A draft press release and "bull points" which set out the main consequences of the proposed orders is attached. The material provided is, however, understood to be subject to change. The finalised version will be forwarded when available.

The British side have stressed the confidentiality of the advance warning provided as the proposed timing of the announcement at 4.00 p.m. is intended to conincide with the closing of the banks and to facilitate action against the "assets" of the groups concerned.

Orange Volunteers/Red Hand Defenders

The effect of the orders which it is proposed to make or lay in draft form today will be to proscribe the Orange Volunteers and the Red Hand Defenders for the purposes of the Northern Ireland (Emergency Provisions) Act 1996 with immediate effect and to make them specified organisations for the purposes of the Northern Ireland (Sentences) Act 1998 once the draft orders for this purpose have been approved by both Houses of Parliament. The effect of proscription will be to make membership and other specified activities related to the groups concerned a criminal offence. The specifying of both organisations for the purposes of Northern Ireland (Sentences) Act 1998 will have the effect of excluding prisoners belonging to those organisations from the benefits of the accelerated release programme.

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The British side have also provided the following confidential briefing in regard to the background to the decision to proscribe the Orange Volunteers and the Red Hand Defenders. That decision was based on security advice which, in the case of the Red Hand Defenders, was to the effect that the RUC now believe that the RHD have "started to coalesce as a recognisable organisation". The decision also takes account of the attacks claimed by the Red Hand Defenders, most notably the murders of Constable O'Reilly and Brian Service last year as indicated in the Joint Secretary's SF.

The advice in relation to the Orange Volunteers is that they have claimed a number of serious attacks on bars, GAA clubs and "PIRA members" and that likewise it is becoming clearer that the group represent a "distinct and coherent organisation" and that there is little doubt that the organisation is "primarily and actively engaged in the commission of terrorism".

Both groups, as you know, have continued to claim attacks in the current year.

Despecification of INLA

The British side have likewise confidentially indicated that the decision to despecify the INLA for the purposes of the Northern Ireland (Sentences) Act 1998 takes account of the fact that their ceasefire "remains as strong as that of any other non-specified paramilitary organsiation". That ceasefire decision is recognised as having been made in good faith as is the fact that the INLA has not been involved in "operational actions" in the period since. A further factor in despecifying the group was the fact that the IRSP, in its initial contacts with the Independent International Commission on Decommissioning, had made the appointment of a contact point between it and the Commission dependant on despecification.

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ANNEX ii

Draft Press Release

SECRETARY OF STATE MOVES ON PARAMILITARY ORGANISATIONS

The Orange Volunteers (OV) and the Red Hand Defenders (RHD) will be proscribed from midnight tonight, the Secretary of State for Northern Ireland, the Rt Hon Dr Mo Mowlam MP announced today. The Secretary of State has also laid a draft Order which will specify both organisations under the Northern Ireland (Sentences) Act once approved by Parliament..

The draft Order made under the Sentences Act will also despecify the Irish National Liberation Army (INLA).

Note for editors

Proscription of OV and RHD

Under section 30(3) of the Northern Ireland (Emergency Provisions) Act 1996 the Secretary of State may, by Order, proscribe any organisation that appears to her to be concerned in terrorism or promoting or encouraging it.

The Order proscribing the OV and the RHD has been made using the "urgency" procedure. Under this procedure the Order is made by the Secretary of State and laid before Parliament but comes into force in advance of Parliamentary approval. The Order will cease to have effect if not approved by both Houses within 40 sitting days.

The effect of proscription is to make membership of the OV and the RHD a criminal offence. Proscription also makes it illegal among other things:

i. to solicit, invite or accept financial or other material support for the OV or RHD or to knowingly contribute to them;

ii to solicit or invite membership of them; to solicit or invite a person to carry out orders or directions given on behalf of such an organisation or requests made by them;

iii. to arrange, to manage or to address a meeting knowing that it is to support the OV or RHD or to be addressed by a member of these organisations;

iv. to dress in a way which arouses reasonable apprehension that the person concerned is a member of the OV or RHD.

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[redacted] are not [redacted] activities involving any of the above offences if they occur after the date of proscription.

Loyalist paramilitary organisations already proscribed are: the Red Hand Commandos, the Ulster Freedom Fighters, the Ulster Volunteer Force, the Ulster Defence Association and the Loyalist Volunteer Force. The proscribed Republican organisations are: the Irish Republican Army, the Irish National Liberation Army, the Continuity Army Council, the Irish Peoples Liberation Organisation, Cumann na mBan, Fianna na hEireann, and Saor Eire.

Specifications and Despecification

In July last year, when the Secretary of State made decisions on the organisations to be specified for the purpose of the Northern Ireland (Sentences) Act 1998, she gave an assurance that they would be subject to continuous review. Specification under the Sentences Act hinges on two criteria: that the organisation is concerned with terrorism connected with Northern Ireland, and that it has not established or is not maintaining a complete and unequivocal ceasefire.

As part of the review process, the Secretary of State has concluded that the Orange Volunteers and Red Hand Defenders should now be specified in the light of the criteria in the Sentences Act. She has also concluded in the case of INLA that it now no longer meets the criteria for specification. But she has called on that organisation to co-operate fully with the Decommissioning Commission to ensure early progress on the decommissioning of its illegal weapons.

The draft specification Order has been laid before Parliament and will come into effect when made by the Secretary of State after approval by both Houses. Assuming Parliamentary approval, the list of specified organisations will comprise: the Continuity IRA, the Real IRA, the Orange Volunteers, and the Red Hand Defenders.

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BULL POINTS: PROSCRIPTION OF ORANGE VOLUNTEERS (OV) AND RED HAND DEFENDERS (RHD)

Basis of action?

- The Government keeps the question of proscription under review. Under Section 30(3) of the Northern Ireland (Emergency Provisions) Act 1996 the Secretary of State may by Order proscribe any organisation that appears to her to be concerned in terrorism or encouraging it.

- The Government has always condemned all terrorism, from whatever source, and the police have been as active in pursuing Loyalist terrorists as Republican terrorists in respect of acts of violence, intimidation and racketeering.

Why act now?

- We cannot discuss what precise information was available to the Northern Ireland Secretary in making her decision. Clearly, however, she was satisfied that the Orange Volunteers and Red Hand Defenders merited proscription on the strength of available information.

BULL POINT MATERIAL ON SEPCIFICATION OF OV AND RHD AND DESPECIFICATION OF INLA

Basis for action against OV and RHD?

- In July last year, when the Secretary of State made decisions on the organisations to be specified for the purposes of the Sentences Act, she gave assurances that they would be subject to continuous review. As part of that review process she has concluded that the Orange Volunteers (OV) and Red Hand Defenders (RHD) should now be specified on the basis that they meet the criteria under the Act. Namely they are both organisations concerned in terrorism connected with the affairs of Northern Ireland which have not established a complete and unequivocal ceasefire.

Why despecify INLA now?

- Taking into account the factors under the Sentences Act, the Secretary of State believes that the statutory criteria which requires her to specify an organisation no longer apply. INLA called their ceasefire on 22 August, and the Secretary of State is satisfied that they have established a complete and unequivocal ceasefire over a significant period.

- The Government would, however, call on INLA to co-operate fully with the Decommissioning Commission to ensure early progress on decommissioning its illegal weapons.

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Why not despecify the Real IRA?

- The Real IRA announced a ceasefire on 7 September. On the basis of all the security information available to the Secretary of State, however, she remains to be convinced that this ceasefire is complete and unequivocal. It is therefore too early to remove them from the list of specified organisations.

What about the position of the Continuity IRA?

- The Continuity IRA has not declared a ceasefire and is therefore not eligible for despecification.

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