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Ref: BO.2227

PRIME MINISTER

cc Sir Robin Butler

Meeting of NI on Tuesday 28 January 1997 at 3.45pm

1. The Foreign Secretary and the Home Secretary will be absent (both are on visits abroad), but all other NI members (Deputy Prime Minister, Chancellor of the Exchequer, Northern Ireland Secretary, Defence Secretary, Lord Privy Seal and Attorney General) will attend. The Chief Whip has also been invited, and will attend. The Ministers of State, Northern Ireland Office (Sir John Wheeler and Michael Ancram), and the Permanent Secretary (Sir John Chilcot) will also be present.

Papers

2. The Northern Ireland Secretary has circulated two memoranda:

- NI(97)2, on the North Review of Parades and Marches in Northern Ireland; and
- NI(97)3, on the multi-party talks and the peace process, which is for the information of the Committee only.

Objective

3. To decide the Government's response to the North Report and handling questions, in particular whether any of its recommendations should be implemented by legislation in the present Session of Parliament.

CONFIDENTIAL



CONFIDENTIAL

Background(a) The North Report

4. The Independent Review was announced on 15 July 1996 after the disturbances at Drumcree between 7 and 11 July and the rioting throughout the province which those events precipitated. The terms of reference of the Review are at Annex A to NI(97)2. Annex B is a summary of the Report and its recommendations, which will be widely distributed in the Province.

5. The Report will be published by the Review Team at a press conference at 11.30am on Thursday 30 January. The Northern Ireland Secretary intends to make a statement in the House on the same afternoon.

6. The broad outline of North's recommendations have already leaked (Daily Telegraph leader of 24 January). The key proposals are that:

- the initial responsibility for deciding whether a parade or march can take place should in future be exercised by an independent "Parades Commission", instead of by the Secretary of State on the recommendation of the police;
- the criteria for banning a parade should take account of "the wider impact on relationships in the community" as well as public order issues.

7. As the Northern Ireland Secretary's memorandum points out, the Report is comprehensive and closely argued. There are strong arguments against outright rejection, but its publication risks polarising opinion in the Province and will require very careful handling. Nationalists will see it as a

CONFIDENTIAL



## CONFIDENTIAL

vindication of their efforts to disrupt Loyalist parades at Drumcree and elsewhere. Loyalists will see it as an assault on their traditions, and will be unlikely in my view to be much mollified by an offer of consultation.

8. Against this background the Northern Ireland Secretary identifies four ways of responding to the Report:

- (i) reject - he considers this politically unrealistic;
- (ii) consult at large on the principles - which he feels could look indecisive, and cause opinions to harden on both sides;
- (iii) accept the principle of the Commission and that it should have a role in conciliation etc, but consult on its wider powers and implement some recommendations ahead of this year's marching season;
- (iv) implement all recommendations this Session, in time for the marching season - which would be welcomed by many but strongly opposed by others, as well as being a tricky obstacle race against the clock.

9. The Northern Ireland Secretary recommends Option (iii). Among the matters to be implemented immediately - ie before the establishment of the Parades Commission - he would include the enlargement of the public order criteria for banning parades to include the impact on relations in the community of a proposed parade. This could be done under the Northern Ireland order-making powers. We understand he has included this recommendation because Dr Mowlam attaches importance to it, and he wishes to ensure Labour support for the



CONFIDENTIAL

Government's response to the Report. It would however produce an awkward outcome. If the police were expected to take the criterion into account it would draw them into political controversy; but if the criterion was reserved to the Secretary of State only, it would mean that he was applying different criteria from the police who were making the recommendation to him. What would be his sources of information? How could they be challenged? Would he be able to ban a march on the wider criterion, even if the police had not made a recommendation to him on public order grounds? If the Secretary of State is capable of applying this wider criterion, why do we need an independent Commission? You may want to press the Northern Ireland Secretary on these questions. There is a good argument for saying - as indeed North himself says (para 83 of Chapter 12) - that the application of the wider criterion goes hand in hand with the establishment of an independent Commission (and should therefore be delayed until then). On the other hand, to apply the wider criterion now would plainly be welcomed by the nationalist community, as well as the Labour Party.

10. Two other items are mentioned for immediate implementation at paragraph 17: a code of conduct for parades and the registration of bands. We understand that neither would require new legislation. There are a number of other minor recommendations which could be treated in the same way.

(b) Other issues

11. NI(97)3 provides an up-date on the talks and the attitudes of the paramilitaries. It shows that the North Report comes at a sensitive time in political and security developments. The talks are at risk of stalling if the UUP refuse to cooperate in discussing a way forward on decommissioning. And there seems little likelihood of movement from Sinn Fein before the election. Provoked by PIRA

CONFIDENTIAL



## CONFIDENTIAL

violence, Loyalist paramilitaries are on the brink of ending their ceasefire, which would lead to the expulsion of the Loyalist parties from the talks. In short, there is the danger of a political vacuum during the run-up to the Election and a return to sectarian violence.

12. NI(97)1 - Northern Ireland Information Strategy - is not on the agenda, but was circulated for comment earlier in the month. As agreed at the meeting of NI on 17 October 1996, it set out a robust strategy for improving the presentation of Government policy towards Northern Ireland under the oversight of the Northern Ireland Strategic Information Committee under the joint chairmanship of Mr Wheeler and Mr Ancram. No one commented on the paper by the deadline of the end of last week, and the strategy has therefore been endorsed. The handling of the North Report will be its first major test.

Issues

13. Discussion might cover the following areas:

- do NI agree that North is right to envisage "the wider impact on the community "as a factor influencing decisions? Or is there a risk that that would create more problems than it would solve: ie that it would increase the occasions on which parades are banned, the expectations of the nationalist community, and the opportunities for confrontation?
- do NI agree with the Northern Ireland Secretary that this is a provision which could be implemented this Session, in advance of the establishment of an independent Commission? And if so, should the criterion inform decisions both of the police and of



## CONFIDENTIAL

the Secretary of State, or those of the Secretary of State only?

- do NI accept that it is preferable in principle for decisions to be made by an independent body, even though in the last resort the police will have the power to overrule the decision on the day?
- do NI agree that it would be right to signal now agreement in principle to the establishment of an independent Commission which would have, at the least, responsibilities for conciliation, education, etc - and to consult further on its precise powers?
- what is the best assessment of mainstream Unionist response to the Report? Should it be assumed that reaction will be universally hostile, or will there be a sizeable body of opinion which welcomes the approach advocated by North?
- is there a danger that the two sides will respond to publication of the Report simply by staking out their positions, so increasing the likelihood of confrontation during this season? How will the Irish Government react?

Handling

14. You will want to invite the Northern Ireland Secretary to comment on the current situation in the talks (NI(97)3) and to introduce his Memorandum on the North Report. You might ask him to describe how he intends to handle the media and the Irish Government. In the light of discussion you might invite him to circulate urgently the text of his statement to be made on 30 January, and to undertake to clear with the Committee any further consultation document on the Report. You might

CONFIDENTIAL



CONFIDENTIAL

invite the Scottish Secretary to confirm that, if the Report were to be accepted, he would see no awkwardness for the application of the law on public order in Scotland. We understand that the Home Secretary sees no difficulty for England and Wales.

15. If the meeting favours option (iii), there will be no need for primary legislation this side of the Election. The NIO would implement the proposed enlargement of the public order criteria and other less significant North recommendations by Order in Council under the 1974 Act. Nevertheless, you may wish to invite the Northern Ireland Secretary to enlarge on the likely timing and handling of such an Order (there is more than one procedure which could be adopted).

#### Conclusions

16. Subject to the discussion, you may be able to sum up that the Committee:

- noted the very delicate state of the political and security scene in the run-up to the election and the Northern Ireland Secretary's strategy for keeping the talks alive until they can be "parked", to be resumed after the election;
- agreed that in responding to the North Report it was necessary to proceed cautiously, to avoid adding to tensions within the community in anticipation of the marching season;
- accepted the Northern Ireland Secretary's recommendation to balance acceptance in principle of a role for an independent Parades Commission with consultation about its precise powers;

CONFIDENTIAL



## CONFIDENTIAL

- accepted the Northern Ireland Secretary's view that he, but not the police, should take powers in the present Session of Parliament to apply a wider criterion to ban parades, based upon the impact on relations in the community;
- agreed that some minor recommendations by North should be accepted, where they did not require legislation;
- agreed that the Northern Ireland Secretary should announce the Government's response to North in a statement to the House on 30 January, and that the Government should be ready to offer a repeat in the House of Lords if necessary;
- invited the Northern Ireland Secretary to circulate urgently a draft of his statement;
- invited the Northern Ireland Secretary to circulate before publication any consultation paper which he may intend to issue on the North Report, for consideration by the Committee.

*Colin Budd*

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27 January 1997