

20. Jan. 1997 15:30

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From: THE PRIVATE SECRETARY

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20 January 1997

Dear John

**NORTHERN IRELAND TALKS: ENTRY AND EXCLUSION CRITERIA**

In the controversy over the recent attacks by loyalist paramilitaries, and their implications for the position of the loyalist parties in the Northern Ireland talks, there has been a good deal of confusion about the basis on which those parties might be excluded and the (quite different) basis on which Sinn Fein might enter. This has probably contributed to the allegations that we are applying double standards, though no doubt they would have arisen anyway.

My Secretary of State therefore thought it might be useful to circulate to NI colleagues a note on the basis of these questions. I attach such a note, accompanied by several lines suitable for public use.

I am copying this to Private Secretaries to the members of NI Committee, and to Jan Polley and Colin Budd in the Cabinet Office.

Signed

ROBERT CRAWFORD

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**CONFIDENTIAL****ENTRY TO AND EXCLUSION FROM THE NORTHERN IRELAND TALKS:  
CRITERIA**Position of Loyalist Parties

The loyalist parties have given an assurance that in their view the CLMC ceasefire remains in place. We hope profoundly that that is so.

So far as those parties' participation in the talks is concerned, however, the issue under the rules is whether they have demonstrably dishonoured the total and absolute commitment they made on 12 June to the principles of democracy and non-violence. Those principles were set out in the report of the body chaired by Senator Mitchell which investigated decommissioning and reported early in 1996. They include a commitment to democratic and exclusively peaceful means of resolving political issues.

Any party which demonstrably dishonoured its commitment would no longer be entitled to participate in the negotiations. It would be quite untenable for them to proceed on any other basis.

The talks agreed last July a mechanism for dealing with cases where the principles appeared to have been dishonoured by a participant. So far, no other participant has made representations which would trigger this mechanism.

The Government recognises and shares the concerns that have been expressed about the recent attacks attributed to loyalist extremists however. It has met the loyalist parties, and discussed these attacks, and the parties' attitude to them. It will continue to evaluate the position carefully.

We note that Mr McMichael, of the Ulster Democratic Party, has since reiterated his party's active opposition to violence.

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**CONFIDENTIAL**Position of Sinn Fein

The position of Sinn Fein is quite different. The IRA has announced an end to its ceasefire, and is pursuing a campaign of ruthless violence.

There is very widespread agreement, shared in particular by the British and Irish Governments, that Sinn Fein's participation in the negotiations would require the unequivocal restoration of the IRA ceasefire of August 1994. The IRA's actions - and no one else's - excludes Sinn Fein from the process.

A credible and unequivocal restoration of the ceasefire by them is the entry ticket for their participation. That position is given statutory backing in the Northern Ireland (Entry to Negotiations, etc) Act 1996.

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**CONFIDENTIAL****ENTRY TO AND EXCLUSION FROM THE NORTHERN IRELAND TALKS**Admission

1. Criteria on admission to the talks are set out in paragraphs 8 and 9 of the Ground Rules for Substantive All-Party Negotiations, published as Cm 3232 in April 1996, which are given statutory authority in this context by section 2 of the Northern Ireland (Entry to Negotiations, etc) Act. They thus applied last June to the loyalist parties - as respects whom they are now spent, since those parties have entered the talks; and they still apply to Sinn Féin:

8. Negotiations will involve the participation, in the appropriate strands, of representatives of both Governments and all those political parties operating in Northern Ireland (hereafter referred to as "the political parties") which achieve representation through an elective process and which, as set out in the Communiqué of 28 February 1996, establish a commitment to exclusively peaceful methods and which have shown that they abide by the democratic process.

9. In the Communiqué of 28 February, both Governments expressed the hope that all political parties with an electoral mandate will be able to participate in all-party negotiations. However, both Governments are also agreed that the resumption of Ministerial dialogue with Sinn Féin, and their participation in negotiations, requires the unequivocal restoration of the ceasefire of August 1994.

2. Restoration of the ceasefire is thus the key, as regards Sinn Féin. If he believes the requirements in paragraphs 8 and 9 are not met, the Secretary of State may not invite Sinn Féin to send a negotiating team to the talks. If he considers they are met, he must do so.

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**CONFIDENTIAL**Exclusion

3. The criteria for exclusion from the talks are quite different. They are (as is generally true of the framework for the conduct of the talks) non-statutory.

4. Participants in talks are required to affirm, in accordance with the recommendations of Mitchell, their total and absolute commitment to the Mitchell principles (which, for ease of reference, are set out in the annex). The Loyalist parties did so on 12 June last year. Paragraph 17 of the Ground Rules envisages exclusion where a participant has dishonoured such a commitment:

If, during the negotiations, any party demonstrably dishonoured its commitment to the principles of democracy and non-violence set out in the report of the International Body by, for example, resorting to force or threatening the use of force to influence the course or the outcome of the negotiations, or falling to oppose the efforts of others to do so, it would no longer be entitled to participate in the negotiations.

5. Rule 29 of the rules of procedure agreed by the talks participants in July 1996 provides a mechanism to give effect to paragraph 17 (though in principle the Governments might act under that paragraph without the rule 29 procedure being invoked):

If, during the negotiations, a formal representation is made to the Independent Chairmen that a participant is no longer entitled to participate on the grounds that they have demonstrably dishonoured the principles of democracy and non-violence as set forth in the Report of 22 January 1996 of the International Body, this will be circulated by the Chairmen to all participants and will be subject to appropriate action by the Governments, having due regard to the views of the participants.

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6. No representations have been made under rule 29, though the DUP (which has made representations against the Loyalists before and had been expected to make them this time), with Mr McCartney's UKUP, have urged the Government to act itself to exclude those parties.

7. None of the Mitchell principles turn directly on the existence of ceasefires. The only one of them relevant to the loyalist attacks currently complained of appears to be (a), the commitment to democratic and exclusively peaceful means of resolving political issues.

8. Since it is not alleged that anyone involved with the parties participated in the attacks in question, this raises the difficult issue how far the conduct of the paramilitaries is to be regarded as engaging the parties themselves. Mr McMichael of the UDP has spoken to the media this week of his party's active opposition to violence, picking up the reference in paragraph 17 of Ground Rules (see above) to opposing the use of force by others: this provides some reassurance about his party's continued commitment to the principles.

Northern Ireland Office

January 1996

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**CONFIDENTIAL****ANNEX****THE MITCHELL PRINCIPLES**Mitchell Report, paras 19 and 20

19. To reach an agreed political settlement and to take the gun out of Irish politics, there must be commitment and adherence to fundamental principles of democracy and non-violence. Participants in all-party negotiations should affirm their commitment to such principles.

20. Accordingly, we recommend that the parties to such negotiations affirm their total and absolute commitment:

2a. To democratic and exclusively peaceful means of resolving political issues;

2b. To the total disarmament of all paramilitary organisations;

2c. To agree that such disarmament must be verifiable to the satisfaction of an independent commission;

2d. To renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations;

2e. To agree to abide by the terms of any agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree; and,

2f. To urge that "punishment" killings and beatings stop and to take effective steps to prevent such actions.

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