



# An Chartlann Náisiúnta National Archives

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## Security, Policing, Justice, Prisoners, Decommissioning

### Main Points

#### Security

Overall strategy to be published dealing with "normalisation" i.e. numbers and role of Army, security installations, removal of emergency powers and all other appropriate measures consistent with normalisation.

Irish Government commitment to wide-ranging review of Offences Against State Acts 1939-85 with view to dispensing with those elements no longer required.

#### Policing

Independent Commission to enquire into policing and make proposals by Summer 1999. Commission to be broadly representative with expert and international representation and to consult widely. Proposals must be such that policing has confidence of all parts of the community.

Terms of reference cover human rights, structured cooperation with Gardaí, need for policing to be unambiguously accepted and actively supported by entire community and that in composition, recruitment, training, culture, ethos and symbols, policing enjoys widespread support of community as a whole. Reference to devolution of responsibility to lowest possible level (to cover SDLP concept of regionalisation).

Linkage in text of Agreement between future policing and opportunity created by Agreement to bring about new dispensation based on full and equal legitimacy of allegiances and ethos.

#### Justice

Parallel review of criminal justice through mechanism with independent element and to report by Autumn 1999.

Implementation of recommendations on policing and justice to be discussed with parties and Irish Government. Agreement in principle to devolve responsibility in these areas with broad agreement of parties and after consultation with Irish Government and in context of ongoing

implementation of recommendations.

### Prisoners

Both governments to put in place mechanisms for accelerated release programme within fixed time-frame and setting provisional release dates for qualifying prisoners. Provision for assistance on integration into community. (British stated in private they their approach should release 90% of prisoners in just over two years.) Issue of time-frame for introduction of necessary legislation to be resolved.

### Decommissioning

Decommissioning within fixed and limited time-frame of [to be decided ].

### **Overview**

British officials held out on two major aspects - they insisted on a Royal Commission and that the review of criminal justice be government led.

The Minister and Minister for State intervened decisively on Friday afternoon with Secretary of State and secured our position on both counts i.e. dropping "Royal" vis-a-vis policing, and inserting "mechanism with independent element" on criminal justice review.

SDLP are satisfied with the agreed papers. Will, however, push on need for British Government to underline commitment to change by implementing an immediate package of deliverables as part of an Agreement under the "normalisation" strategy. Have submitted a long list of deliverables in their papers to talks chairmen (e.g. law on inquests, immediate audio recording of interviews, closure of holding centres).

**Sinn Féin** indicated that their agreement to the Commission approach on policing can be secured with assurance on membership, role of Irish Government and implementation.



However, they have said that texts are insufficient in terms of immediate delivery of change in policing and related matters.

For political credibility of an Agreement, Sinn Féin argued that they need immediate “in your face change” on policing (visible on street), prisoners (names of those to be released published) and security issues (withdrawal of British Army/RIR, removal of security installations). SDLP (Attwood and Durkan) concur with this.

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## SECURITY

1. Participants note that the development of a peaceful environment on the basis of this Agreement can and should mean a normalisation of security arrangements and practices.
  
3. British Government to make progress towards the objective of as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat and with a published overall strategy, dealing with:
  - i. the reduction of the numbers and role of the Armed Forces deployed in Northern Ireland to levels compatible with a normal peaceful society;
  - ii. the removal of security installations;
  - iii. the removal of emergency powers in Northern Ireland;
  - iv. other appropriate measures consistent with a move to normalisation.
  
4. Secretary of State to consult regularly on progress, and the response to any continuing paramilitary activity, with the Irish Government and the political parties, as appropriate.
  
5. British Government will continue its consultation on firearms regulation on the basis of the document published on 2 April

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1998, and will review progress with the Irish Government and the political parties as appropriate.

6. Irish Government will initiate a wide-ranging review of the Offences Against the State Acts 1939-85 with a view to both reform and dispensing with those elements no longer required as circumstances permit.



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## POLICING AND JUSTICE

1. Participants recognise that policing is a central issue in any society. They equally recognise that Northern Ireland's history of deep divisions have made it highly emotive, with great hurt suffered and sacrifices made by many individuals. They believe that this Agreement offers a unique opportunity to bring about a new political dispensation which will recognise the full and equal legitimacy and worth of the identities, senses of allegiance and ethos of all sections of the community in Northern Ireland. They consider that this opportunity should inform and underpin the development of a police service representative in terms of the make-up of the community as a whole and which, in the absence of threats which require otherwise, should be routinely unarmed.
  
2. Participants believe it essential that policing structures and arrangements are such that the police service is professional, effective and efficient, fair and impartial, free from partisan political control; accountable, both under the law for its actions and to the community it serves; representative of the society it polices, and operates within a coherent and co-operative criminal justice system. Participants also believe that those structures and arrangements must be capable of maintaining law and order including responding effectively to crime and to any terrorist threat and to public order problems, as a police service which cannot do so will fail to win public confidence and acceptance. They believe that any such structures and arrangements should be capable of delivering a policing service, in constructive and inclusive partnerships with the community at all levels, and with

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authority and responsibility exercised at the lowest level possible, consistent with the foregoing principles. These arrangements should be based on principles of protection of human rights and professional integrity unambiguously accepted and actively supported by the entire community.

3. British Government to establish an independent Commission to make recommendations for future policing arrangements in Northern Ireland within the agreed framework of principles reflected in the paragraph above and in accordance with the terms of reference at Annex [ ]. The Commission to be broadly representative with expert and international representation among its membership and to be asked to consult widely and to report no later than Summer 1999.
4. Commission to make recommendations within the agreed framework of principles, reflected in the Terms of Reference set out in Annex [ ].
5. Participants believe that the criminal justice system should be designed to:
  - deliver a fair and impartial system of justice to the community;
  - be responsive to the community's concerns, and encouraging community involvement where appropriate;



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- have the confidence of all parts of the community;
  - deliver justice efficiently and effectively;
6. Parallel wide-ranging review of those aspects of criminal justice other than policing and those aspects of the system relating to the emergency legislation to be carried out by the British Government through a mechanism with an independent element, in consultation with the political parties and others. The review to commence as soon as possible, to consult widely and report to the Secretary of State no later than Autumn 1999. Terms of Reference attached at Annex.
7. Implementation of the recommendations arising from both reviews to be discussed with the political parties and with the Irish Government.
8. Participants also to note that the British Government remains ready in principle, with the broad support of the political parties, and after consultation, as appropriate, with the Irish Government, in the context of ongoing implementation of the relevant recommendations, to devolve responsibility for policing and justice issues.

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## PRISONERS

1. Both Governments to put in place mechanisms to provide for an accelerated programme for the release of prisoners, including transferred prisoners, convicted of scheduled offences in Northern Ireland or, in the case of those sentenced outside Northern Ireland, similar offences (referred to hereafter as qualifying prisoners). Any such arrangements to protect the rights of individual prisoners under national and international law.
2. Prisoners affiliated to organisations which have not established or are not maintaining a complete and unequivocal ceasefire will not benefit from the arrangements. The situation in this regard to be kept under review.
3. Both Governments to complete a review process within a fixed time frame and set prospective release dates for all qualifying prisoners. The intention will be to provide for the advance of the release dates of qualifying prisoners while allowing account to be taken of the seriousness of the offences for which the person was convicted and the need to protect the community.
4. The Governments to introduce the appropriate legislation to give effect to these arrangements by [ ].
5. The Governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release,

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including assistance directed towards availing of employment opportunities, retraining and/or re-skilling, and further education.

[Note from the Independent Chairmen: Remaining to be resolved is the time frame for the introduction of appropriate legislation (see paragraph 3 above).]





## DECOMMISSIONING

1. Participants to note the progress made by the Independent International Commission on Decommissioning and the Governments in developing schemes which represent a workable basis for achieving the decommissioning of illegally-held arms in the possession of paramilitary groups.
2. All participants to reaffirm their commitment to the total disarmament of all paramilitary organisations and their intention to continue to work constructively with the Independent Commission on Decommissioning to achieve this.
3. All participants to undertake to work constructively and in good faith with the Independent Commission to achieve the decommissioning of all paramilitary arms within a fixed and limited period of [ ] in the context of the implementation of the overall settlement.
4. Independent Commission to monitor, review and verify progress on decommissioning of illegal arms, with reports to both Governments at regular intervals.
5. Both Governments to take all necessary steps to facilitate the decommissioning process.

[Note from the Independent Chairmen: Remaining to be resolved is the time frame for decommissioning (paragraph 3 above).]

## Validation, Implementation and Review

### Main Points

#### Validation

Referendums on 22 May 1998.

#### Implementation

Intention that British/Irish Agreement be ratified no later than February 1999 on basis that all arrangements in place for new institutions to assume functions.

#### Review

Each institution to review as necessary its operation and to review jointly with other institutions if required.

Review by both Governments on remedial action if required across institutions.

Review after four years to be convened by governments and parties in Assembly.

#### **Overview**

Text represents common sense approach based on existing commitments and basic integrity of each institution.

Sinn Féin may invoke need for more immediate and frequent reviews of progress by both Governments, especially on non-institutional commitments.



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## VALIDATION, IMPLEMENTATION AND REVIEW

### Validation and Implementation

1. The two Governments shall as soon as possible sign a new British-Irish Agreement replacing the Anglo-Irish Agreement, embodying understandings on constitutional issues and incorporating the agreement reached by the participants in the negotiations.
  
2. Each Government shall organise referendums on 22 May 1998. Subject to Parliamentary approval, a consultative referendum in Northern Ireland, organised under the terms of the Northern Ireland (Entry to Negotiations, etc) Act 1996, shall address the question: "Do you support the agreement reached in the multi-party talks on Northam Ireland and set out in Command Paper 3883?". The Irish Government shall introduce and support in the Oireachtas a Bill to amend the Constitution as described in paragraph [ ] and in Annex [ ], as follows: (a) to amend Articles 2 and 3 as described in paragraph [ ] above and (b) to amend Article 29 to permit the Government to ratify the new British-Irish Agreement. On passage by the Oireachtas, the Bill will be put to referendum.
  
3. If majorities of those voting in each of the referendums support this agreement, the Governments shall then introduce and support, in their respective Parliaments, such legislation as may be necessary to give effect to all aspects of this agreement, and shall take whatever ancillary steps as may be required including the holding of elections on 25 June, subject to parliamentary approval, to the Assembly, which would meet initially in a



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"shadow" mode. When all arrangements are in place for the new institutions to assume their functions as set out in this agreement, the Governments shall ratify the British/Irish Agreement. It is the intention that this should be achieved by no later than February 1999.

4. In the interim, aspects of the implementation of the agreement shall be reviewed at meetings of those parties relevant in the particular case (taking into account, once Assembly elections have been held, of the results of those elections) in the particular case, under the Chairmanship of the British Government or the two Governments, as may be appropriate; and representatives of the two Governments and all relevant parties may meet under the Chairmanship of [ ] to review implementation of the agreement as a whole.

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### Review procedures following implementation

5. Each institution may, at any time, review any problems that might arise in its operation and, where no other institution is affected, take remedial action in consultation as necessary with the relevant Government or Governments. It would be for each institution to determine its own procedures for review.
6. If there were difficulties in the operation of a particular institution, which had implications for another institution, they might review their operations separately and jointly and agree on remedial action to be taken under their respective authorities.
7. If difficulties arose which required remedial action across the range of institutions, or otherwise required amendment of the British-Irish Agreement or relevant legislation, the process of review would fall to the two Governments in consultation with the parties in the Northern Ireland Assembly. Each Government would be responsible for action in its own jurisdiction.
8. Notwithstanding the above, each institution would publish an annual report on its operations. In addition the two Governments and the parties in the Assembly would convene a conference 4 years after the agreement came into effect, to review and report on its operation.