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FROM: Robert Crawford
Constitutional & Political Division
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DESK IMMEDIATE

Mr Whysall

Miss O'Boyle.
D9H

FAILSAFE BILL

The current draft of the Bill provides that it applies to failure to honour a commitment arising under the Belfast Agreement, or a commitment to adhere to the three principles agreed on 25 June 1999. One of the three principles is that decommissioning should be carried out in a manner determined by the Decommissioning Commission.

2. We have not defined 'manner', leaving open the question whether this includes the timing of decommissioning, in particular where this might be determined by the Decommissioning Commission without agreement by the organisation concerned (as Ministers have assured Trimble it will be able to do). This was the main point argued by Trimble on Friday 25 June. He wanted the wording to be changed to make it clear that de Chastelain could determine the timing of decommissioning, as he believed that 'manner' was insufficiently clear to achieve this. And, indeed, the public statement by the two Prime Ministers setting out the three principles records the parties' disagreement on timing. Can we safely presume, therefore, that 'manner' would be construed as including timing and, even more important, are we sufficiently certain of this to assure Trimble that it does.

3. Can we be clear, therefore, whether the Bill would apply to a determination by the Decommissioning Commission of a date for decommissioning, particularly one which has not been agreed by the organisations concerned? Should we, for example, define 'manner' to be certain of this. It would be important to be clear on this point, as I fully expect this will be the most significant question raised by the Northern Ireland parties when the Bill is copied to them.

(Signed)

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