

FROM: PETER SMYTH
TALKS SUPPORT UNIT
29 July 1996

cc: PS/Secretary of State (B&L) - B
PS/Sir John Wheeler (B, L&DFP) - B
PS/Michael Ancram (B, L&DENI) - B
PS/Malcolm Moss (B, DHSS&DOE) - B
PS/Baroness Denton (B, DOE&DANI) - B
PS/PUS (B&L) - B
PS/Sir David Fell - B
Mr Thomas - B
Mr Bell - B
Mr Legge - B
Mr Leach - B
Mr Steele - B
Mr Watkins - B
Mr Wood (B&L) - B
Mr Beeton - B
Mr Currie - B
Mr D Hill (B&L) - B
Mr Lavery - B
Mr Lindsay - B
Mr Maccabe - B
Mr Perry - B
Mr Stephens - B
Ms Checksfield - B
Miss Harrison (B&L) - B
Ms Mapstone - B
Mr Whysall (B&L) - B
Ms Collins, Cab Off (via IPL) - B
Mr Dickinson, TAU - B
Mr Lamont, RID FCO - B
HMA Dublin - B
Mr Westmacott (via RID) - B
Mr Campbell-Bannerman - B
Mrs McNally (B&L) - B

TALKS: MONDAY 29 JULY

Summary

A day which generated complexity around an apparently simple proposition - ie in view of the prevailing circumstances, was it better to spend the next few days surfacing the issues of decommissioning, and the agendas both for the resumed plenary and for comprehensive negotiations, without a realistic prospect of responsibility for deferring progress on decommissioning was seen

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their successful resolution; or should the Talks adjourn forthwith for Summer recess, banking the gains made so far (adoption of Rules and establishment of a Business Committee) leaving the outstanding issues for resolution in September when business resumed?

Like HMG, the Irish and the Independent Chairmen would have preferred some progress to be made on these issues before the recess, but saw no real prospect of that being achieved, and opted instead for a clean, early adjournment. In the course of the day, the UUP began developing its ideas on the degree of progress necessary to be made on decommissioning before the Party could engage in substantive political discussions. This inevitably increased the distance between the UUP and the SDLP.

The DUP initially hinted at a pragmatic acceptance of adjournment - provided the responsibility for it was clearly pinned on the Nationalist participants - before coming up with a series of "concessions" designed to get some kind of decommissioning body established and working before September. By late afternoon, the three Unionist parties made common cause on an agenda which gave such a premium to forwarding decommissioning at the expense of political negotiations that it seemed designed to provoke a walk-out by the SDLP. By this stage, it was clear that the scenario of an IRA ceasefire during August, followed by a Sinn Fein arrival at the Talks table in September, had taken firm hold of Unionist sensibilities.

In the resumed plenary session, the morning saw the DUP and UKUP amendments to the Rules fail to generate sufficient consensus. These failures were accepted without protest, and the Rules themselves subsequently adopted, mostly by unanimity. The establishment of a Business Committee was agreed unanimously. The evening session witnessed a certain amount of theatrical behaviour as the Unionists tacitly accepted the case for adjourning proceedings until September, but sought to create a situation where responsibility for deferring progress on decommissioning was seen

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to lie elsewhere. A procedural wrangle on whether a vote in favour of adjournment had achieved sufficient consensus caused a temporary adjournment; but the Unionists feeling their point had been carried, it was eventually agreed by virtual unanimity that proceedings should be adjourned until 9 September.

Detail

A meeting with the Irish Government team at 9.35 am reviewed the prospects for securing progress on decommissioning and the agenda for the resumed plenary before adjourning for a recess during August. The Secretary of State reported on the meeting with Trimble the previous Friday, when the latter's analysis of the progress required on decommissioning before Unionists would engage in substantive political negotiations appeared to be significantly greater than anything the non-Unionist participants in the negotiations might be expected to accept. This, together with unhelpful public statements from Trimble over the week-end, and the known position of the SDLP, made it improbable that decommissioning would be resolved satisfactorily over the following few days. It was agreed that the two Governments should look again at the proposed agenda for the immediate business of the resumed plenary with a view to terminating the day's session on a positive note - with agreement on Rules of Procedure and the establishment of the Business Committee - rather than a messy and unsatisfactory engagement on decommissioning with no prospect of reaching a successful conclusion.

The opening plenary resumed at 10.05 am, with the unanimous acceptance of Rules 30-36, specifying the process by which decisions would henceforth be reached. In a calm and business-like atmosphere, Robinson introduced the DUP's amendments, speaking briefly to each one (acknowledging that the issues had already been

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comprehensively ventilated). Only on the amendment to Rule 16, where the DUP objected to negotiating "all aspects" of any issue raised under broad agenda headings, did he speak for more than two minutes. Amendments to Rules 1, 2, 3, 4, 12, 16, 18, 28 and 29 having on separate votes failed to reach sufficient consensus (as defined in Rule 34), and each Rule subsequently having been adopted (with the UUP and UDP on occasion voting for both amendment and subsequent adoption), McCartney withdrew the first six amendments standing in the name of the UKUP.

McCartney then spoke briefly in introduction of the UKUP amendment to Rule 29, calling on the Secretary of State to take some cognisance of the views of other participants in reaching a decision on the expulsion of participants from the negotiating process. The Secretary of State replied equally briefly that the 1996 Act did not allow his discretion to be fettered in this manner, and the amendment was duly lost. All the remaining Rules were then adopted unanimously, at 10.44 am.

Paisley then made a brief statement placing on the record that the continued participation of the DUP was predicated on the Ground Rules not obliging his Party to negotiate the constitutional position of Northern Ireland. McCartney concurred with this statement. Trimble briefly supported on the basis of Rule 2.

A proposal of the UKUP tabled in advance - requiring the participants in the negotiations, in advance of agreeing a final outcome, to make efforts to establish that any such outcome was capable of generating sufficiently widespread support as to ensure its political efficacy - was then unanimously adopted as a Resolution of the plenary.

Following a brief discussion of the wording of Rule 13 (Business Committee) the establishment of a Business Committee under the chairmanship of General de Chastelain was unanimously agreed to. The session adjourned at 10.52 am, subject to recall by the Chairman.

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At 11.00 am the two Governments and the Independent Chairmen met. Senator Mitchell announced that the death of his brother necessitated him flying back to the US forthwith, and that he would be unavailable after 2.00 pm that day. After expressing sympathy, the Secretary of State reported the outcome of recent meetings and conversations with the UUP. He suggested that decommissioning could either be fought over for the following few days, with no prospect of a successful outcome; or else parked until September. On balance, HMG favoured the latter option.

The Tanaiste stated that, while progress would have been preferable, in the circumstances he agreed with the Secretary of State. It would be unwise to get into the detail of decommissioning if there was no prospect of progress being made. He suggested that officials should agree a revised agenda for the day's plenary session in the light of this.

At 11.40 am, a generally positive UUP delegation led by Trimble took note of the Government's thinking. It was reported that the Party was putting its own thoughts on paper, and hoped to be in a position to bring this forward "shortly". Empey wondered if the decommissioning issue was as intractable as some participants seemed to believe. Virtually everyone was agreed about the setting up of a technical body to oversee verification: with regard to duration, the entire political process was time-limited by the 1996 Act: and the two Governments could readily bring forward general statements which would provide reassurance that the necessary legislation would be passed in time. He felt that comparatively little work was required in order to achieve convergence, and letting people off the hook at this stage might not prove helpful in the longer term.

Sir David Fell suggested that, on the agenda for today's resumed session, what was required was a form of words which left all parties with scope for manoeuvre, and allowed the possibility of

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convergence by September. Rather sharply, Trimble stated that what was required was sufficient commitment to decommissioning to allow discussion on substantive issues to begin. Delay until September might have the benefit of allowing the necessary legislation to be further developed by both Governments. Taylor, rather ominously, suggested that this could lead to substantive talks being delayed until after Christmas. Trimble, now getting mildly exercised, said that there was "overwhelming evidence" that the Irish were responsible for the delay by dragging their feet on the legislation. He wanted it to be clearly understood that, should this prove to be the case, the UUP would respond in kind. He stated in terms that the crucial point for the UUP was to work towards as much clarification as possible on the decommissioning issue before Sinn Fein were in a position to join in negotiations.

The Government side then passed across a copy of the proposed agenda for the resumption of the opening plenary in September. Some discussion took place regarding the ordering of items. Empey suggested setting up the Business Committee to meet during the present week to consider the way forward, and flagging this up as another achievement of this phase of the Talks process. After further inconclusive exchanges the delegation left at 12.07 pm.

At 12.45 pm the Government side attempted to outline to a joint DUP/UKUP delegation the position which had been reached. After listening to the explanation, Paisley (not at all displeased at the opportunity) expressed anger that Unionists should be lectured over the past six weeks on the need to avoid delay, but now, when it suited their purpose, Nationalists were dragging their feet. He saw the logic of terminating proceedings with little further delay, provided that in doing so, it was made clear to the world at large that responsibility for the curtailment of business in this manner did not lie with the Unionists. Warming to his theme, he wished to make it very clear that the DUP would not take part in substantive political negotiations in September if sufficient progress on decommissioning had not been achieved by that time. McCartney was

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also inclined to pragmatism to begin with - if resolution of the decommissioning issue was not possible at present then he favoured delay; but he fully endorsed the requirement that any delay must be accompanied by a clear public assignment of responsibility. He disliked the linkage which had been established between decommissioning and political talks. He regarded decommissioning as essentially a matter of law and order. Since it was impossible for progress to be made towards accommodating the mutually contradictory requirements of two sets of terrorists, decommissioning should be addressed as a free-standing issue.

Robinson pointed out that paragraph 34 of the report of the International Body suggested that "some decommissioning would take place" during the all-party Talks. This implied that considerable progress would be made on decommissioning before Talks actually commenced. He could foresee attitudes being less helpful in September than was currently the case. Nationalist frustration at the absence of progress on the political track was liable to be even greater than at present. He suggested that a number of compromise strategies might be advanced to take things forward. In order of preference these were:

1. A committee to consider the approach to decommissioning to be established now, making an interim report to plenary by 9 September;
2. The committee to be established, but charged only with making a general report of progress to plenary by 9 September. In parallel, the Business Committee to make suggestions on agenda/timetable;
3. A general discussion in plenary during the remaining time before the summer break, reviewing the International Body's proposals on decommissioning, and the agenda;

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4. The committee to be established, and over the course of the next few days to give instructions to "advisers", who would report to plenary by 9 September; in light of such report, the Business Committee to decide progress on agenda/timetable; and paper setting out their views on the agenda for a resumed plenary in September was received. This showed

5. Terminate proceedings during the present day, recognising that agreement on decommissioning was impossible at present, and prospects may be better in September.

Paisley predicted gloomily that an IRA ceasefire would take place in August, and Sinn Fein would be at the Talks table by the time the plenary reconvened in September. It was time for Mallon to be told quite clearly that he must show some movement if he wanted the Talks to continue. Roche interjected that the real reason for delaying was that, at bottom, Mallon did not want any movement on decommissioning until Sinn Fein were on board. Paisley observed that he was trying to broker a compromise for the forthcoming Apprentice Boys' march in Derry, and did not want to risk a public row with Mallon, otherwise he would have no hesitation in exposing the latter to several essential truths. The DUP compromises which had been put forward by Robinson deserved serious consideration; failing their acceptance, the DUP would propose a decommissioning committee when the plenary session resumed later that day. Hard words might have to be spoken on that occasion. (One way or another, though, he did not see business running beyond the present day - too many people had made holiday arrangements.) The meeting broke up at 1.30 pm.

At 2.00 pm a UUP delegation provided a brief update of their position - no consultations had taken place with the SDLP, and no paper was yet available for circulation as promised earlier.

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At 2.30 pm the Secretary of State and Tanaiste met briefly. Having got Mallon signed up to the agenda as agreed between the two Governments, the Irish were reluctant to begin brokering a new approach. Their inclination was to draw a line under the proceedings and end them without further ado.

At 4.30 pm a joint UUP/DUP/UKUP paper setting out their views on the agenda for a resumed plenary in September was received. This showed little awareness of the sensitivities of the other parties - it suggested establishing decommissioning machinery considerably in advance of launching the 3-strand negotiations; it deferred opening statements until decommissioning and a comprehensive agenda had been largely agreed; and it meant resuming in September with decommissioning back as the first item on the agenda. The HMG team speculated that it was deliberately intended to provoke an SDLP walk-out, and that it did nothing to reduce the attractions of tabling the exit strategy agreed between the two Governments, even if that was incapable (by virtue of Unionist opposition) of achieving sufficient consensus.

Subsequently, HMG sought agreement with the Irish about playing in this exit strategy, based on an interleaving of work by a decommissioning sub-committee and an addressing by the Business Committee of the comprehensive agenda, both bodies being required to make proposals to the reconvened plenary no later than 16 September. In the light of Irish fears that such a strategy might well complicate the position still further, the British side agreed to revert to the position of curtailing proceedings in that day's plenary as quickly and as gracefully as possible. This decision was subsequently communicated to the Chairmen's office.

At 6.50 pm the plenary resumed under the chairmanship of Prime Minister Holkeri, who suggested that while significant progress had been made, the possibility of reaching a successful conclusion on decommissioning and agenda issues was remote; and in the circumstances, he suggested an adjournment of the plenary until Monday 9 September.

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Then followed a period of end-of-term debate in which most of the participants took the opportunity to place on the record their position regarding an unflagging commitment to making progress, and some recorded their availability for bilaterals in August. A statement by the Tanaiste recognising the difficulty of securing a balance between decommissioning and the comprehensive agenda provoked sniping from Unionists, and doubts as to whether his Government was in fact living up to earlier commitments, including those contained in the Joint Communiques of November 1995 and February 1996; and counter-queries from the SDLP about the propriety of Ministers being so questioned.

This dialogue led Robinson to query whether there was not, after all, a basis for finding a way forward on decommissioning, rather than adjourning as the Chairman had proposed. Failing to recognise this as a tactical ploy, and instead treating the suggestion as a counter-proposal to his own, the Chairman asked for a show of support. Voting in favour of Robinson's proposition by the DUP, UUP, UKUP and UDP was not deemed to be evidence of sufficient consensus for this to be carried. Voting against the Chairman's adjournment proposal by the same parties (the UUP abstaining) was, however, deemed to be evidence of sufficient consensus for that decision. A short period of discussion of Business Committee membership allowed Paisley and Dodds time to first query and then seriously question the validity of the sufficient consensus the Chairman had claimed to detect from this latter decision. At 8.05 pm the Chairman adjourned the meeting to consider the matter further.

The session resumed at 8.25 pm with a brief exchange of information on the parties who had submitted amendments to the agendas both for the opening plenary and from the comprehensive negotiations. The Chairman then invoked Rule 20 and claimed that, in the absence of the Business Committee, he had had "due regard" to the views of the participants in reaching his decision to adjourn proceedings until 9 September. Robinson, supported by Empey, declared this interpretation to be reprehensible, and a misuse of the Chairman's

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position. Both felt it was a bad precedent to be set so early in the negotiations. Paisley, after criticising HMG advisers for permitting the situation to arise, but now apparently satisfied with his continuing ability to disrupt proceedings, graciously suggested that if the Chairman sought a new expression of opinion on the adjournment, he would probably carry the day. This was done, and supported by all the participants with the exception of the UDP.

The plenary accordingly adjourned at 9.50 pm until Monday 9 September at 10.00 am.

Signed -

PETER SMYTH

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