CONFIDENTIAL

F Talks.

INT/13

FROM: PETER SMYTH
TALKS SECRETARIAT
3 JULY 1996

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

File Note

TALKS: TUESDAY 2 JULY 1996

<u>Summary</u>

Although over seven hours of debate, spread over five sessions, took place, forward progress was difficult to discern. Six DUP amendments, plus five from the UUP (together with one variant offered by HMG) were considered at length; but while a few were withdrawn, no final decisions on the remainder were taken. A

two-hour debate on the status of the Ground Rules paper in relation to agreed rules of procedure enabled well-known positions to be restated at length, but revealed no evidence of any disposition to begin squaring circles. The Unionist bloc continued to provide the vast majority of the contributions, but the absence of Trimble and Robinson made the rhetoric even more turgid than usual. Some signs of further attempts (not unsuccessful) to re-establish more consensus among the Unionists. Mallon continued to plough a lonely furrow from the SDLP, his pronouncements sounding increasingly sepulchral as the day wore on.

2. It was a good day for irony. McCartney continued to refuse to recognise the de jure position of the Chairmen, but offered (de facto) to defend them against any unjustified public attacks. The DUP admitted that one of their amendments was probably unnecessary, but asked HMG to accept it as a gesture which would help build trust and confidence, and possibly off-set the effects of 20 years of HMG perfidy. The UUP admitted to being paranoid (specifically in regard to HMG), while the SDLP willingly endorsed the Government's position. Paisley complained of a bitter and hurtful attack on the DUP by Ms Hinds.

Detail

3. The first conferral session began at 10am with the consideration of the DUP amendment (DU21) which sought to limit the ability of the Chairmen to make any public comment other than with the approval of the participating delegations in the negotiations. Michael Ancram stated that Rule 8, together with proposed Government amendment 15A covered the situation in a more satisfactory manner. This view was supported by Mallon and Hutchinson. Paisley maintained that the experience of the 1991/92 Talks made DU21 necessary. McCartney put forward the view that the existing rules covered confidentiality within the negotiations: DU21 was intended to cover the situation where general observations of a political nature might be made outside. Paisley refined this position

somewhat by stating that it ought not to be binding on the Chairman of Strand One (the Secretary of State) where external dialogue might be helpful. McCartney felt that DU21 would offer the Chairmen protection against possible pressure from the two Governments, and also from Washington. He paid a personal tribute to the probity and integrity of all three, and offered to personally defend them against any unjustified attacks. Looking slightly puzzled at this tribute, the Chairman suggested that consideration of DU21 be suspended for the present. This was agreed to.

4. Discussion then moved on to consideration of another amendment (DU22) suggesting that the role and function of the Chairmen should not extend beyond that which would be set out in the agreed rules of procedure. Once more, Michael Ancram suggested that the position was adequately covered by existing Rule 7. Mallon agreed. McCartney hoped the Chairman would take note of the continuing congruence of interest between the representatives of the two Governments, the SDLP and the smaller parties. Dodds suggested this was symbolic of a general unwillingness by HMG to accept any points from the DUP. Even if the wording of the amendment was unnecessary, it was on those grounds also harmless: the Government could afford to make a gesture in order to accommodate Unionist wishes. McCartney suggested that the unwillingness of Michael Ancram to accept an innocuous change of this nature fuelled suspicions about the long-term intentions of HMG. O hUiginn suggested that acceptance of the amendment would have the effect of implying that the normal standards of integrity under which the Chairmen would be expected to operate were somehow deficient, and that their conduct would thus have to be circumscribed in advance.

5. Ms Hinds felt that DU22 was unnecessary, and merely indicated that the DUP were determined to seize control of the negotiations. Paisley strongly resented this attempt to curtail the freedom of the DUP to put forward their point of view. Michael Ancram suggested an amendment to Rule 7, to the effect that, in the conduct of the

proceedings, all Chairmen would be governed by the agreed rules of procedure. The DUP, UUP and McCartney then pressed Michael Ancram to accept a further modification, to the effect that the Chairmen would operate "only" or "solely" or "exclusively" by the rules of procedure. The Chairman suggested an adjournment for 30 minutes to consider the various proposals which had been put forward in relation to DU21 and DU22. This was agreed to.

6. The session resumed at 12.20pm. Michael Ancram explained that the amendment he had offered was self-explanatory and required no further expansion. If that was not acceptable, he was happy to go back to the original wording of Rule 7. Paisley said this confirmed his worst fears.

7. Discussion then moved on to DUP amendments DU1, 2, 3 and 4. Paisley claimed that all apart from DU3 had been accepted by the Secretary of State at a meeting last week. DU1 and 2 merely reflected the legal status of the Ground Rules, insofar as they picked up the specific rules referred to in the Entry to Negotiations Act. DU4 had already been touched on in discussion on the functions of the Chairmen. McCartney felt that there was little between the position of the UKUP/DUP and that of the UUP, and explained at length why Ground Rules were now unnecessary, having achieved their objective in launching the negotiations. Dodds stressed the overwhelming need for a single set of free-standing rules as the sole source of guidance and reference in the conduct of the negotiations. The Chairman adjourned proceedings at 1.05pm for an hour.

8. Resuming at 2.05pm, the Chairman proposed that DU1 to 4 should be set aside for the present, but that the remaining handful of amendments in the "Additions" paper should be disposed of with reasonable dispatch. Paisley supported the proposal, but immediately re-opened discussion on DU1 to 4 emphasising, with support from McCrea, that the Secretary of State had already signed up to DU1, 2 and 4. Empey withdrew amendments GR10 and GR11

standing in the name of the UUP, and suggested that further debate be postponed on UU1 and UU2. He then turned to consideration of amendment GR17, dealing with the expulsion of parties from the negotiations if they dishonoured their commitment to the principles of democracy and non-violence. While not targeting the PUP or the UDP, he felt that some mechanism was necessary to deal with the situation whereby a party might initially sign up to the principles of non-violence, but subsequently violate the spirit if not the letter of that commitment. Michael Ancram agreed that GR17 failed to provide a mechanism for dealing with such a situation. He tabled an amendment from HMG which was intended to meet the point, and suggested an adjournment for 20 minutes in order to consider it. McCartney (floating a new conspiracy theory that the dates of the ceasefires of 1994 had been deliberately set by the terrorist organisations involved in order to accommodate the Dublin and London Governments) continued to voice his suspicions about the right of the Loyalist parties to remain in the negotiations if the security situation were to dramatically deteriorate. Not for the first time, he failed in his attempt to mix apparent sincerity with a palpable dislike of the Loyalist groups.

9. The session adjourned at 3.10pm for 20 minutes to consider the amendment tabled by Michael Ancram.

10. The session resumed at 3.30pm. Empey said that the first difficulty he had with the HMG proposal - that a participant would draw to the attention of the Chairmen the activities of any participating party which had demonstrably dishonoured its commitment to democracy and non-violence, whereupon the Chairman would refer this to the two Governments for consideration and appropriate action - was that it appeared to give a role to Dublin Government which was not warranted. Section 2(3) of the Act gave the power of excluding parties to the Secretary of State, so why should Dublin become involved? Michael Ancram explained that legal advice had been received to the effect that the power of exclusion in Section 2(3) applied only in the period dealing with entry to negotiations, but not during their subsequent conduct. Empey did

not find this explanation particularly satisfactory. McCrea said that he found the promise by the two Governments to "consult" in such circumstances was meaningless. McCartney, also scraping around for grounds for objection, said he found it distasteful that the other parties in the negotiations should put themselves in danger by drawing attention to the miscreant actions of the offending party.

11. Ervine, displaying his customary regard for the legal process, said that his grounds of objection were (a) that there was no right of appeal; and (b) that there was no requirement on the two Governments to have regard to the evidence before them. McCartney said that he recognised the argument for treating the loyalists with some circumspection, but voiced his suspicions that the Governments' soft line in this respect was merely to provide a precedent for similar treatment towards Sinn Fein in due course.

12. Michael Ancram offered to make a number of changes to the Government's amendment to take on board the points which had been made, if that would make it more acceptable to the UUP. Empey said that he would like to consider the various alternative drafts and revert to consideration of GR17 later. The Chairman undertook to provide in the near future a paper which would pull together all the existing Rules and amendments which were still outstanding. At 4.55pm discussion was adjourned for 30 minutes.

13. The meeting resumed at 5.25pm, to debate the Chairman's paper reflecting the opinions of the different parties on the status of Ground Rules. The debate quickly polarised between the Unionists, who were committed to seeing the Rules of Procedure (when debated and agreed) as the definitive and authoritative guide to the Chairman's subsequent conduct of the negotiations, and the SDLP/ROI view that the Ground Rules provided the legal foundation for the negotiations, and the ultimately authoritative statement of how they should be conducted. McCartney identified the Ground Rules as a "prospectus for Sinn Fein", and claimed that the UUP analysis of the situation was very close to his own. Mallon claimed that the SDLP

were not going to negotiate on any grace and favour basis, would maintain their belief in the primacy of the Ground Rules over the Rules of Procedure, and repeated the dire warning that any changes to Ground Rules would have a "profound effect" on the attitude of the SDLP towards participating in the negotiations.

14. A general air of wandering round the outer circles of L'Inferno characterised the debate. In a (doubtless) well-intentioned contribution, McCartney provided a detailed analysis of foreign policy developments since the Falklands war, before suggesting that the Chairmen should read the Helsinki Accord and other international agreements as background to the situation they now confronted. Empey (responding to jibes from Mallon) insisted that Unionists were justified in being paranoid. In the circumstances, Curran's plea (on behalf of Labour) for tolerance and understanding, contrived to sound satirical.

15. The Chairman undertook to have the consolidated draft of the Rules and Amendments ready for 9.30am the following morning, with the discussion session to resume at 11.00pm. The session adjourned at 7.25pm.

(Signed):

P SMYTH