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Date: 4 July, 1996

ASSISTANT SECRETARY
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RECEIVED - 5 JUL 1996
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SECRETARIAT FOR THE JOINT OFFICE (S)

- 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: WEDNESDAY ³ JULY 1996

Summary

Nearer to agreement with the UUP on getting out of the Ground Rules bog. Government amendments on the point tabled. In the afternoon, "conferring" session adjourned to make way for bilaterals. Hopeful contacts reported between UUP and SDLP. Meeting between Michael

Ancram and a DUP/UKUP delegation. One or two hopeful signs. Nearer to agreement on meetings between now and September.

Detail

2. Michael Ancram met with Mr Trimble, Mr Empey and Mr Donaldson at 10.15 am, and discussed, on a confidential basis, the Government's proposed amendment to Rule 1. Although Reg Empey (who had seen a draft the day before) was cautious, and repeated his desire to use "only" as the defining description of procedural rules, David Trimble was more positive. Michael Ancram said that he hoped the momentum of introducing the Government's amendment would carry Seamus Mallon, but he thought that this would only do so if detailed textual criticism could be avoided. In passing, Mr Empey expressed his irritation with the Irish repetition of their stated position on Ground Rules, particularly the use of the word "parameters".

3. Michael Ancram met the Independent Chairmen at 10.45 am, where Senator Mitchell said that he would circulate a draft Memorandum on a timetable and targets until the end of July to both Governments later on that day. In discussion, it was agreed that overt reference to determining the status of Ground Rules as one of the objectives could be counter productive and Senator Mitchell agreed to revise this to: "Agreement on Rules of Procedures, and related issues".

4. Michael Ancram said that he thought it would be helpful to allow the parties a further opportunity to air their views on the status of Ground Rules, during which he proposed to introduce key concepts leading up to the tabling of the amendment to Rule 1, preferably later in the morning. Senator Mitchell agreed to introduce the session accordingly. Sean O hUiginn said that he also thought it would be politic to introduce a saving sentence into proposed paper on scheduling, making it clear that the objectives were set at a minimum, rather than a maximum level.

Morning session

5. Senator Mitchell opened proceedings at 11.09 am and invited any remaining comments on the status of Ground Rules. Mr McCrea quoted (leading the DUP delegation - Dr Paisley and Mr Robinson were away) at length from Michael Ancram's speech in the House of Commons on 22 April, contesting that this was inconsistent with the Government now contending that the Ground Rules had the force of law. This line was followed up with alacrity by Mr McCartney who claimed (more than slightly disingenuously) that he still failed to understand what was so important about aspects of the Ground Rules that the Governments and the SDLP wished to retain them.

6. Ms Hinds said that while the parties were participating on a relatively equal footing in their present configuration, the Government had a particular responsibility with regard to legislation, and that the Ground Rules were the basis on which parties agreed to participate. She noted that the Government's response to Senator Mitchell's earlier questions on the status of Ground Rules was sensible, and suggested that a mechanism for solving gaps in procedural rules might be for the two Governments to take soundings from the parties and make a proposal.

7. Mr Empey, in a considered intervention, repeated the UUP position that they would not endorse Ground Rules, and his question regarding the Governments' willingness to commit themselves to the Rules of Procedure as a single authoritative text. He noted that his party's main concern was what practical effect the Ground Rules would have on any outcome of talks, and his belief that final agreement on the procedural rules and agenda was impossible without resolving this debate.

8. Michael Ancram noted (in reference to Mr McCrea's earlier comments) that it was only because he did not accept Mr Wilshire's proposal that the Ground Rules should be integrated into the Act as a schedule, that this debate could even have taken place. It had established things on which all parties could agree:

- i) no one disputed that there was direct relevance between the Ground Rules and the negotiations;
- ii) other participants were not required to sign up to the Ground Rules;
- iii) no party was required to accept others' view of Ground Rules;
- iv) every delegation present saw good sense in achieving a single set of procedural rules without foreseeable gaps, and one that would be self-contained in the sense that it contained a mechanism for resolving disputes;
- v) the issues were well-established.

9. The Government had been giving thought to a means of recording common ground, and proposed to circulate its amendment to Rule 1 to delegations. Mr Bleakley challenged Mr McCartney to accept the phrasing: "without prejudice to the view of the Governments or any political party as to the status of the Ground Rules".

10. Mr McCartney said that there were circumstances in which that formulation would have attraction, but that his conviction that the two Governments were willing to exercise force majeure over the parties' views had left an indelible mark on some of the participants. Mr Coveney supported Michael Ancram, noted with interest Mr Empey's intervention and said that he wished to correct any impression given by the Irish Government (comments quoted by Mervyn Taylor) that the use of the word "parameters" had been intended as restrictive. He wished to stress the sentence in their reply: "seeks to protect the freedom of the negotiators to raise any point".

11. After some barely suppressed irritation from Dr Alderdice at DUP and UKUP attempts to repeat earlier discussion, the meeting agreed to adjourn at 12.30 am, to allow for consideration of the Government's amendment to Rule 1.

12. The session resumed at 2.07, to consider the composite draft rules of procedure circulated earlier in the day (circulated with Mrs McNally's note of yesterday); and with the first rule, HMG's two proposed rules to replace it (Miss Harrison's note of yesterday).

13. Michael Ancram introduced the amendments as a basis on which to move forward, recognising there were differences on the status of the rules that were not likely to be reconciled. Mr Mallon declined to speak the Government amendment, being weary of explaining his reasoning on the question, and having repeatedly to adjust it to further amendments: the amendment might be parked until the rules of procedure could be assessed as a whole. But most initial reactions were hopeful. Mr McCartney welcomed the Government amendment as the beginning of a tendency to distance the rules of procedure from the Ground Rules. So did Mr Trimble. The reference to Cm 3232 in new rule 1 was in his view redundant, however. He would also have preferred a reference to 'proceedings and substance' of the negotiations, rather than 'conduct'; but was content to leave the point to discussion of 17A, where similar language came up. He read the reference to 'the single' set of rules as meaning they were the only rules; on that basis, he accepted the amendment. Mr McCrea welcomed it too; but had doubts about the meaning of 'single'. Dr Alderdice said he saw it as a way of solving an impasse; it ought not to be subject to further dissection. Mr Coveney welcomed it as a means of freeing the logjam.

14. Dr O'Brien several times asked whether the amendment would preclude a role for the Ground Rules in decisions by the Chairman on participation in the negotiations. Mr Trimble indicated he would not agree rules of procedure before considering the agenda for the rest of the opening plenary: a satisfactory resolution of that, and the proposals reflecting Ground Rule 17 on exclusion, should allay Dr O'Brien's concerns. Mr O hUiginn, seeking further to allay them, said he assumed, since the Chairman had no role in questions of participation, that they related to the Chairman's position under the opening scenario; but the scenario paper was now [interesting admission] off the table, because of unionist opposition.

Mr McCartney came back unhelpfully, repeating his old points about Ground Rules and, inevitably, proposing further amendments to our new rules: a resolution would not be achieved by playing about with words.

15. Picking up a point by Mr Bleakley about the need for trust in the negotiations, Mr Mallon said he would welcome the opportunity to see if there was any basis for developing it, and was taken by the Chairman to be looking for an immediate adjournment for the purpose of bilateral discussions. Others (including Mr McCartney) supported this; and, following the usual spats between the UKUP and the Women's Coalition about attitudes to the talks process, the talks were adjourned until reconvened by the Chairman: in fact he did not do so.

16. Mr McCrea asked for a bilateral with Michael Ancram, and arrived with the UKUP in tow. Discussion started on the Ground Rules, and the meaning of our amendments. He asked in general terms about their meaning, and Michael Ancram took him through it at some length, making clear that we were not asking everyone to sign up to the same thing: there were differences that could not be resolved. But the amendment was a basis on which to make progress. Mr McCartney objected to this in principle: the problem in Northern Ireland for years had been the attempt to find forms of words which meant different things to different people. The Ground Rules issue came up again at the end of the meeting, Mr McCrea asking in what circumstances there would be a need to refer to Ground Rules if the Rules of Procedure were agreed. Michael Ancram explained he did not see it happening, if there were a full set of Procedural Rules; and unresolved procedural matters could go to the Business Committee. Some of this seemed to be new and possibly acceptable to Mr McCrea, not, however, to Mr McCartney, who wished to have a session going through the Ground Rules one by one, deciding which to adopt. Michael Ancram raised the possibility of a legal challenge to that: Mr McCartney thought this 'unreal nonsense'.

17. Another theme of the meeting was contact between the Governments and the two parties. Mr McCartney said there was no trust: his party did not feel 'in the loop'. The lack of contact was in sharp

contrast to regular dealings between HMG and the UUP. Mr McCrea spoke on a similar theme, muttering darkly of meetings between UUP and NIO officials. Michael Ancram immediately offered daily meetings, a suggestion that left Mr McCrea non-plussed: when it had been repeated to him several times, he said lamely that he would consult his leader about it.

18. Dr O'Brien was still barking up the wrong tree about the discretion of the Chairman to admit Sinn Fein to the negotiations: would the Ground Rules be taken into account? Shown a copy of the Section of the 1996 Act that made clear the decision was for HMG, he said this was an important clarification.

19. Mr McCartney picked up Mr O hUiginn's comment that the scenario paper was off the table. He sought, and gained, general agreement that that paper had no such status as the statute or Ground Rules.

20. He went on to the general observation that the 'backside' had fallen out of the talks, with Sinn Fein not present. The deal for Unionist people was to have been a political settlement, with the quid pro quo of the end of violence: that was not now on offer, and continuing violence would provide a means of further turning the ratchet on them. Michael Ancram characterised this as the 'penny candle' approach. Progress could be made whether Sinn Fein was there or not. Mr Thomas suggested that the reconciliation of the nationalist community itself was a worthwhile object.

21. Mr McCrea, again showing little familiarity with the texts, asked about arrangements for exclusion of parties, and Michael Ancram lead him through our amendment reflecting Ground Rule 17. This lead Mr McCartney into a discussion of circumstances in which loyalists might be excluded, Mr McCrea joining to say that all could have seen 'death in the eyes' of one of the loyalist members during a DUP intervention the previous day. The meeting ended with Mr McCartney confirming that he believed the process fundamentally flawed, but with some vague suggestion that he was prepared to see if it could be made to work. The feeling afterwards had been that, while much old ground had been gone over with little apparent effect, the meeting

had a constructive side: there was more to be expected of the DUP than the UKUP.

22. The Chairmen and Irish representatives (including Mr Coveney and Mr O hUiginn) called on Michael Ancram in the early evening. Senator Mitchell asked what should be done about the Ground Rules question, and spoke as if there were still some hope of bringing everyone to agreement on it. Michael Ancram urged him to press on with consideration of the Rules of Procedure. He was confident that the rules could eventually be adopted, by sufficient consensus. The UKUP and DUP had almost exhausted their arguments on Ground Rules: they had some incentive to move onto other things.

23. Senator Mitchell reported that Mr Trimble had had a good meeting with the SDLP, and there were people 'writing' on their behalf. They had been anxious while this went on not to get into further discussion of Ground Rules: for that reason he had not resumed the session during the afternoon. There was some suggestion that negotiations between the two Governments, the UUP and the SDLP, might produce useful results: but there would be difficulties in either the Governments or the Chairmen seeking to provoke that: it would be better that the suggestion came from the parties themselves.

24. Discussion turned to the 'schedule' paper circulated by the Chairmen earlier. (The paper is not being circulated to colleagues, the position having changed today: the note of today's meeting will include the final text). Eight of the participants had no objection to the pattern of meetings proposed. The loyalist parties and the Women's Coalition had however sought a brief break at the end of July, and meetings in August. They had been told that that was not feasible; but the Chairmen saw no problems with setting aside two or three days a week in August for bilaterals. The story here is taken up in Mr Leach's note to Miss Harrison of yesterday: broadly there is agreement that the building will be open for 'informal bilaterals and preparation for further negotiations' during August, with modest allowances payable. There was a general understanding that the Government's presence would be very low-key: the emphasis was on discussion between parties. Senator Mitchell made clear that he

would not be here at all in August; Mr Holkeri would be available for one period, if necessary; General de Chastelain could in principle more often be available. These offers were not taken up.

25. Senator Mitchell will not be here next Wednesday.

pp Diane McNally

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