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POLITICAL AFFAIR
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FROM: D J R HILL
POLITICAL DEVELOPMENT TEAM
12 SEPTEMBER 1996

cc: PS/Michael Ancram (L&B) -B
PS/Sir John Wheeler (L&B) -B
PS/PUS (L) -B
PS/Sir David Fell -B
Mr Legge -B
Mr Leach -B
Mr Steele -B
Mr Watkins -B
Mr Bell -B
Mr Wood (L&B) -B
Mr Stephens -B
Mr Lavery -B
Mr Maccabe -B
Mr Perry -B
Mr Priestly -B
Mr Campbell-Bannerman -B
Mr Whysall (L&B) -B
Mrs Mapstone/Miss Bharucha -B
Mr Lamont, RID -B
HMA Dublin -B
Mr Clarke, Dublin -B
Mr Westmacott, W'ton -B
Mr Oakden, No 10 -B
Ms Collins, Cab Office (via IPL) -B

Dr Smyth
2 M. M. H. H. H.
13/7

PS/Secretary of State (L&B) -B

TALKS, WEEK BEGINNING 16 SEPTEMBER

Broad Objectives for the Week

These might be to:

- endure Monday's debate on the two Governments' determination of the DUP representation against the Loyalist parties
- try to prevent the case against the Loyalists being reopened, eg by persuading the Alliance Party to withdraw it
- encourage Mr Holkeri to hold the debate on the Alliance Party representations on Wednesday (by which time Senator Mitchell should have returned)

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- prepare a determination on the Alliance Party representation (which might be delivered on Thursday morning or - perhaps better - held over until Monday 23 September).

- (meanwhile, and more importantly) pursue the 'trilaterals' with the Irish Government and UUP. We should make as much progress as we can, with the Irish Government, in developing a clear understanding with the UUP on the decommissioning issue (eg by agreeing the terms of any 'joint Government paper' to or 'statement of conclusions' to emerge from plenary consideration of the issue and showing them the draft Bills).
- (as part of the above exercise) develop a clear view of how that plenary consideration of decommissioning (which might commence in the week beginning 23 September) should be choreographed, and how it would fit in with consideration of the comprehensive agenda etc.

Likely Schedule

The plenary is due to meet at 10.00 am for a debate of not more than 2 hours during which the parties will have opportunities to express their views on the two Governments' determination of the DUP representation against the Loyalists.

At the beginning or end of the session, Mr Holkeri will presumably announce that the UUP and DUP responses to the Alliance Party representation, along with the representation, will be circulated at 4 pm and propose a time for the debate. A major issue at that stage will be whether the Alliance Party representation about the Loyalists is formally on the table or not.

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My submission of earlier today ("Suggested Gameplan") set out proposals for a sequence of meetings with the Irish and UUP intended to provide some structure for the development of the more important 'trilateral' relationship on decommissioning.

Handling Monday's debate

At the positive end of the spectrum the Unionist parties may take the opportunity to emphasise points in the determination which they believe are significant or to register general arguments which they might hope the Governments will take into account in any future cases. However, we are also likely to hear a tirade of scornful and critical remarks from the DUP and Mr McCartney, including barbed personal criticism of the Secretary of State's questioning of the Loyalist parties. The Unionist parties may also seek to probe, test and possibly develop the determination by asking questions, eg about how particular phrases are to be interpreted or whether a particular consideration was fully borne in mind. Their main objective (with Sinn Fein in mind) will be to establish that the two Governments should recognise the association between the CLMC and the Loyalist parties and visit the sins of one on the other: the point is of course dealt with in the determination albeit somewhat obliquely.

In the face of all this the Governments will need to stand by the position they enunciated on 11 September - that they will not comment any further on the determination. Despite the likely provocation, it will probably be best not to intervene in the debate, implicitly maintaining the position that the determination says all that needs to be said on the subject. There might be a case for seeking to round off the debate by:

- noting that the determination itself was conclusive and could not be in any way affected by what had been said
- confirming that any general arguments made by the various parties had been duly noted for future reference

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Avoiding a re-run of representations against the Loyalists

Mr McCartney has already registered the point that if the Alliance Party representation raises new issues he expects the other parties to be able to offer their views and have them taken into account by the two Governments. There seems no way of avoiding this unless the Alliance Party can be persuaded formally to withdraw that particular part of their representation, which itself would generate a row. It may be easier to let the Unionists make their points and just make a very brief reference in the determination to the further representation against the Loyalists (effectively referring back to the previous determination).

Scheduling the debate

I understand that Mr Holkeri may be inclined to change his original intention to defer the debate until Senator Mitchell returns. I would support deferral, both because the debate would probably be more orderly and because it would allow time to develop the trilateral relationship (and for the UUP, SDLP and smaller parties to make progress on the comprehensive agenda). We might therefore support Mr Holkeri's attempts to schedule the debate for Wednesday. He could justify this by referring to the need for parties to prepare for the debate and by alluding to the advantages of allowing time during the week for ongoing bilateral exchanges. [We will prepare a speaking note for him.] But if Mr Holkeri insists or the general mood is to hold the debate on Tuesday, so be it: it would affect the timing but not the sequence of the meetings intended to develop the trilateral relationship.

As to the timing of any determination, it might be desirable in some respects to get it out of the way next week, but if the debate were on Wednesday that would require everyone to be available on, say, Thursday morning; and it would in any event impose a tough timetable for preparing the determination, at a time when we may wish to focus

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on the trilateral relationship with the UUP. I therefore suggest we should make clear at the outset that the determination will be given the following week, on Monday 23 September.

It is of course going to be a difficult determination to write. The Irish Government will be in the position of having to conclude that the UUP and DUP did not breach the Mitchell principles, which will go very much against the grain. They may wish to incorporate some critical comments in the determination. [We should discourage any suggestion, such as that made by the Alliance Party, that it would be possible to find that a party was in breach but conclude that expulsion from the talks would not be the appropriate action. It is clear from the Ground Rules and the Rules of Procedure that this is the only sanction which is contemplated; and Unionists would be bound to see any such conclusion as part of a sinister plot to prevent Sinn Fein being thrown out at a later stage. A possible finding is that the UUP/DUP were in breach but had somehow cleansed themselves and no longer merited expulsion: that would be consistent with the Unionist argument in the Loyalist parties' case that they would not need to be expelled if the CLMC threat were lifted. However, we should not fall back on this except as a very last resort.] It is perhaps fortunate that the determination of 11 September set a good example of brevity.

signed David Hill

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Political Development Team