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FROM: S J LEACH
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10 September 1996

PS/Secretary of State (B&L) - B cc PS/Michael Ancram (B&L) - B
PS/Sir John Wheeler (B&L) - B
PS/PUS (B&L) - B
PS/Sir David Fell - B
Mr Thomas o/r - B
Mr Legge - B
Mr Bell - B
Mr Steele - B
Mr Watkins - B
Mr Wood (B&L) - B
Mr Beeton - B
Mr Hill (B&L) - B
Mr Lavery - B
Mr Maccabe - B
Mr Perry - B
Mr Stephens - B
Mr Priestly - B
Mr Whysall (B&L) - B
Ms Mapstone (B&L) - B
Ms Bharucha - B
Mr Campbell Bannerman - B
Mr Lamont, RID - B
HMA, Dublin - B
Ms Collins, Cabinet Office*

* via IPL

THE WAY AHEAD: GETTING ON THE FAST TRACK?

Yesterday's encouraging developments suggested that it may not be impossible to find a fast track to the successful conclusion of the Opening Plenary and launch of the substantive negotiations. This submission records the position for the information of copy recipients (supplementing Dr Smyth's note of earlier today) and considers what steps are needed to consolidate progress and prepare the way ahead.

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Current position

2. In his 2 September minute to the Prime Minister the Secretary of State indicated that the key to progress in the Talks lay in securing UUP acceptance that any realistic and deliverable outcome on the handling of decommissioning would fall considerably short of their maximum position. In particular, they needed to agree to move forward on the understanding that they would not be able to "nail down" decommissioning during the Opening Plenary. Gratifyingly, it appeared yesterday that the UUP do recognise that the modalities of decommissioning cannot be settled in advance of Sinn Fein's entry, and are accordingly willing to move ahead on the basis of elements of reassurance and understanding which may well be within the Governments' power to give. Specifically, the UUP have said that they are looking for

- sight of the draft British and Irish legislation;
- some commitment from the Governments to enact both pieces of legislation within a reasonable timescale;
- more details about the possible role and composition of the proposed International Verification Commission;
- some understanding about the modalities of decommissioning envisaged by the Governments (while accepting that there can be no "cut and dried" arrangements unless and until Sinn Fein come into the process and detailed arrangements can be concluded with them).

3. The **substance** of this is encouraging, but the **process** by which it has emerged is perhaps even more so. The UUP are putting their views **directly** to the SDLP and Irish, and are responding to the points made in return. A particularly important example was the SDLP's opposition to the long standing UUP proposal to refer the handling of decommissioning to a sub-group which would report back

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to the opening Plenary. The SDLP feared that this could give the DUP/UKUP opportunities to stall progress and write in unrealistic conditions. The UUP accepted this and proposed that, while the Plenary would need to have a debate (which they helpfully recognised should be time-limited) on the International Body's proposals, in order to constitute the necessary "address" to decommissioning, the real business should be done in a **trilateral** session involving the UUP and the two Governments. (The SDLP do not want to be involved directly in these exchanges, but would be kept in touch through bilaterals with the three participants.)

4. Four other encouraging features are worth recording:

- i. The SDLP and UUP have agreed to meet regularly at leadership level to coordinate progress and keep their cooperation on track. As part of this, they have established a joint working party to discuss the terms of the comprehensive agenda for the three strands. Neither side expects real difficulty in reaching agreement, on the basis that the agendas would consist of broad generic headings, rather than detailed topics which the DUP and UKUP might be able to exploit.
- ii. The Irish are more sensitive about deploying their draft legislation than we are. As reported by Mr Coveney, they explained directly to the UUP that it would be very difficult for them to enact legislation "in a void", if there was no visible progress on political matters in the Talks. But if constructive work **was** proceeding in the strands, the Dail would be much more receptive. The UUP (who had previously argued for the enactment of legislation as a pre-condition for any significant steps in the strands) seemed to appreciate the force of this argument.

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- iii. The UUP have now clearly accepted that the further work on decommissioning alongside the strands would be carried forward in a sub-committee.
- iv. Looking at the situation more widely, if the UUP reach agreement with the Irish and SDLP on the handling of decommissioning, this could constitute a significant pressure on Sinn Fein to make their participation possible, through a restored ceasefire, as early as possible. Otherwise, they would risk being left behind once substantive progress starts being made in the Strands.

Next Steps

5. The establishment of an informal "inner cabinet" for the Talks consisting of the four participants - the two Governments, the SDLP and the UUP - who, together with the loyalist parties, are capable of delivering "sufficient consensus" on any issue, is potentially very important. We need to move to consolidate this development and the encouraging possibilities which it offers. Two issues in particular need to be considered: the agenda for the remainder of the Opening Plenary, and the exit strategy from the trilateral which would formally signify the agreed position on decommissioning.

6. We need an opening agenda which will

- occupy all the parties meaningfully while the trilaterals are going on behind the scenes;
- minimise the opportunities for filibuster by the DUP/UKUP;
- keep us on the fast track on all outstanding business so that when and if an agreement on decommissioning is brokered we could move rapidly to conclude the Opening Plenary and start the three strands; and

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- gets the sequencing right - ie ensures that the time-limited Plenary debate on addressing decommissioning does not end before the trilateral has reached a conclusion, since the trilateral outcome will need to be reflected in a formal agreement by the Plenary, at the conclusion of its debate, on the mechanism which will take decommissioning forward alongside the strands.

7. The draft agenda which currently holds the field is that put forward by the two Governments on 30 July (attached at Annex A). This has, as the penultimate item before the Chairman's concluding remarks, the establishment of mechanisms to enable further progress to be made on decommissioning. This arrangement would usefully maximise the time available for the conclusion of the trilaterals. But in seeking to agree with the UUP, the Irish and the SDLP whether we are to proceed on this basis, two issues will need to be addressed.

8. First, should the initial item indeed be opening statements? The SDLP recently suggested that these might be dispensed with altogether, while there have been suggestions from the UUP that they should come last in the agenda, as a means of concluding the Plenary and inaugurating the substantive negotiation in the strands. One advantage in keeping the statements as the opening item is that this would give the Plenary meaningful work to do while the trilaterals continue (whereas if the item came last, after the decommissioning debate, it could not serve this purpose and might risk dissipating the momentum of the process). Arguably, opening statements could also drive the parties apart, by obliging them to restate manifesto commitments from the May elections which other parties might then feel the need to challenge. (There could be divisive elements even in our own opening statement: for example, do we mention Frameworks and irritate the UUP, or omit it and prompt nationalist suspicions?) A compromise might be for parties which wanted to circulate opening statements to do so in writing.

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9. Second, should we proceed with the proposal for three "proto-strand" formats within the Plenary to agree the agenda for each strand? The rationale for this proposal was to offer nationalists some balance for the sub-committee which was to meet during the Plenary to work out the handling of decommissioning. But the UUP are now willing to drop that idea in favour of informal trilaterals. Therefore, just as the SDLP have a point in fearing that the decommissioning sub-committee could be exploited by the DUP/UKUP, might not these "proto-strand" sub-committees be manipulated in the same way? If the "inner cabinet" can reach agreement on the comprehensive agenda for the strands in informal contacts, it might be safest to dispense with the "proto-strand" idea and rely on a time-limited discussion of the comprehensive agenda in Plenary. (This would seek endorsement of whatever was agreed between the UUP, SDLP and the Governments; we would need to consider the optimum way for tabling such a document in Plenary.)

10. Finally, the time-limit on the Opening Plenary will be very important to maintain momentum. This would clearly need to be brokered with the Independent Chairmen, but a possible allocation of time (assuming the current loyalist complications are cleared up rapidly and that we can reach agreement on the opening agenda) is indicated at Annex B.

11. On the exit strategy, it may well be that a text not unlike Annex A to Mr Stephens' submission of 7 August, recast as a joint statement by the two Governments, could appropriately reflect the outcome of the trilateral and be serviceable as a proposition for approval by Plenary. I attach at Annex C a somewhat revised version (omitting the workplan, which we should perhaps keep in reserve as a bargaining counter); if Ministers are content with this, we should as a first step put it to the Irish. (The SDLP are not wholly committed to the expedient of a joint statement, and we should of course be willing to consider any alternative they put forward.)

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12. A number of practical steps necessary to secure a successful outcome to the trilateral are already in hand. Our **draft Bill** has been finalised (subject to consideration by the Chilcot/Dalton group and final endorsement by Ministers), and Mr Perry circulated it today under cover of his letter to Paul Hickey. Mr Lindsay has cleared with **No 10** that we shall be showing our draft legislation to the UUP at an appropriate juncture. Mr Perry is reviewing work on options for the **Independent Commission** and the **decommissioning scheme**, which we might outline to the unionists (without commitment) in the trilaterals. And the Irish seem fully seized of the need urgently to finalise their own legislation and decide how they are willing to deploy it with the UUP.

Conclusion

13. Provided that the UUP maintain the constructive approach they have shown so far this week, and a decision is reached not to expel the loyalist parties, there seem to be good prospects for making rapid progress. I attach at **Annex D** a list of points which we should seek to broker with the Irish, the UUP and the SDLP in order to consolidate our position and move ahead. The **opening agenda** is the most urgent of these, since the Plenary will move onto this issue as soon as the Rule 29 representations are disposed of.

14. The Secretary of State and Michael Ancram may wish to discuss.

(Signed SJL)

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