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FROM: PETER MAY
12 September 1996

cc PS/Secretary of State (B&L) - B
PS/Sir John Wheeler (B,L&DFP) - B
PS/Michael Ancram (B&L) - B
PS/Malcolm Moss (DHSS, DOE & L) - B
PS/Baroness Denton (DED, DANIEL) - B
PS/PUS (B&L) - B
PS/Sir David Fell - B
Mr Thomas - B
Mr Legge - B
Mr Bell - B
Mr Leach (B&L) - B
Mr Steele - B
Mr Watkins - B
Mr Wood (B&L) - B
Mr Beeton - B
Mr Priestly - B
Mr Hill (B&L) - B
Mr Lavery - B
Mr Maccabe - B
Mr Perry - B
Mr Stephens - B
Ms Bharucha - 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

NOTE FOR THE RECORD

TALKS: WEDNESDAY 11 SEPTEMBER 1996

Talks remain procedurally oriented, with further claims about breaches of the Mitchell principles to be heard next week. All participants stay in talks, but little progress is made.

2. The early surprise news from the office of the Independent Chairman was that Senator Mitchell had left for the US on urgent private business and was unlikely to return before Wednesday

CONFIDENTIAL

BB/SSTALKS/524

CONFIDENTIAL

18 September. His office were insistent his departure was unrelated to talks.

3. On the issue of the text of the two Governments' determination with regard to DUP's claim to exclude the loyalist parties, agreement that no action was appropriate was reached between the Secretary of State and the Irish Attorney General the text was promulgated to the parties at the afternoon plenary.

4. The Alliance Party have introduced a similar claim directed separately against the UUP, the UDP and PUP, and the DUP in regard to different events covering Drumcree, the CLMC threat and McCrea's attendance at the Wright rally respectively. A similar procedure allowing rebuttals and debate will ensue, concluding with a judgement by the two Governments, but delaying substantive discussions in talks.

5. In a bilateral with the UUP, they indicated that progress was being made with the SDLP on the agenda, and that the Irish Government had indicated that they would show the Unionists the text of their decommissioning draft bill early next week. The UUP were happy for work to continue in bilaterals and trilaterals in advance of the plenary discussion. In terms of an outcome to the plenary debate on decommissioning, they were specifically looking for a commitment by the two Governments to introduce legislation, coverage of the need for international verification, clarification about any amnesty and a commitment by all delegates to implement the Mitchell recommendations on decommissioning. This would mean Sinn Fein would both need to accept the Mitchell principles and sign up to the implementation of decommissioning in order to enter talks subsequently.

6. The afternoon plenary proved repetitive and frustrating to many participants - particularly the SDLP - but there were no walkouts in response to the decision on the UDP and PUP. It was agreed that the Government's determination would be discussed by participants for two hours next week. The Independent Chairman will

CONFIDENTIAL

rule on whether there is anything new the UDP and PUP to answer on in the Alliance's claims. Business was adjourned until 1000 on 16 September.

Detail

7. The first development of the day came at 0900 when Ms Pope informed the Secretary of State that Senator Mitchell had returned to the US on urgent personal business and was unlikely to return before Wednesday 18 September. Mitchell's meeting with the Prime Minister was therefore cancelled. In addition, she said that prior to his departure, Mitchell had received a formal paper from the Alliance Party alleging a breach of the Mitchell principles by a range of Unionist parties. It was acknowledged that a similar procedure to that pursued in the case of the DUP claim against the Loyalist parties would need to be pursued.

8. At 0915, the Irish Attorney General spoke to the Secretary of State on the phone from Dublin about the terms of the determination by the two Governments on the DUP's claim. Mr Gleeson said he preferred a sparser judgement, offering less scope for judicial review but maintaining the structure of the British draft. He proposed a number of changes and promised a faxed new version late in the morning.

9. At 1120, Mr Holkeri and General De Chastelain together with representatives from their staff came to the Secretary of State's room, to discuss the case against the loyalists, the Alliance Party's paper and progress on the agenda. The Secretary of State noted HMG attempts to persuade the Alliance not to press the motion had been to no avail. The Secretary of State said that he was hopeful the determination of the two Governments could be available in time for a plenary at 1400. Holkeri sought advice on handling that plenary. He wondered how to counter any disagreement at the findings among delegates. The Secretary of State indicated that the decision of the two Governments was not subject to discussion or amendment, and the extent of comment possible was at the discretion

CONFIDENTIAL

BB/SSTALKS/524

CONFIDENTIAL

of the Chair. The role of the two Governments was completed once their determination had been promulgated.

10. In regard to the Alliance Party's formal representations against the UUP over Drumcree, the UDP and PUP over the CLMC death threat and the DUP over McCrea's attendance at the Wright rally, Mr Holkeri reported that the Alliance were using paragraph 29 of the Rules of Procedure to raise the issue. However they did not wish either to throw the unionist parties out nor for the issue necessarily to be discussed immediately in plenary. Mr Hill said Unionists were likely to want the delegation to be dealt with immediately to avoid setting any precedent for Sinn Fein. Mr Holkeri, after encouragement from the Secretary of State, outlined his proposal to follow established procedures with regard to the Alliance's claims, allowing the parties accused time to respond. No rebuttal could be addressed before Monday, and some time would be needed for participants to examine the rebuttals. A nervous Mr Holkeri clearly hoped to hold back any hearing until Wednesday when Senator Mitchell would return, and the Secretary of State noted that the plenary would be adjourned subject to the call of the Chair. After discussion, it was agreed it would not be appropriate for the Chair to circulate the representations in advance of the rebuttal being received, and that further claims against the loyalist parties - if in the same terms as previously - should be disallowed on the basis that they had already been dealt with. The agenda was not discussed and the meeting ended at 1145.

11. At 1150, Mr Trimble, Mr Taylor, Mr Empey and Mr Kerr called on the Secretary of State and outlined their discussions with the Irish Government and the SDLP from yesterday. Mr Trimble said they had had two meetings with the Irish (at the one with Mr Spring, the UUP fielded their under-21 team) both of which had covered much of the same ground. They understood the Irish draft decommissioning bill would be placed before a Ministerial committee (which further discussion indicated might be the Cabinet itself) that very morning with the potential for discussion of its terms with the UUP next week. Mr Trimble emphasised the need to move beyond the abstract

CONFIDENTIAL

BB/SSTALKS/524

CONFIDENTIAL

and to deal with specific proposals. Michael Ancram asked about the linkage to the plenary session, and Mr Empey noted the need for trilateral (two Governments plus the UUP) progress on decommissioning and UUP/SDLP agreement on the agenda. Mr Empey also noted that the SDLP in opposing the Working Party proposal were requiring a longer plenary debate. That would provide an opportunity for all parties to commit themselves to implementing the decommissioning proposals from the Mitchell report, and Mr Empey raised the possibility of a joint paper by the two Governments to the plenary to take that forward.

12. Michael Ancram and Mr Trimble agreed it made sense for trilaterals to proceed in advance of the plenary, and Trimble noted the Alliance's representations would provide a breathing space to allow that to occur. Mr Trimble noted other parties might be sorry if they were not included in discussions, but said the UUP would prefer a time-limited debate in plenary on decommissioning provided that could not be used to, bury the decommissioning issue. The UUP were unwilling to specify how long that time-limited debate should last, but appeared to consider two to three days sufficient providing the key elements of the work had been completed satisfactorily in bilateral and trilateral mode previously. An Irish filibuster would not be allowed, Mr Trimble emphasised.

13. Michael Ancram noted that an agreed paper would emerge from trilaterals and that would provide the basis on which to leave the debate on decommissioning in plenary. Mr Taylor asked whether the two draft Bills would be shown to the UUP prior to the endless approval of legislation by the respective Cabinets. The Secretary of State assured him that the UUP could be shown the British draft decommissioning bill in private at any time, and that he could publish the draft Bill with the consent of his Cabinet colleagues. He could not speak for the Irish. Mr Taylor pondered aloud about the wisdom for the UUP seeing a draft others had not, but seemed only concerned about the political ramifications for the UUP. Messrs Trimble and Empey both later confirmed they would wish to see the draft legislation as soon as possible.

CONFIDENTIAL

BB/SSTALKS/524

CONFIDENTIAL

14. Mr Empey reported the Irish Government had not indicated there would be any difficulty in showing them the text next week. He noted that the UUP needed to establish serious intent to progress decommissioning before entering the three strands. The debate in plenary should commit the two Governments to introduce legislation, reflect the need for international verification, clarify the issue of any amnesty, and commit the delegates to the implementation of the decommissioning proposals in the Mitchell report. The mechanics of Sinn Fein's entry to talks at any later stage would need to be clarified by that stage. Mr Trimble noted the procedure would need to exclude re-negotiation by Sinn Fein, and Mr Empey said Sinn Fein would need both to commit themselves to the Mitchell principles and to the agreement on implementing decommissioning in order to enter talks.

15. Mr Hill asked whether the UUP needed to see both Bills published in draft form before the end of the plenary or would an agreed statement suffice. Mr Trimble said something would be needed in the public domain, but would not commit himself as to what exactly was required until he saw the details. Mr Empey reported on the SDLP meeting to discuss the agenda for the plenary, and said that progress had been made and that the two were reconvening that afternoon.

16. At the conclusion of the meeting Taylor asked about reports of a ceasefire. The Secretary of State said it was not corroborated by any intelligence available to HMG. He noted PIRA's continuing capability and readiness to mount attacks particularly on the mainland. Mr Empey noted that Bruton's comments in the US had done the UUP no favours, and they had had to take time to reassure their members no deals had been done or no concessions made. Mr Empey enquired whether Gerry Adams had been invited to the Pittsburgh conference, and Mr Fell agreed to make enquiries. In discussing forthcoming business, Mr Empey noted that if the Alliance Party's representations covered McCrea for his attendance at the Wright

CONFIDENTIAL

BB/SSTALKS/524

CONFIDENTIAL

rally as well as Drumcree, two separate days would be needed to hear the debate. The meeting ended at 1225.

17. At 1300, the Irish Attorney General came to see the Secretary of State to discuss the detail of the two Government's determination on the DUP claim. He had provided a further draft incorporating his comments. With a number of detailed amendments, that paper was approved, and tabled at the plenary. The meeting concluded at 1315.

18. At 1415 the Government team led by the Secretary of State and Michael Ancram called on Mr Spring, Mrs Owen and Mr Gleeson to discuss the advice to be put to the Independent Chairman on the handling of the plenary and the issue of publication of the two Governments determination on the DUP claim. The handling plan was agreed. On the judgement, the Secretary of State said there should be no further comment or glosses on the judgement to safeguard against judicial review. He paid tribute to the work of Mr Gleeson in producing the document. In discussing publication, Mr Spring wondered whether the two Governments could leak selected extracts. Mrs Owen was concerned that to publish would set a precedent. Mr Gleeson asked whether the author's permission was needed to publish the pleadings. Mr Wood confirmed that the indictment and much of the reply was already in the public domain in any case. Michael Ancram said that in circulating the paper to parties the opportunity to leak was there anyway, and concluded that it would be better to publish. The two Governments agreed to seek the permission of talks participants to the publication of the document with the pleadings. The Secretary of State said he had privately told Mr Trimble that the relationship with the Irish Government was important and not helped by fielding inappropriately inexperienced representatives.

19. The plenary session began at 1435 with Mr Holkeri explaining Mr Mitchell's departure and expected return next week. The two issues for the plenary were the handling of the Alliance Party's document and of the two Governments' decision with regard the DUP claim. Mr Mallon expressed concern that the Rules of Procedure were

CONFIDENTIAL

BB/SSTALKS/524

CONFIDENTIAL

being used for mischief rather than serious allegations and said increasingly the SDLP were questioning whether others were entering negotiations in good faith. He asked the Alliance Party to reconsider, and slated the petulant school boy approach to the talks being taken by other participants. Lord Alderdice criticised the SDLP for changing its mind from a private bilateral discussion the previous day. He believed the issues were critical ones of principle which had been raised before the summer break and not properly addressed. The read-across to Sinn Fein was also important. A sub-text to the rest of the plenary was the SDLP's sniping at the Alliance Party. Mr Mallon said there had been a debate before the summer break and stressed the importance of entering substantive dialogue. At various points the Alliance Party and the UKUP objected to SDLP preaching. The SDLP returned to their well-worn claim that the Mitchell principles should not be used to delay progress deliberately on the talks.

20. Lord Alderdice noted that they considered the judgement on the UDP and PUP covered their claim and as it was binding saw no reason to proceed with that element. Mr Robinson sought a ruling from the chair on this issue, as he argued the threadbare response by the two Governments should make it possible to consider matters in the Alliance indictment which were not addressed by the Government's judgement. Mr McCartney argued in agreement that the link of paramilitaries with political parties had not been addressed by the two Governments. The Chairman agreed to consider the matter and make a ruling in due course. The SDLP noted that the Alliance Party's proposal would mean all of next week's plenary would be taken up in procedural rather than substantive business, and recommended a timetable of meetings be set for the following week so that those who did not wish to attend the hearings under rule 29 did not need to. (Comment: this would allow the SDLP not to avoid discussion of the Drumcree motion although they would find themselves in an awkward position whatever course they took.)

21. The Chairman asked the two Governments to announce the outcome of their deliberations with regard to the DUP claim. The Secretary of State said the Governments had concluded that there had

CONFIDENTIAL

BB/SSTALKS/524

CONFIDENTIAL

not been a dishonouring of the principles and that no further action would be appropriate. He added the two Governments would not be elaborating upon the judgement, and invited dissemination of the text to participants. The Chairman then tried to rule the matter completed, but Mr Trimble (later backed up by both UKUP and DUP) said it was important that comment should be possible on the Government ruling next week as the ruling established a precedent. He said that the reasons for the ruling were as important as the result (Comment: obviously with one eye on future Sinn Fein involvement). All the Unionist parties made it clear they would not be challenging the Governments' decision, but all wished to comment. The Chairman said that the matter was closed so far as the Chair was concerned, did not believe he could stop the participants from commenting in plenary if they wished to.

22. Mr Dodds sought permission for questions to be asked of the Government as well as comments to be made. The Secretary of State and Mr Spring emphasised there would be no additions to their judgement. It was ultimately agreed that two hours would be allowed on Monday at 1000 in plenary to discuss comments on the ruling. The SDLP continued to argue such an allowance was inappropriate, and questioned which rule of procedure allowed further comment to be made after the Governments had reached the finding. A procedural motion by the SDLP to consider the DUP claim closed was put to the vote, but failed to secure sufficient consensus. The SDLP, PUP, Women's Coalition and Labour supported the motion, with the UKUP, DUP and UUP opposing it. The Alliance Party and UDP abstained.

23. As the Chairman sought to adjourn the meeting, Mr Mallon raised the issue of publication of the Governments' findings. The Secretary of State noted the publication fell under the confidentiality requirement, but suggested it would be appropriate, given the knowledge already in the public domain, to publish. He sought the comments of the talks participants. Mr Mallon asked whether this would mean all future claims would be published. The Secretary of State said a separate decision should be taken on each. Mr Trimble supported publication on the grounds that the

CONFIDENTIAL

BB/SSTALKS/524

CONFIDENTIAL

public ought to be able to analyse the Governments' reasoning and the motion was carried unanimously. The plenary meeting was adjourned at 1545 until Monday at 1000. The Chairman asked those accused by the Alliance Party to meet with him to decide how long they would take to prepare their rebuttals.

24. At 1705, Mr Holkeri and General de Chastelain called on the Secretary of State. They reported that they had asked for rebuttals of the Alliance Party claims by 1400 on Monday 16 September. Copies would be distributed that afternoon for a plenary on Wednesday. When questioned about the lack of a plenary on Tuesday, Ms Pope said, apologetically, it would allow for bilaterals and for the parties to prepare for the plenary.

25. In relation to the UDP and PUP, the Alliance Party had refused to withdraw their claims, although they would consider the matter over the weekend. Neither the UDP nor the PUP intended to produce new material as rebuttal. In seeking to resolve the issue, a number of proposals were suggested. Difficulties over the Chairman's powers under rule 29 and concerns over future claims were paramount. Mr Leach suggested that a debate might not be needed and that the Governments might issue a response next week (after the Alliance paper was circulated) indicating the issues had already been addressed and that no action could be appropriate. If the Chair ruled no debate was needed, others would have to submit counter motions which would not receive sufficient consensus. The Government team agreed to consider further.

26. General de Chastelain suggested the business committee review rule 29 to avoid future difficulties. He also suggested that were participants to question the Governments over their findings, the Chair could not put them to the Governments once their position had been restated. It was agreed to reconvene on Monday at 0930. The meeting ended at 1745.

27. At 1755, Messrs Mallon, McGrady, Hendron and Farren called on Michael Ancram. Michael Ancram explained HMG's efforts to persuade Lord Alderdice not to put his motion down, but believed Seamus Close

CONFIDENTIAL

BB/SSTALKS/524

CONFIDENTIAL

was determined to proceed. Mr Mallon, more in sorrow than anger, explained they had believed Alderdice to be letting off steam at their bilateral on Tuesday. Had he thought Alderdice serious, he would have gone in harder. They bemoaned the waste of time and noted the Drumcree motion in particular put them in a difficult situation. Relations with the UUP could be damaged.

28. Work with the UUP continued and although cautious over the UUP's motives, the SDLP remained keen to proceed to sort out the agenda. They had stressed the need not to become too detailed in addressing decommissioning. Michael Ancram set out HMG's thinking on decommissioning and the SDLP seemed content. They agreed it was necessary to show the UUP the draft Bill to test out their commitment.

29. Mr Mallon raised the issue of press briefings and the damage being done by the media circus. Briefings were often being given by those not in the meetings and the SDLP felt under an obligation to ensure their voice was heard. He suggested a weekly briefing by Senator Mitchell as one way out. In relation to the Taoiseach's US comments, Mallon said there was 'no antidote for stupidity'. The meeting ended at 1825.

Signed:

PETER MAY

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