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File
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cc: (see attached list)

FILE NOTE

TALKS: SUB-GROUP MEETING, 3 DECEMBER

Summary

A meeting with an extremely positive and constructive atmosphere (reflected in subsequent press briefing) but limited, by the Chairman's introduction and the pattern of interventions, to a consideration of how best to identify the key issues. Interventions by the two Governments urging the participants to use the opportunity to work towards an outline agreement, came right at the end and were not picked up.

2. The parties noted a number of difficulties with the Chairman's list of key issues and many claimed, then and subsequently, that these could have been agreed without difficulty by lunchtime. However, the points made on the draft were not necessarily easily compatible and the UUP, significantly, did not make any specific comments.

3. An implicit tension emerged between those (especially John Hume) who seemed to want to agree a statement of key issues which would accommodate everyone's positions, and those (Lord Alderdice, Hugh Smyth, Reg Empey and Ken Maginnis, all in different ways) who wanted to face up to the difficult issues.

4. The parties committed themselves to complete confidentiality on the paper under discussion and agreed to prepare detailed comments on it as a basis for "line by line" consideration on Monday 8 December, with meetings pencilled in for Tuesday and Wednesday morning if necessary (acknowledging the need to allow space for continued bilateral exchanges) and a further meeting to finalise the sub-group's work at 10.30 am on 15 December.

5. Sinn Fein contributions were constructive and urged to the case for moving towards real negotiation, but also took care to suggest that the "Strand I" reference should be generalised to allow for a range of outcomes.

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Detail

6. The meeting, which began at 10.40 am, was attended in the main by the party leaders and their deputies, with Ken Maginnis and Reg Empey representing the UUP. Minister Liz O'Donnell and Dermot Gallagher represented the Irish Government, Mr Murphy and I the British Government.

7. The group rapidly agreed to meet at 2.30 on 8 December and to pencil in meetings on 9 and 10 December at 10.30 am if necessary, noting (a UUP point) the value of allowing time for internal consultations and bilaterals. The Chairman suggested that a meeting of the sub-group should take place at 10.30 am on 15 December to "finalise" its work.

8. Senator Mitchell then introduced his compilation of the "key issues" in the negotiations (copy attached for the talks team only), drawn from the parties' own contributions. He stressed that it was not intended to bind anyone and that no decisions would be required that day. It was simply intended to get debate started. He invited preliminary comments. In subsequent interventions, however, it became progressively clearer that he was intent on producing agreement among the participants on a version of the list and he concluded by inviting participants to prepare detailed comments on the list in preparation for a "line by line" discussion next Monday.

9. Lord Alderdice (APNI) said that he thought the list was comprehensive but its structure did not facilitate discussion of the key compromises (North/South structures and constitutional issues; Northern Ireland institutions and safeguards). Some "safeguards" should feature under "Strand I" while others could be discussed separately: some cross strand negotiating formats would be needed. Seamus Close urged that the exercise should not become a paper chase.

10. Malachi Curran (Labour) said the list was comprehensive: the issue was the priority and format in which the issues should be discussed. To his mind, constitutional issues were fundamental: the rest would flow from agreement on that.

11. Bronagh Hinds (NIWC) challenged that. She went on to suggest that references to an "Assembly" should be removed from under the Strand I heading, in the interests of consistency with the more neutral formulation under "Strand II". Looking ahead she suggested three working groups - one on "arrangements" (across all three strands); one on equality and justice issues; and one on constitutional issues.

12. David Ervine (PUP) started by arguing that the list should be treated as something to facilitate discussion, not pulled to pieces, but then queried the allocation of "confidence" issues to the "Strand I" heading.

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Hugh Smyth emphasised the need to keep the reference to the "Assembly": "that's why were all here". The group should try to answer two questions: is there going to be an Assembly, and what sort of North/South relationships should there be? But again he was seduced into commenting on the list: it should also give equal weight to East/West structures. (Others pointed out that it did.)

13. Gerry Adams (Sinn Fein) said the list was "sound" although he had reservations about the order. Under Strand I it was "presumptuous" to assume that the outcome would be an Assembly and he suggested the insertion of "or other arrangements" to keep the debate open. As to future formats for negotiations he said (in a clear reference to his view of the need for UUP/Sinn Fein engagement) that he interpreted rule 16 as requiring "constructive interaction" between all participants.

14. John Hume (SDLP) urged the case for general discussion about the overall picture, which would allow participants to take account of the inter-relationships between the various aspects of the negotiations. The sub-group should aim to establish "principles and requirements" and avoid details: thus the list should refer to "nature and composition of new arrangements in Northern Ireland", not to an "Assembly". Any final list should allow any ideas to be put forward in discussion.

15. Gary McMichael (UDP) said the document was OK as far as it went, but cautioned that it was not comprehensive because the UUP had not contributed to it.

16. Reg Empey (UUP) noted that the parties' lists of key issues had been submitted for a different purpose - the review plenary. Given the different purpose and format of the present meeting parties might wish to amend their contributions or put something new forward. (He didn't specifically say that the UUP would do so, but that could have been the implication.) The list as drafted confused structures and "policy issues". His main point, however, was that the exercise risked producing something bland and banal: the parties needed to make decisions on the key issues, not just identify them.

17. Ken Maginnis continued this line of argument: pieces of paper were dangerous if they became a focus of attention rather than a catalyst for activity. Progress would be made where understandings were arrived at in bilateral or trilateral meetings and he suggested that the Chairman could have a role in drawing out areas of agreement reached in such meetings and allowing "us" to work forward. That would be better than attempting to find words which could reflect ten different opinions. He saw many difficulties in the list. As an illustrative example the word "demilitarisation" implied a particular attitude which the UUP did not support: he could suggest alternatives like "total disarmament and dismantling of paramilitary organisations". (This drew an intervention

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from Seamus Mallon which appeared to be designed to make the point that the aim should be to agree a list of the issues to be resolved, not one which necessarily reflected each party's preferences.)

18. Senator Mitchell then introduced a lengthy debate about the need to preserve the confidentiality of the document he had tabled. He presented it as being important in itself, given the mischief which certain parties outside the process could make of it, and a test of the parties' commitment for the future. This led some (including Gerry Adams and Seamus Mallon) to reflect that the paper was so innocuous it would do no harm if it were leaked and, as a corollary, that it could be agreed by lunchtime. Others (eg John Alderdice) acknowledged the way in which Dr Paisley could exploit the document and cautioned against aiming for a document so bland that it would be worthless. John Hume again reasserted the aim of a document written in terms which everyone could agree. All parties swore great oaths they would keep the document confidential. Hugh Casey opined that Civil Servants would leak it to Dr Paisley: as one of only two Civil Servants present I pointedly assured him that there would not be and had not been any leak from that source. Ken Maginnis offered to hand the paper back but Senator Mitchell and others referred to the need for the parties to prepare detailed comments on it over the weekend. Ultimately, to deal with the confidentiality point, the parties agreed a general press line on which they all subsequently drew.

19. Finally, at around noon, Senator Mitchell invited the two Governments to comment. Mr Murphy welcomed the compilation of key issues, while acknowledging the risks if it were to leak. He reminded delegates that there was a need to move forward in the negotiations as there were only ten working weeks after Christmas before the suggested deadline for reaching agreement. He believed the time had come to move beyond the identification of key issues to the identification of areas of agreement. Drawing up an outline agreement in general terms would allow detailed negotiations on specific issues to proceed after Christmas. The group should be more ambitious. He felt the community in Northern Ireland would expect the participants to do more in the period before Christmas than simply identify the key issues.

20. Ms O'Donnell gave strong support. The small group format had produced a qualitative difference in the negotiations, reflecting greater maturity. The participants should capitalise on that, not excluding the need for continued bilateral contacts. Our presentation to the media, reflecting the commitment to confidentiality on the detail of what was under discussion, should also signal a change of gear. Participants should seize the opportunity to move from generalisations into specifics: there were risks associated with timidity - it could lead to a reversal in the recent encouraging pace of developments. Obviously, stark differences would emerge as parties articulated their views, "but that is why we are

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here". The group should aim to produce by 15 December a text setting out the broad parameters for an ultimate agreement. The Chairman's compilation was a good opening draft but a more developed text was needed and the Irish Government would be coming forward with comments on it. We had to lay the foundation for a qualitatively difference phase of negotiation after Christmas. Different formats might be necessary, although the Irish Government would have no role in relation to Strand I issues.

21. Seamus Close, in a rather incoherent contribution, seemed to endorse this approach, speaking of the need to make a number of key compromises so that the participants were "singing from the same hymn sheet" as they tackled the detailed negotiations.

22. Gerry Adams intervened to say that the objective of the exercise was to negotiate. The issues were as difficult for Sinn Fein as for anyone else but the quicker participants began to negotiate and identify what they could agree on the better. Any party could come in trying to get the drop on the rest, but he hoped the negotiations would "click" and move into a new dynamic. If participants got to the nitty gritty they might be surprised how far and how fast they could go.

23. Senator Mitchell closed the meeting down at that point, inviting everyone to be ready on Monday to go through the text on a line by line basis (with Prime Minister Holkeri in the Chair).

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