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ASSISTANT SECRETARY
SECURITY POLICY & OPERATIONS 1

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From: Allen McVeigh (am)
Julie Mapstone (pm)
6 November 1996

cc PS/Secretary of State (B&L) - B
PS/Sir John Wheeler (B&L) - B
PS/Michael Ancram (B&L) - B
PS/Malcolm Moss (DHSS, DOE & L) - B
PS/Baroness Denton (DED, DANI & L) - B
PS/PUS (B&L) - B
PS/Sir David Fell - B
Mr Thomas - B
Mr Steele - B
Mr Leach - B
Mr Bell - B
Mr Stephens - 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
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: TUESDAY 5 NOVEMBER 1996

Morning Session

Senator Mitchell took the chair and called plenary to order at 10.10 am. Attendance, apart from the two Governments, was sparse to begin with but picked up as the morning progressed. Five sets of minutes, ie 28, 29 and 30 (3 sets) October were quickly approved and circulated. The chair then invited Peter Robinson to resume his questioning from the day before, with Steve McBride and the SDLP provisionally alerted to follow after him.

2. Almost all of Robinson's questioning was directed to Michael Ancram to probe HMG's stance on specific decommissioning issues. A

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lengthy lead-in concentrated on the absence of permanence of the PIRA ceasefire and how to judge any subsequent restoration, assuming it came about, in terms of whether or not it was irreversible or irrevocable or merely, once again, tactical. Michael Ancram countered solidly with repetition of HMG's oft stated position on this issue. Robinson's next attempt was to see if the Minister would 'confess' to indirect contact between HMG/SF and whether or not he would categorise any entry requirements reserved for SF, but he got no change from that exchange either, and he had to resort to claims (though only half-hearted) of Ministerial evasion.

3. His attention then turned to the IB Report, starting first with the mutuality aspect in which it had been assumed there would be two sides involved in the process. Did this mean, with only one side now involved, that Loyalists would not have to hand over weapons? The Minister countered using a 'be realistic' argument. Robinson again changed tact with an examination of para 34 (and, later, para 35) of the report, in his continued quest to explore the Government's attitude to whether or not some decommissioning would take place during the process, with total decommissioning coming at the end. He also sought to clarify if 'during the process' could mean on the first day. The Minister first reminded Mr Robinson that he could read and interpret the wording just as well as he could, then pointed out the only way to get round this impasse was through confidence-building and to seek agreement amongst the parties on how best to proceed. The Minister, so that Peter Robinson didn't have it all his own way, welcomed and was encouraged by all Robinson's proposals coming from within Mitchell ('Not proposals but questions Minister', was his quick quip!)

4. Robinson next asked how progressive decommissioning, suggested by the Prime Minister in September, would operate and again sought to have Michael Ancram reveal HMG's hand on how it was envisaged this would operate. The Minister affirmed that HMG's approach was a practical one, but asked if he (Robinson) had any alternative suggestions? 'The Minister would have to wait his turn to ask the questions', said Robinson! Moving progressively through his questions checklist brought him onto the timing of the legislation.

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The Minister repeated the intention remained to have it enacted, if possible, by Christmas and pointed out the realities of having legislation passed through Parliament before being placed on the Statute Book. Robinson willingly (and gratefully) allowed Ken Maginnis to pick up the cudgel at that point.

5. Maginnis' in his intervention suggested that it was up to the two enablers to get on with it: the lack of firm detail and frankness from the Irish the day before, and now HMG, was frustrating to him and those around him and had created a total dissatisfaction within the UUP. The Minister refuted the implied accusation of inactivity and lack of enthusiasm on decommissioning, pointing again to the commitment to legislate earlier rather than later as proof of serious intent. However, there could not - to be realistic - be an insistence that weapons would be handed over: this would only come as part of an overall process.

6. Robinson, refreshed from his breather, disagreed with the Minister and the IB Report in this regard. Of course you told - you don't ask - the paramilitaries to hand over their weapons or otherwise they didn't get in was his view. At this point several participants sought to intervene and Ken Maginnis, in a point of order, sought a ruling on interventions from the chair. Senator Mitchell, who had already ruled but the hub-bub had drowned out, confirmed that Cedric Wilson could speak. Wilson thought the Minister had been very selective in reading the IB Report, and he also queried the descriptive term of 'one side' in para 33, which the chairman had perceived to be the Unionist community. This raised murmurs right round the room and as the crescendo grew and drowned out his further observations - apparently made more in sorrow than customary anger - the chair allowed David Ervine to interject. Ervine only briefly said para 31 was inaccurate in talking about one side or the other.

7. Once calm was restored, Robinson was again given the floor, however, he had apparently run out of steam and indicated he wished to keep his remaining powder dry for another occasion. Sean O'hUiginn, in a rare Irish intervention, indicated he had understood

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para 33 to be in the abstract but that it was up to each delegation to decide on their own interpretation.

8. Steve McBride had little to raise, merely seeking clarification that in the absence of agreement among the parties that the two Governments, would thereafter take charge and proceed regardless. The Irish Minister, Hugh Coveney, after first apologising for the near absence (through a bad cold) of his voice, confirmed the Governments' desire to involve all the parties in the process: this had included examination of their draft legislation. He again confirmed the intention to consult widely, ie through the appointment of a sub-committee. "But", said Mr McBride, 'if the parties don't wish to proceed on that basis, then was it up to the two Governments?' "Yes", said Hugh Coveney.

9. The floor was then given over to Mark Durkan to question first Ken Maginnis and subsequently Reg Empey at length to draw out the UUP position. Did Ken's vigorous nodding of the head during the McBride/Coveney exchange indicate he agreed that the two Governments had primary responsibility for initiating the process?. Maginnis agreed there was no doubting that the two Governments were enablers and he expected them to deal with decommissioning not in piecemeal fashion but as a package. Their enabling legislation had been tossed out as a crumb while they intended to keep the parties cooked up in Committee. Durkan gave only a few gentle prompts, not that they were needed, to draw him on further. On the British side was the geographical problem, however, they (UUP) had the ability to introduce secondary legislation and put down amendments. The Irish legislation needed a different approach. The UUP needed to be aware of the attaching regulations to remove their continuing doubts and concerns. A Chairman-designate with whom they could freely consult was also very necessary. Mr Coveney confirmed the Irish legislation was almost ready and furthermore that it was a serious attempt and not a crumb. Maginnis interrupted to say that the attaching regulations were also important but they had been asked to take them on trust.

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10. Maginnis warming to his charge, wanted to know what was so terribly wrong in identifying a chairman - no further he said - that caused the Irish Government to dig its heels in and stymie progress as a result. Mr Coveney patiently explained that what was proposed was a sequence of events with legislation coming first. "Have the Governments identified a chairman", asked Maginnis? This elicited from the Irish Minister that point had not yet been reached. "Aah" was Maginnis' reply.

11. "Was Ken's desire for a chairman a UUP pre-condition before the launch of the three strands", asked Durkan who again got the floor, "and would they withhold agreement?". Not an unreasonable request, muttered Maginnis. Durkan persisted to try and get a straight answer while Maginnis squirmed. Did an understanding become an undertaking become a point of principle for the UUP, wondered Durkan. Jeffrey Donaldson, he claimed, had indicated that decommissioning could be used as a veto which was unacceptable to the UUP. That was also the SDLP view when the UUP used decommissioning as a veto in plenary. The debate thereafter became protracted but essentially had Ken Maginnis sticking to his guns (no pun intended!) that a Chairman-designate was important. The parties advice on decommissioning he envisaged being at two levels; the first, for what was basically housekeeping matters, could easily come from plenary itself but the second level of technical expertise must have a Chairman-designate. Disarmament and verification was beyond the scope of the politicians. "OK", said Durkan, "if the Governments announced the Chairman-designate, would the UUP move into the three strands?" Again, no straightforward answer emerged and Durkan pursued no further.

12. Durkan sought to establish Maginnis' envisaged format for discussions with the Chairman-designate. Sub-committee, bilateral, trilateral - lots of interfacing required, was the response "So, a sub-committee is not ruled out then Ken?" Maginnis wriggled, again, but said nothing was ruled out. If only, said Ken, Reg Empey was here - Empey in fact had earlier slipped in behind him - which caused much laughter round the room! Durkan continued to pour salt on this particular wound, again seeking confirmation that nothing was ruled

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out and that one format could be a sub-committee. Maginnis, who said he spoke frankly, said if the proper procedures were in place he did not envisage any problems to hinder forward movement to discuss the principles and mechanics of decommissioning. Liaison (picking up Empey's loud whisper) in whatever format would not be a major problem in that respect. The debate continued to concentrate on the use or otherwise of a sub-committee. Maginnis eventually sought to turn the tables and asked Durkan if he would be right in inferring the SDLP had no principled objection to the appointment of a Chairman-designate and/or commissioners "Can't see the point of it", was Durkan's quick reply, but he agreed that they would consider it further as a result of this particular discussion. He returned to the questioner's role to find out how the appointment of a Chairman-designate would release us from all our difficulties on decommissioning. "It would be the beginning of a tangible process", said Maginnis, without which everything else would be poisoned by the present proposal. A tangible process removes any potential for distraction and the issue, after all, was an important and core issue for the future of this society. The debate was closed with both indicating they felt it had been useful. Empey then moved forward (at 12.30 pm) to the front row.

13. Empey emphatically changed the mood. He suggested on present progress that it could be Easter at the earliest before decommissioning got underway and by that stage they could be well down the three strands track. This was unsatisfactory. He said there was no difficulty with a sub-committee for liaison purposes between the core commission and plenary. However, they were not prepared, because of its significance to the UUP, to hand over control and give an effective veto to the SDLP through the present sub-committee proposal. This was a political problem for the UUP who feared they would lose out as a result. Durkan again indicated that a veto could operate in either direction and suggested that leaving decommissioning for later resolution was not such a big deal. Empey continued to disagree - this was gut politics - painting the scenario of SF's entry into the talks and Adams being interviewed outside at the gates while thumbing his nose at everyone else inside Castle Buildings. That, he said, was where the UUP came from on this issue,

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a point Durkan readily accepted. Empey confirmed that the UUP wanted into negotiations just as much as the SDLP but not at any price. They needed protection from blackmail. Not one of us, he said, believed SF were genuine. Durkan asked him to see the SDLP point of view just as he tried to see the point of view of the UUP.

14. Durkan, again, pressed on the sub-committee. Empey said he did not rule out a refining role on which he would be happy to further elaborate. While providing a communications channel between plenary and the Commission as a reporting body at this stage, it was not likely only to have a reporting function. Durkan confessed to growing confusion at this point and attempted to have Empey confirm agreement with earlier remarks from Maginnis but was unsuccessful. Instead, he provoked a small tirade that UUP advice was freely proffered but not taken either on the enabling legislation or indeed on Frameworks. There was going to be no blank cheque from the UUP, said Empey. Durkan again pointed out the UUP were not alone in that regard, pointing out the SDLP's concerns on the 30 May election legislation. Prompting from behind Empey caused him to raise the SDLP's walk-out from the Forum (coincidentally O'hUiginn walked out at this point). Durkan's answer while not his best produced a memorable phrase when he described the Forum as a 'Fisher Price Parliament', though he indicated the SDLP did not wish the Forum ill. Maginnis intervened to suggest the absence of the SDLP from the Forum was their exercise of their veto. The chair, sensing further debate on this might be unhelpful, suggested lunch. Durkan sought to wind up and indicated that while there was much to take issue over, he accepted the UUP were not out to deliberately frustrate and the SDLP would reciprocate to enable further progress.

15. Robert McCartney broke in for the last word to indicate the UKUP paper on decommissioning had been presented earlier and was in the process of circulation by the Chairman's office. He also, prior to the session end at 1.10 pm, offered himself for questioning on it by the other parties. The Chairman apparently ignored this offer when he indicated Labour should commence the afternoon plenary at 2.00 pm.

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Afternoon Session

16. The afternoon session started at 2.00 pm with questions from Mr Curran (Labour) directed at the two Governments. They covered the composition and roles of the Committee and the Commission, and the timing of the legislation. Mr McCartney developed this line of questioning by asking whether the establishment of the Committee was necessary to the timetable for the passing of the legislation, particularly as one of the Committee's roles is to comment on the legislation. Mr Ancram and Mr Coveney replied to the effect that the Committee was not a pre-requisite to the legislation because the timescale may not be favourable; both Governments intended to get the legislation through by Christmas if possible, and the Committee may not yet be established. Mr Ancram pointed out that the regulations would not of course be in place by Christmas because they depended on the nature of the decommissioning scheme adopted.

17. In response to a question from Mr McBride of Alliance on the UUP interpretations of the principles underlying decommissioning Mr Empey said that it was not just a matter of law and order, but was also political. He said that the UUP purpose was to ensure the issue was addressed to mutual satisfaction before proceeding to the three strands, but the issue would not be completed then. The progress of Sinn Fein into talks was closely related to decommissioning. The UUP would be seeking a meeting with Alliance to discuss their paper.

18. Mr McCartney then began a lengthy formal address to decommissioning, quoting heavily from the UKUP paper which had been tabled during the morning. The paper ranged over recent history, dwelling in particular on the alleged misdemeanors of HMG in respect of the pro-union cause in Northern Ireland, especially the Anglo-Irish Agreement, and appeasement of the IRA. Mr McCartney proceeded to criticise the compromise approach of the Mitchell Report; some decommissioning during talks is not a mid-way position because it weighs in equal balance constitutional democratic parties with unconstitutional undemocratic parties which hold and use illegal weapons. The price of Sinn Fein entry is an acceptance of the principles by which civilised parties order their affairs.

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Paragraphs 34 and 35 of the Mitchell Report have become the basis of the Government's position but decommissioning in return for political concessions is unacceptable. The Secretary of State had been unable to explain satisfactory to him on a previous occasion the meaning of "addressing decommissioning".

19. On Sinn Fein entry requirements, Mr McCartney said these must also relate to decommissioning if we were to avoid the situation of Sinn Fein, when they get in, arguing separateness from the IRA. The legislative requirement for Sinn Fein entry was inadequate because a restoration of the 1994 ceasefire was unacceptable. Making reference to the newspaper reports of Hume/Adams, he said that the two Governments wanted Sinn Fein in to the process at any price.

20. After a brief adjournment, the plenary resumed with further questioning, this time of the UUP by the SDLP. These concerned the UUP's views of the principles of decommissioning and how far the International Body's report satisfactorily contained them. Mr Maginnis said the UUP had their own judgement on the strategy and intentions of the IRA, which differed from those described in paragraph 25 of the Mitchell Report. It was on the basis of this analysis that they would be looking at the modalities. Asked by Mr Farren if the UUP would be tabling additional documents on the required principles, Mr Maginnis suggested the Chairman may wish to extract from the International Body's report and from the contributions made at plenary a more detailed set of principles.

21. The questioning then moved on to the entry requirements for Sinn Fein. Although started by Mr McBride, this line of questioning was soon taken over by Mr McCartney. The Secretary of State reiterated the legal position set out in legislation. The requirement was an unequivocal restoration of the 1994 ceasefire. The Secretary of State could not issue an invitation until he was satisfied that paragraphs 8 and 9 of the Ground Rules Command Paper, which referred to assurances of abiding by democratic methods as well as a ceasefire. Mr McCartney went on at length about the lack of the word permanent in HMG's requirements, claiming the Prime Minister had said it was not a requirement because the IRA would not agree to it.

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The Secretary of State said that the considerations attached to any ceasefire declaration were more than an adequate safeguard. These included a "dependable" ceasefire or, in the words of Mrs Owen, "credible and irrevocable", and that it admitted of no other explanation, and would also cover examination of practical indicators including events on the ground. That is why every atrocity widens the credibility gap. It was not just a matter of language but of circumstances.

22. After three quarters of an hour the Chairman decided the issue had been thoroughly explored and suggested other speakers should be allowed to come in in the short time remaining. Mr Mallon pointed out that the reason the International Body had been appointed to look at decommissioning was that there had been a collective failure to deal with it elsewhere. He pointed out that permanence was a matter for the paramilitaries and there was no way of determining it at the outset. The pressure on the paramilitary groups would be political, security, and international. These areas were where pressure needed to be built up on them. Mr Weir signalled that he would want to return to the question of Sinn Fein entry requirements the next day because they were inextricably linked with the issue of decommissioning.

23. In a final meeting between the two Governments and the Chairmen, Senator Mitchell suggested that at the end of the debate on decommissioning - possibly early next week - we should get the UUP and SDLP together to encourage them to hold bilaterals as this seemed the most fruitful possibility of a way out of the impasse.

24. As they were leaving, the Irish indicated they were prepared to give consideration to Ken Maginnis' emphasis during the morning on the naming of a Chairman designate for the Independent Commission.

(Signed)

ALLEN McVEIGH

JULIE MAPSTONE