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FROM: A J WHYSALL
POLITICAL DEVELOPMENT TEAM
16 OCTOBER 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 Bell - B
Mr Leach (B&L) - 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

1. in Alexander
in Carson
2. in Brown
21/10

NOTE FOR THE RECORD

TALKS: 15 OCTOBER

Summary

Agreement having been reached in the early hours of the UUP/SDLP agenda for the remainder of the opening plenary, draft comprehensive agendas were circulated. Those of the UUP, SDLP and Alliance were in identical terms. They were briefly introduced, and the "address" to decommissioning began.

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Detail

Prebrief

It was agreed at the pre-brief that the Secretary of State would best fulfil engagements in London on Wednesday, including the Conservative Back Bench Committee at lunchtime, rather than attend the talks. It was also reported that Mr Trimble was seeking urgently to meet with the Prime Minister: he had been given an appointment on Thursday afternoon (that is, after NI).

In a brief meeting with the Irish (headed by Mr Coveney) and the Chairmen, both Governments agreed - vainly as it turned out - that it would be better to avoid reaching decommissioning in the course of the day, not least because Mr Trimble was not present.

Circulation of Agendas

The draft comprehensive agendas were circulated at around noon. They have been copied to colleagues separately. As expected, the UUP and SDLP drafts were in identical terms; and Alliance put in the same draft. The DUP, UKUP, Women's Coalition and UDP put in their own drafts; Labour declared that it supported the Governments'; the PUP offered nothing.

Plenary

The plenary met just before 12.15. Mr Empey proposed that delegations in introducing their draft agendas should be time-limited to 20 minutes. This was unanimously agreed.

Introduction of draft agendas

The Secretary of State explained that the Government's draft agenda for Strand 1 incorporated one change from that originally put forward, the reference to the "constitutional position of Northern Ireland" being replaced by one to "constitutional issues".

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Mr Coveney, speaking to the two Governments' proposals for Strands 2 and 3, emphasised they met the requirements of the 28 February communique for an inclusive process, in which any participant might raise any issue of significant concern. But he made clear also that the Irish Government were prepared to look constructively at proposals by others.

Alliance spoke briefly to their draft: they suggested it might be helpful to circulate some of the papers from the 1991/92 talks that bore on items on the agendas that were finally adopted.

Labour recited their agreement with the two Governments' proposals; the Women's Coalition and PUP offered no comment.

The SDLP (Mr Farren) commented at length. The drafts had been worked on for a considerable time, with a view to providing proposals helpful to all participants, precluding nothing of relevance. Some issues were identified as crossing all the strands, and they needed to be addressed in a "more plenary" framework. On the various headings that appeared under all the strands in their draft:

On "principles and requirements", he thought it would be helpful to participants to identify principles to which all could sign up. This has been done in the previous negotiations; but the participants were different now, and times had moved on. Among the sorts of principles he had in mind were that "any new political institutions should be such as to enable both communities in Northern Ireland to identify with them"; that "structures must assure parity of esteem for both traditions" - and there should be a shared understanding of what that meant; that "arrangements be durable, workable and self sustaining"; they should "not be such as had failed in the past".

On constitutional issues, the talks must address the failure to achieve consensus on a basis for Government, the failure of Nationalists and Unionists to create a shared

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vision; and new arrangements must be put in place to overcome this failure. Some would argue that new constitutional arrangements were unnecessary; but the agenda must permit all views to be heard.

On the reference to "justice matters" (item 5, under Strand 1) a range of inter-related matters, concerning the police, the courts and prison issues needed to be addressed and resolved if a comprehensive settlement were to be secured. His party was in particular concerned about policing: they looked forward to a considerable, in-depth discussion of the subject. Identification with the police service went to the heart of the sense of allegiance.

On the references to "rights and safeguards", Mr Farren recalled that ^{re}they had been a considerable degree of common purpose in 1991/92: the parties had been united against the British Government. A framework of protection for the rights of individuals and minorities needed to be built, drawing on the work of the Council of Europe, CSCE and others.

The UDP felt it unnecessary to speak further to their proposed agenda, which they described as "very similar to other proposals"; and DUP preferred not to speak until item 3 on the agenda.

Mr McCartney observed no such restraint, and made number of points (mostly ones he had made before), in the context of making clear that his party would participate in no discussion of anything that touched on the status of Northern Ireland as a part of the United Kingdom, or more generally the principle of consent. That included the establishment of any institutions that "functionally or factually" amounted to progress to a United Ireland - even if they were dressed up as something else. He reflected on the concept of "parity of esteem": so far as it related to individuals, he endorsed it with enthusiasm: his party was a pluralist one, and favoured equality in every aspect of social, political, cultural and

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economic development. But he did not understand the concept as meaning that a minority were to have the rights of a majority in respect of the political identity of a state. This was contrary to all the principles adopted throughout Europe. He reverted again to the Capotorti Report, and the associated obligations on states to respect boundaries and refrain from intervention in the internal affairs of others. Similar principles now found reflection in the Hungarian/Romanian Treaty. They were violated in the Anglo Irish Agreement. He added that there were more than 900,000 citizens of the Republic of Ireland living happily in the United Kingdom [Great Britain, presumably]. It was curious that there should be a suggestion that 600,000 or so citizens of Northern Ireland with Nationalist inclinations should fail to find sufficient expression of their identity within Northern Ireland.

Mr Taylor for the UUP wished to make clear that on Strand 1, the constitutional position of Northern Ireland was not negotiable. His party would wish to address in detail Articles 2 and 3 of the Irish Constitution. They were a barrier to co-operation, and encouraged instability in Northern Ireland. On Strand 3, the UUP would wish to consider relationships between the peoples of Ireland, and the rest of the British Isles.

Proposal to convene Business Committee

General de Chastelain invited views on when to hold the introductory meeting of the Business Committee, which had been set up on 29 July, and whose composition had been settled. One issue it would need to consider would be the scheduling of various strands.

Mr Empey recalled Mr Robinson's proposal of the previous day that the Committee should meet, and it might consider the way that decommissioning should be addressed. Mr Mallon, while agreeing with the setting up of the Committee, suggested it should not meet yet: that should be alongside item 3 (consideration of draft comprehensive agendas). Mr Robinson, Mr Wilson and Mr McCartney all

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spoke in favour of Mr Empey's proposition. Mr Empey added that it might become involved in timetabling. But Mr Mallon continued to resist: the Committee was about the management of time, people and resources; while the address to decommissioning involved essentially management of ideas. That sort of issue transcended questions of day to day handling. The Committee should operate concurrently with the adoption of the comprehensive agenda [rather later than his first suggestion, therefore]. Mr Close (Alliance) agreed the time was not ripe: the Committee would get off on the wrong foot by taking delivery of such a hot potato.

Mr McCartney came back: the Committee's purpose was to see that discussion took place in a structured and disciplined form. If Mr Mallon wished the discussion to take place in an uncontrolled and unstructured way, he was happy to oblige. The Secretary of State, saying that he had at first been minded to agree the early convening of the Committee, felt in view of the SDLP and Alliance reservations that it would be better to handling of the decommissioning discussion in plenary.

In continuing discussion, Mr Empey protested that his suggestion had been purely technical, and without any ulterior political motive; and Mr Robinson believed there would be a less adversarial atmosphere in the Business Committee. Mr Ervine and Ms Sagar, however, joined those who believed it was unnecessary for the present. Without any agreement on convening the Committee, therefore, the plenary was adjourned for lunch.

Handling of decommissioning

At the resumption of the session at around 3.15, Lord Alderdice suggested that there should be a presentation on the proposals of the International Body, by one or more of its members. After that, participants might circulate documents. Mr McCartney, however, was vehemently opposed to the suggestion that any of the Chairmen should be allowed to proselytise for the recommendations of the Body: that would place their independence in jeopardy. Mr Empey suggested that

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there should be circulation of papers by participants, opportunity to speak, and an opportunity for questions and answers. Mr Robinson indicated that the DUP had prepared a position paper, which would be introduced once the general discussion of the Mitchell report was advanced. And they would produce a list of actual proposals at a later stage.

Mr Holkeri reacted adversely to the suggestion of the presentation on the Mitchell report. The report spoke for itself, he could not interpret it, and there had been no opportunity to consult Senator Mitchell on the proposition. He was happy to facilitate circulation of papers, and it was agreed that any deposited with the Chairmen by 5.30 would be circulated for the following day.

Discussion of International Body's proposals

Thereafter substantive discussion on the Report's proposals began. Ms Sagar for the Women's Coalition supported them. She drew particular attention to paragraph 35 on confidence building. Decommissioning would only work effectively if voluntary: she was dismissive of the "armchair generals", and looked forward to decommissioning as a reality, rather than the scoring of political points.

Mr Empey made his "opening remarks" (more substantial ones are to follow the circulation of a UUP paper). Some said decommissioning was a non-issue, since it would not happen; others that it was an irrelevance, because arms could be bought and sold, and in any event the numbers in circulation were unknown. Others would distinguish offensive and defensive weapons, and seek the decommissioning only of the first. But at the core of the question, there were a number of realities. One was that, with the conflict over, weapons might be diverted to other users. But it was also particularly important to show that those who were seeking to enter the political process, having had resort to arms in the past, had completely changed their attitudes. A threat of the use of force was almost as effective as its actual use; all the players in the

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political process must be able to believe that there was a level playing field. Mr Empey made reference to paragraph 10 of the Joint Declaration (permanent end to the use of or support for violence; parties committed to exclusively peaceful methods free to participate in democratic politics). The speed with which Mr Reynolds' Government had felt able in 1994 to reward the action of the Provisionals had left Unionists without any of the necessary confidence in the sincerity of that Government, in relation to these questions - and also to guarantees elsewhere in the Joint Declaration.

He would warmly welcome any cessation of violence. But the ending of the last ceasefire created a massive credibility gap. His party would press the Secretary of State on an early occasion to indicate what he proposed to do if confronted in the near future by a restoration of a ceasefire. Decommissioning could not be a lever or a blackmailing tactic; it had to be a genuine expression of a determination that matters had changed. Unionists would take enormous convincing that this was so. They did not intend to be left exposed to a group bent on driving the Brits out of Ireland - which meant their community.

Mr Empey finished with praise for the Loyalists, for having maintained their ceasefire against wilful provocation. The passage of time had added credibility to their ceasefire: just as the breach of the provisionals' own ceasefire had detracted enormously from its credibility.

Mr McCartney then began an extremely long speech (an hour at this session, and another two hours of the following session) delivered forcefully and clearly, but with little structure, and much repetition. Among his themes were:

- The peace process (though it had saved lives) had advanced the ultimate destruction of democracy: the Governments were prepared to pay whatever price terrorists demanded for the end of violence. That could be seen in a whole range

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of developments, from the time of the Anglo-Irish Agreement, which had been the product of the Brighton Bomb. The Joint Declaration had been the result of the bombing of the Baltic Exchange and other costly bombs in London. The talks had had to sit the previous night to agree an agenda, because it had become important that they should progress following the Thiepval Barracks bomb: only in this way could the Loyalist ceasefire be maintained; that was essential, in order that the Loyalists should remain in the talks; though they were only there as a precedent for the entry of Sinn Fein.

- Getting Sinn Fein in was the critical theme: if Sinn Fein at any time declared a ceasefire, they would be welcomed into the talks. He cited Mr Finlay's "penny candle" remark.
- The determination to do this at whatever cost was shown in the Governments' attitude to the permanency of ceasefires. They had started out, in accordance with paragraph 10 of the Joint Declaration, insisting that a ceasefire must be permanent. They now spoke of an "unequivocal" ceasefire rather than an "permanent" one. The Prime Minister had told him in April that he would not be able to obtain a permanent ceasefire from the IRA; but once Sinn Fein was signed up to the Mitchell Principles, it would become one.
- In Mr McCartney's view, once Sinn Fein were in, they would say that they were not the IRA, had nothing to decommission etc; they would decline to condemn IRA activities, on the same grounds at the Loyalists had done, that it would diminish their good influence with the paramilitaries. They would, he added, split from the IRA.
- The authors of the Mitchell report had been deceived. Terrorist preparations were going on at the time that they prepared it. Its logic anyway was that the focus of the

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negotiations must be satisfying the demands of terrorists; that is what it meant when it said in paragraph 23 that there had to be an agreed political settlement to take the gun out of politics.

- The report required no decommissioning during negotiations: it only required (in paragraph 34) that the parties should consider such an approach.
- Talk of decommissioning was anyway unreal. The IRA would only decommission in response to the sort of gain that they would think valuable - if they decommissioned at all; that showed up the folly of the Loyalists' position; because such developments would be ones that they could not tolerate.
- The "orientation" of the report was such that the constitutional status of Northern Ireland was necessarily at the centre of the negotiations: that was what was meant by expressions like "comprehensive", and "all parties being free to raise issues". The Irish constitution, with its claim on part of the UK, was of great significance here: terrorists were given grounds for saying that they were merely making good the claim.
- The SDLP had benefited from terrorism. It added to its standing and the credibility of its objectives. In the process, it had become a great deal "greener".
- The approach should be to recognise that "private armies" were illegal, and they should be dealt with by the UK Government, assisted by a 'friendly foreign power'.

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The session ended, as had previously been agreed, as about 4.50. Afterwards, two papers were circulated: the UUP put round the paper on decommissioning it published several weeks ago; and Alliance its evidence to the International Body. These have been distributed separately.

(Signed)

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