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Meeting with SDLP Talks Drafting Team
9 December 1997

Overview

1. The meeting, part of an ongoing series in the context of close collaboration with the SDLP on the Talks, was held in the Wellington Park Hotel, Belfast. Present on the SDLP side were Seamus Mallon, Mark Durkan, Sean Farren, Denis Haughey and Donovan McClelland. Our side comprised Secretary Gallagher (for part of the meeting), Mr Cooney, Mr Bassett, Mr Montgomery, Mr McKee and the undersigned. The main focus of the meeting was a briefing by our side on the general lines being taken in draft material we are working on in regard to several Talks issues. We handed over draft material which we had prepared in regard to Strand One and briefed orally in regard to other drafts underway (but did not hand over). We stressed throughout that both the material we handed over and the drafts we briefed on remained very much "work in progress" and had not yet been cleared by the Government; it was important, therefore, that they be regarded as such and treated on a careful, confidential basis.
2. Overall, the meeting went well. The SDLP side were broadly happy with the direction we were moving in on the various issues and in no case was there any significant "daylight" between us. The meeting was also valuable as a means of encouraging the focus that will be necessary within the SDLP in terms of their own thinking and positions on these issues (particularly in regard to Strand One). It was, of course, also helpful for us in terms of having the SDLP input into the development of our own draft positions.
3. One interesting product of the meeting was a renewed underlining of the importance of the policing issue for the Talks overall - and the difficulties attached to securing an agreed approach on the issue in the Talks.

Strand One

4. As mentioned, we handed over two draft papers on Strand One - the first, setting out a possible institutional model for structures in Northern Ireland and the second setting out options in regard to an Assembly and the methods of elections that could be used. The institutions paper (drafted by Mr Montgomery) presumed that there would be an Assembly and a Cabinet-style Executive. While the notion of a Panel has not yet been fully ruled out by John Hume, the increasing inclination within the SDLP (and held strongly by Seamus Mallon) is that there should be a cross-community Executive largely along Sunningdale lines. Mr Montgomery's draft developed a possible model for consideration in that regard. It also looked at possible options in regard to weighted majorities and other "protection" mechanisms. While the SDLP team was obviously not in a position to give a definitive reaction, our sense was that they were broadly supportive of the approach suggested.
5. In regard to an Assembly, the draft paper (prepared by Mr Bassett) included extrapolations from recent elections on the possible composition of a body in varying

sizes, ranging from a 90-seater to a 120-seater (the latter size has been proposed by the PUP). The draft also explored various electoral methods, including the use of a possible list system. The figures which emerged showed that if one opted for an approach combining 90 seats elected on the basis of 5 seats per constituency, with an add-on based on a party list system (ie each voter would vote for a candidate and a party), the more seats one added on, the greater the nationalist share of them increased. An add-on of 10 seats, for instance, would have the advantage of bringing in the Loyalist parties (who would be hard-pressed to secure a seat in a 90-seater, 5-seats-per-constituency Assembly), but would yield only one extra SDLP seat. If 20 further seats were added on a party list basis, however, the SDLP would secure an extra six seats and Sinn Fein four. On the other hand, there is a view that a 120-seat Assembly would be too large and unwieldy. The SDLP side acknowledged that the material will be valuable to them as they reflect on the approach and trade-offs which they will eventually opt for.

Strand Two

6. We briefed the SDLP orally on draft material we are working on in regard to North/South structures and on the possible matters for which a North/South Body might be given delegated responsibility. On our general approach, we said that what we were seeking was a balance between the requirements of nationalists in terms of the expression of their identity and unionist fears about the implications and scope of any North/South Body.
7. On the structures, the SDLP seemed broadly happy with the EU-style Council of Ministers model which we sketched. They attached particular significance to the role of a Secretariat. We pointed to the sensitivities attaching to the issue from a unionist perspective and the need for a careful approach if a satisfactory outcome were to be achieved. Mark Durkan agreed that one had to be careful with the language used to describe it, but he wondered if implicit in the mandate of a Secretariat might be a role in consulting with a wide range of groups outside of Government, in the private and public sectors, and ensuring that the feed-back from these sectors was fed into the policy-formulation process of a North/South Body. There was a recognition on the part of the SDLP that a Secretariat precisely mirroring the powers and mandate of the EU Commission was not feasible, but it was important that the capacity to develop, over time, in that direction was at the very least implicit in its mandate.
8. In regard to the matters and functions for which a North/South Body might be delegated responsibility, we stressed the desirability of prioritising and being able to demonstrate to unionists their practical necessity and value, while at the same time ensuring that the package was of sufficient visibility and weight as to secure nationalist approval. We briefed them on work being carried out at present from Department to Department by a Working Group led by Wally Kirwan and including Mr Murray, Mr O Fainin and Mr Bassett of this Department. This first round of Departments was close to completion. On the basis of information to date and having regard to the criteria just described, we pointed to areas such as agriculture, EU initiatives, tourism promotion, overseas marketing, heritage and the arts, sport etc as being among the areas for which a Body might have delegated responsibility. In a number of these areas, it was possible to have subsidiary bodies of the North/South Council covering aspects of the overall matter. Under the criterion of areas where Northern Ireland would not have the size or resources to provide

a facility for itself, and where it may only be marginally economic for us to do so on our own, we mentioned marine and scientific research.

9. The SDLP side expressed general acceptance of this broad approach, including the concept of prioritisation. They suggested that there were other areas which passed the "practical necessity/value" test - such as aspects of energy, of telecommunications, of environment, animal health etc. Further discussion with them will clearly be necessary as we move closer to a decision on the precise package of priorities to be opted for in this regard.

East-West Arrangements

10. Mr Montgomery briefed the SDLP in broad terms on current thinking in regard to East-West arrangements. He stressed that while the Government were open to looking at architecture which would reflect the totality of relations between these islands, and to enable practical co-operation on matters of common interest in various formations between the respective Authorities involved, we were very conscious of the need (a) to ensure that the North/South axis retained a clear identity and distinctness and (b) to reflect adequately the particular role of the two sovereign Governments. What we had in mind was a series of pillars which were separate and distinct from each other, yet connected. Seamus Mallon indicated that the SDLP had no particular difficulty with such an approach, but stressed the importance of the ongoing, central role of the two Governments.

Oversight/Review/International Dimension

11. In response to a particular request from Seamus Mallon, we have been working on draft material to address the need for a mechanism to ensure ongoing implementation of a settlement and, if possible, to a continuing international dimension. Mr McKee briefed the meeting on a draft paper he was working on in regard to a possible continuation of the Plenary (including the two Governments and the Independent Chairmen) after a settlement in a monitoring role and as a mechanism of appeal in the event of serious problems developing in regard to any of the agreed arrangements. The proposal would include a formal review of the settlement after a period of years. There was a need to ensure, however, that any mechanism of support developed did not serve to encourage paralysis and an easy resort in the event of difficulties. Seamus Mallon welcomed the notion of an ongoing mechanism, but queried the composition of the Plenary - what if some of the parties in the current Plenary were not in a new Assembly? Mr McKee made clear that the question of the composition of the Plenary was open - he saw no difficulty with the Assembly parties being involved.
12. The undersigned briefed on a draft he was working on which suggested that if a settlement were achieved, it was possible that the US and the EU would wish to mark their support of it with a major economic package to be implemented over a period of years and building on the experience of the International Fund for Ireland and the EU's Peace and reconciliation Fund. If that were the case, one could envisage a monitoring role in its implementation for Washington and Brussels. One such model might be a Steering Board at high political level and meeting, say, twice yearly, comprising representatives of the US Administration, the EU, the two Governments and the Northern Ireland Administration.

This would be a means of providing a context for a direct involvement in a post-settlement scenario of the US and the EU in a way which might be helpful from several perspectives.

Policing

13. The meeting closed with a lengthy discussion on the policing issue. Seamus Mallon flagged it as one that was "fundamental to the Talks - if we don't solve it, there won't be an agreement". Mr McKee briefed on research he is working on at present, in tandem with Mr O Floinn's Section, on a possible approach to the issue. In terms of how it might be handled in the Talks, he suggested that one possibility was to seek agreement on precepts and on a time-scale for the implementation of change. This process would have to include reform also of the legal framework within which policing was carried out. In terms of process, one possibility was (as the Committee on the Administration of Justice have recently suggested) the establishment of a high-powered Justice Commission which would have responsibility for overseeing the programme of reform and change over an agreed period, at the end of which power over security would be devolved to a Northern Ireland Administration. Seamus Mallon expressed strong interest in the Commission proposal and saw much merit in it.

14. There was a lengthy exchange on the enormous difficulties and sensitivities involved on all sides in regard to the issue. There was no chance of nationalist acceptance of the RUC as currently constituted in terms of representation, ethos, approach etc. At the same time, unionists had declared the RUC in essence an untouchable issue as far as they were concerned. Mark Durkan argued that an approach which pointed out to the RUC the advantages from its perspective of change and wider acceptability could play a part in securing some unionist openness to discussion of reform. Nonetheless, it was acknowledged that securing agreement on the matter in the Talks will be extremely difficult given the huge gap between the two sides. At the same time, as indicated, Seamus Mallon remained strongly of the view that without agreement at least on a "handling plan", with specific targets and timetables, there will be no agreement in the Talks overall. We agreed to stay in close touch with the SDLP on the issue and Mr McKee will talk further to Seamus Mallon as we develop our thinking in the area. [Comment: The discussion was a timely reminder of the potential of this issue to be an extremely serious impediment to agreement in the Talks as a whole and one to which we will have to pay particular attention, including in terms of the current discussion on key issues and formats.]



T O'Connor
10 December 1997