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Nail

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FILE NOTE

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SECRETARY OF STATE'S MEETING WITH TRIMBLE AND MALLON, 12 JANUARY

The Secretary of State, accompanied by Mr Murphy, Mr Jeffrey and me met David Trimble (accompanied by Michael McGimpsey, David Campbell and David Lavery) and Seamus Mallon (accompanied by Mark Durkan, Colm Larkin and Hugh Logue) shortly after 6.00pm.

2. In response to questions from the Secretary of State, David Lavery and Colm Larkin explained that

- work on finalising the draft of the FM/DFM's report to the Assembly was well in hand and that it should be ready for submission to the FM and DFM the following evening in time for circulation to the Assembly parties on Friday;
- any motion or motions for consideration by the Assembly on Monday would need to be tabled by Thursday lunchtime. Lord Alderdice had said he would not be able to accept amendments which sought to alter the FM/DFM's report, but it was clear that a motion or amendments to note the FM/DFM's report and approve their determination of the number and functions of Ministerial offices would be acceptable.

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3. Mr Trimble intervened at that point to say there was a possibility of a motion being tabled which would invite the Assembly to approve the report in general terms, without amounting to a formal determination of Ministerial offices.

4. He went on to say that he and Seamus Mallon were not actually in a position to make a determination understanding Order 21 as they had not yet complied with all the requirements. (This was a reference to the various gaps and ambiguities in the 18 December agreement's list of Departmental functions, which had been drawn to the FM/DFM's attention. Useful progress had been made the previous week in a meeting between Sir Reg Empey and Mark Durkan in resolving these points; further information had been provided by John Semple at their request; and earlier in the day both official teams had foreseen no difficulty in resolving the outstanding points within the next 36 hours.) Mr Trimble said that the UUP would work at finalising these issues over the next two days "if everything goes smoothly". Asked by the Secretary of State if that was a reference to the question of when the D'Hondt procedure would be triggered, he confirmed that it was.

5. The Secretary of State began to explain that she understood the sensitivities on all sides and was trying to find a way forward which would carry consensus support. Mr Trimble immediately exploited the point to assert that there was no consensus for the Secretary of State to make Standing Orders relating to the D'Hondt procedure so she shouldn't do it. He went to say that the DUP had claimed that the Secretary of State had told them (at their meeting earlier in the afternoon) that she would make the relevant Standing Orders immediately after any determination. The Secretary of State and I denied this. Mr Trimble demanded to know what the Secretary of State's position was and when she replied that she would make a decision in the light of the outcome of the Assembly debate he said that was a "completely unsatisfactory

response" and walked out. At that point, Mr Mallon had not had an opportunity to speak at all.

6. Comment: Mr Trimble's contribution to the discussion, and his tone, had all the hallmarks of a considered course of action. He clearly expected that the Secretary of State would not accede to his request for a guarantee on the timing of D'Hondt and led the brief discussion in that direction. He may also have been fired up by the mischievous DUP claim.

7. The "meeting" subsequently developed into a long, circular and rather disjointed discussion with the SDLP team (which the Secretary of State and Mr Jeffrey left for half an hour in order to meet Sinn Fein). There was much discussion of the history of the relevant draft Additional Standing Orders and analysis of the Unionist position and its likely beneficial effects for Sinn Fein. The key points to emerge were:

- (a) Mr Mallon said very pointedly, several times and in identical terms, that "it is not for us to advise the Secretary of State not to implement the Agreement". He emphasised the point by saying "listen to what I have said: no-one could say fairer than that". When reminded that the Secretary of State and Mr Jeffrey had called on him at lunchtime to explore his position on Mr Trimble's proposal and had received an uncompromising response he asked what else he could possibly have said without becoming an "accessory". It is possible that he was trying to convey the point that any decision not to make the Standing Orders on D'Hondt should be HMG's responsibility and that while he couldn't possibly be seen to advocate it (and would probably publicly condemn it) he wouldn't privately oppose it. Equally, he made clear several times that he thought Trimble's tactics were misguided and counter productive and

that no Government could have responded to Mr Trimble's "blackmail" and retained credibility;

- (b) in response to a rhetorical question from Mallon about what would be different in March I took the opportunity to point out that while there was life there was hope; even in the absence of a formal determination the two Governments could put in place all the legislative and other formal preparations for devolution by early March; that could change the political context by giving Sinn Fein greater certainty that the North/South bodies in particular were about to become a reality; and face Unionists with the increasingly real prospect of actual power. Deferring any crunch would allow these factors to come into play and give time for further patient persuasion of both Unionists (to show a more positive attitude towards inclusive Government and North/South structures) and Republicans (to make a real move on decommissioning). Against that background, a rupture in UUP/SDLP relations would be unhelpful. Mr Mallon subsequently commented (in a slightly different context) that he would do his best to maintain whatever was left of the relationship between him and Trimble;
- (c) when discussing possible scenarios on decommissioning and Executive formation, Mr Mallon made pretty clear that there was no real prospect of the SDLP being prepared to exclude Sinn Fein from office (on the grounds of an IRA failure to commence decommissioning) at any point before the 2nd anniversary of the referendum. He repeated the "solemn guarantee" in his Conference speech that the SDLP would support the exclusion of those who "failed to live up to their obligations" under the Agreement at the 2 year point, and

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confirmed (in response to questions from Nigel Warner) that by this he meant decommissioning, although it would be rash to commit oneself to a requirement for "complete disarmament" as no-one could know when that was achieved.

(Signed)

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