

6 June 1996

SUBSTANTIVE ALL-PARTY NEGOTIATIONS

SCENARIO FOR THE OPENING PLENARY SESSION

PAPER BY THE UK AND IRISH GOVERNMENTS

Introduction

1. The communiqué issued by both Governments on 28 February agreed that an elective process "would lead immediately and without further preconditions to the convening of all-party negotiations with a comprehensive agenda". The two Governments agreed that, following consultations, substantive all-party talks would be convened on Monday 10 June.

2. The Ground Rules paper published in April set out the two Governments' intention that the all-party negotiations should start with an opening plenary session. The Governments are agreed that at this session the requirements of paragraph 12 of the 28 February Communiqué must be fulfilled - that is:

- all participants would need to make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body;
- they would also need to address, at that stage, its proposals on decommissioning;
- confidence building would also require that the parties have reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.

3. In accordance with these undertakings, this paper sets out in more detail the scenario the two Governments propose for the opening plenary session.

Chairman and Procedures

4. The British Government will chair Strand One of the negotiations and the British and Irish Governments will jointly chair Strand Three. The two Governments have decided to invite a group consisting of Senator George Mitchell, General John de Chastelain and Mr Harri Holkeri to play a role in chairing various aspects of the negotiations which require independent chairmanship. They have agreed to invite the chairman of the group, Senator Mitchell, to chair the plenary sessions, to which the various strands and any sub-committees which the plenary may establish will report, and which will periodically review progress across the entire spectrum of the negotiations. The two Governments will also invite Senator Mitchell, with the help of his colleagues, to assist them in giving effect to their joint commitment under paragraph 15 of the Ground Rules. They have also agreed to invite General de Chastelain to provide the independent chairmanship in Strand Two. He would also chair the Business Committee, unless the participants in the negotiations, in accordance with the Ground Rules, were to decide otherwise. They have agreed to invite Mr Holkeri to act as alternate Chairman in any of the independent chairmanship roles. They agree that it will be open to the group to propose alternative options to the two Governments in the light of the requirements of the negotiations or as circumstances warrant.

5. The opening plenary session will be conducted by the Independent Chairman in accordance with rules of procedure drawn up by the two Governments for adoption in plenary. The rules drawn up by the Governments will operate unless and until amended by the participants, on the recommendation of the Business Committee.

Business of the Opening Plenary

6. The proposed agenda for the opening plenary session is attached at Annex A. At the start of the session, the leader of each of the negotiating teams will be asked to make a formal declaration making clear their party's total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. The commitments will then be confirmed in a public statement on behalf of all the participants. In the event of any participant failing to make this clear commitment, the Independent Chairman will report this to the two Governments for their consideration and, after consultation with the other participants, any appropriate action.

7. The plenary session will then move to the appointment of a Business Committee. As envisaged in the Ground Rules paper, the Business Committee would be composed of representatives of the two Governments and of the political parties, chaired by the Independent Chairman of Strand Two or, otherwise, by any person agreed by the participants. Its purpose would be to coordinate the progress and procedures of the negotiations. The Business Committee would not deal with the substance of the negotiations but would address unresolved procedural issues. It would therefore be available to meet during the opening session to provide advice on any such unresolved issues to the plenary. It could also determine the modalities for dealing with any issue which does not fall exclusively within any of the three strands. (It will be open to the parties to agree that certain over-arching issues - for example, human rights - could usefully be addressed in plenary format.)

8. There will then be a round of statements which, as the Ground Rules envisage, will give each delegation the opportunity to set out its approach to the negotiations and its position on key issues.

9. As set out in the agenda for the opening plenary, it will subsequently, if necessary after consideration by the Business Committee, adopt, and commit the parties to negotiate, a

comprehensive agenda for the negotiations. A separate consultation paper is being issued to take the views of parties on the elements of this agenda. The Independent Chairman shall satisfy himself that the agenda provides all the participants with reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.

10. The opening plenary will also address the International Body's proposals on decommissioning. In this context, both Governments confirm their commitment to all aspects of the report of the International Body including their support for the compromise approach to decommissioning set out in paragraphs 34 and 35 which state:

"The parties should consider an approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after as the parties now urge. Such an approach represents a compromise. If the peace process is to move forward, the current impasse must be overcome. While both sides have been adamant in their positions, both have repeatedly expressed the desire to move forward. This approach provides them that opportunity.

In addition, it offers the parties an opportunity to use the process of decommissioning to build confidence one step at a time during negotiations. As progress is made on political issues, even modest mutual steps on decommissioning could help create the atmosphere needed for further steps in a progressive pattern of mounting trust and confidence."

Both Governments agree with the International Body that this approach provides the opportunity to move forward, and that it is on the basis of working constructively to implement this and all other aspects of the Report that the negotiations should be advanced. They will therefore work with all the participants to implement all aspects of the Report.

11. The two Governments have accordingly agreed to invite the Independent Chairman, after open discussion in the plenary, to satisfy himself that there are clear indications of good intent on the part of all the participants to work constructively and in good faith to secure the implementation of all aspects of the Report in the context of an inclusive and dynamic process which builds trust and confidence as progress is made on the issues.

12. Once the Independent Chairman has reported that he is so satisfied, the two Governments will propose that a sub-committee of the plenary, representing all the participants and chaired by the Independent Chairman of the plenary, be established with the attached terms of reference.

13. Once the decommissioning issue has been addressed in this way, the Independent Chairman will make a concluding statement and the opening plenary session will come to an end. The negotiations on the issues in the three strands and the sub-committee will then proceed alongside each other. The Independent Chairman may periodically brief the plenary on the progress made in the sub-committee.

14. The two Governments will also propose that a meeting of the plenary should be held at a suitable date, about the end of September, to take stock of progress in the negotiations as a whole, including the work of the sub-committee. At this meeting, all participants will review the position, and the progress which has been made across the entire spectrum of the negotiations.

Attachments

Annex A. Agenda for opening plenary.

Annex B. Terms of reference for proposed sub-committee on decommissioning.

Opening Plenary Session
Agenda

1. Formal opening by two Governments and hand-over to Independent Chairman.
2. Introductory remarks by Chairman.
3. Participants to make formal declaration making clear their total and absolute commitment to International Body's principles of democracy and non-violence.
4. Public statement on behalf of all participants recording total and absolute commitment to principles.
5. Appointment of Business Committee.
6. Opening statements by the participants.
7. Discussion of comprehensive agenda for negotiations.
8. Discussion of International Body's proposals on decommissioning.
9. Adoption of comprehensive agenda for negotiations and procedural rules.
10. Report of the Chairman for the purpose set out in paragraph 12 of "Scenario for the Opening Plenary Session"; Governments' proposal to establish a sub-committee on decommissioning.
11. Concluding statement by the Independent Chairman.

Proposed Sub-committee on Decommissioning
Terms of Reference

To secure implementation of all aspects of the report of the International Body, including:

- (a) agreement on the modalities of decommissioning on the basis of the guidelines contained in paragraphs 36 to 50 of the Report of the International Body;
- (b) advice to both Governments, in the light of those discussions, on the legislative and practical implications of the course which is recommended; and
- (c) agreement on any other arrangements necessary for implementation of the Report.

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PROCEDURAL GUIDELINES FOR THE CONDUCT OF
SUBSTANTIVE ALL-PARTY NEGOTIATIONS

The following "Procedural Guidelines for the Conduct of Substantive All-Party Negotiations" (hereafter referred to as the "Procedural Guidelines") are intended to supplement the "Ground Rules for Substantive All-Party Negotiations" (hereafter referred to as the "Ground Rules"), published by the two Governments on 16 April 1996. It is proposed that the Ground Rules and the Procedural Guidelines will together serve as the rules of procedure for the negotiations unless or until they are amended or replaced by rules of procedure adopted by agreement among the participants in the negotiations.

Subject to this, and with the exception of the provision in paragraph 20 of the Procedural Guidelines, which has the effect of specifying the scope of application of sufficient consensus as laid down in paragraph 24 of the Ground Rules, the Ground Rules should be taken as the authoritative text in the case of any difference of interpretation between the two documents.

Format

1. According to the Ground Rules, negotiations will be organised so that issues are discussed in the following formats, with appropriate distinctions as to participation and procedural arrangements:

- Plenary
- Strand One
- Strand Two
- Strand Three
- the Business Committee.

Chairing the Negotiations

2. Paragraph 4 of the "Scenario for the Opening Plenary Session" sets out the arrangements as follows:

"The British Government will chair Strand One of the negotiations and the British and Irish Governments will jointly chair Strand Three. The two Governments have decided to invite a group consisting of Senator George Mitchell, General John de Chastelain and Mr Harri Holkeri to play a role in chairing the various aspects of the negotiations which require independent chairmanship. They have agreed to invite the chairman of the group, Senator Mitchell, to chair the plenary session, to which the various strands and any sub-committees which the plenary may establish will report, and which will periodically review progress across the entire spectrum of the negotiations. The two Governments will also invite Senator Mitchell, with the help of his colleagues, to assist them in giving effect to their joint commitment under paragraph 15 of the Ground Rules. They have also agreed to invite General de Chastelain to provide the independent chairmanship in Strand Two. He would also chair the Business Committee, unless the participants in the negotiations, in accordance with the Ground Rules, were to decide otherwise. They have agreed to invite Mr Holkeri to act as alternate Chairman in any of the independent Chairmanship roles. They have agreed that it will be open to the group to propose alternative options to the two Governments in the light of the requirements of the negotiations or as circumstances warrant."

Committees and Sub-Committees

3. Where appropriate, other committees and sub-committees of the negotiations may be established by agreement among the participants in the format to which the sub-group relates. Committees and sub-committees shall be chaired by the relevant chairman or, by agreement among the participants in that format, by a person nominated by the chairman.

Conduct of Proceedings

4. The relevant Chairman will have responsibility for convening, re-scheduling and adjourning meetings, in consultation, as he considers appropriate, with the relevant participating negotiating teams. However, any negotiating team may request an adjournment of up to 10 minutes at a time and the Chairman shall refuse such requests only if they are made with unreasonable frequency.
5. Where any negotiating team does not attend a meeting at a previously agreed time and fails to provide notice of their inability to attend, the Chairman of that meeting may proceed to conduct the meeting in their absence. If a delegation should withdraw temporarily or permanently from any aspect of the negotiations, the Chairman will be free to proceed with business with the remaining participants, notwithstanding such withdrawal.
6. The Chairman of each meeting will be responsible for the orderly conduct of business and will conduct the proceedings so as to allow an opportunity for a fair hearing of all the issues.
7. All remarks shall be addressed through the Chairman. Time limits on interventions may be imposed at the Chairman's discretion.
8. The Chairman's ruling on questions of procedure and order shall be final. In arriving at such rulings the Chairman may apply the rules for determining sufficient consensus set out in paragraphs 20 and 21.
9. The Chairman may at any time ask one or more of the participating negotiating teams to meet him; and will accede to any reasonable request for a meeting from any negotiating team(s).

Opening of the negotiations

10. Paragraph 12 of the Ground Rules specified that negotiations will begin on Monday 10 June with an opening Plenary session. Arrangements for the opening Plenary are set out in the "Scenario for the Opening Plenary Session".
11. Following the conclusion of the opening Plenary, the appropriate Chairmen will convene meetings of the negotiations within the three strands and in the Sub-Committee of the Plenary established to carry forward work on decommissioning.
12. The Independent Chairman of the Plenary may convene further meetings of the Plenary as he considers necessary, in the light of developments across the negotiations as a whole.

Agenda

13. Participants will negotiate in the various formats, committees and sub-committees, on the basis of the comprehensive agenda for the negotiations as a whole, adopted in the opening session of the Plenary, as it relates to their area of competence. They may, by agreement, develop or refine it.
14. The Business Committee shall establish and maintain an indicative calendar for the negotiations as a whole and within the various formats. The timing and duration of meetings in the various formats shall be determined by the relevant Chairman in consultation with the participants in accordance with this indicative calendar.
15. The agenda for each meeting of the negotiations shall be settled by the participants on the basis of proposals put forward by the Chairman in accordance with the overall agenda for the relevant format, and taking into account the indicative calendar and the views of the Business Committee.

Decision-taking

16. The negotiations will operate on the basis of consensus. However, if, in relation to issues whose determination falls outside the discretion available to the Chairman under the Ground Rules or the Procedural Guidelines, it appears to the Chairman, after a reasonable period of discussion, that there is no unanimity, he may follow one or more of the courses of action set out below:
- (a) the Chairman may consult with the participants, with a view to putting forward a solution that he believes will secure agreement; and/or
 - (b) the Chairman may invite the participants to set up a small but broadly representative working group (the composition to be determined by the Chairman after consultation with the participants, but which must, other than in relation to Strand One issues, include nominees of each of the two Governments) to consider the specific issues in dispute within an agreed time scale and, at the discretion of the Chairman, to recommend possible ways forward; and/or
 - (c) the Chairman may seek the agreement of all the participants to refer the matter to a group of experts for advice, requesting a report within an agreed specified period.
17. It will also be open to the participants, acting solely by agreement and only at their instigation, and subject to the provisions set out in paragraph 22 below, to refer the matter to the forum for consideration, requesting a report.
18. If, after the participants have considered any further proposals arising from one or more of the courses of action set out above, it appears to the Chairman that there is no unanimity on a particular point, the Chairman shall have the

discretion to determine whether sufficient consensus, as defined in paragraph 21, exists to allow the negotiations to proceed.

19. Where it does not prove possible to achieve either unanimity or sufficient consensus to proceed, the Chairman will work, in consultation with the participating negotiating teams, to seek to remove obstacles to the reaching of agreement.

Sufficient Consensus

20. The rules for establishing sufficient consensus as described in paragraph 24 of the Ground Rules are set out in paragraph 21 below. In addition to Strands One and Two, sufficient consensus may also apply in the Plenary and the Business Committee. Sufficient consensus may also apply in committees and sub-committees of the Plenary, Strand One and Strand Two and in sub-committees of the Business Committee.
21. A particular proposition may be deemed to have sufficient consensus where the Chairman is satisfied, having regard to the political parties' voting strengths according to the percentage of the valid poll each received Northern Ireland-wide at the elections on 30 May 1996, that it is supported by parties which, taken together, obtained a clear majority of the valid poll and which between them represent a clear majority in both the unionist and nationalist communities in Northern Ireland respectively. With the exception of Strand One, both Governments must also endorse the particular proposition for it to be deemed to have achieved sufficient consensus.

Reference to the Forum

22. The negotiating teams in any format of the negotiations, acting solely by agreement and on the formal proposal of a participant in that format, may direct the relevant Chairman of the format in question to request the members of the forum,

through the Secretary of State, to consider, investigate or discuss a specified subject and to submit a report on that subject to the negotiating teams within a specified period. Any such report from the forum may only be formally taken under notice by the negotiating teams if it has consensus support in the forum in accordance with the forum's rules of procedure.

Liaison arrangements with the Irish Government in relation to Strand One

23. The British Government, as Chairman of Strand One, will keep the Irish Government informed of the progress achieved in Strand One, through liaison arrangements agreed between the two Governments following consultation with the political parties.

Meetings between the Governments and the Political Parties in relation to Strand Three

24. As set out in paragraph 21 of the Ground Rules for substantive all-party negotiations, negotiations on Strand Three issues will be between the two Governments. However, with a view to providing a meaningful role for the political parties, the two Governments will, during the course of their negotiations:

- ensure regular meetings at which the political parties will be briefed and, as appropriate, consulted on progress in the negotiations, and at which they would be able to put forward their views on Strand Three issues under discussion;
- meet the political parties at their request for further discussion of Strand Three issues.

25. To this end, the two Governments will convene regular meetings involving up to three members of the negotiating team of each political party. Such meetings will be co-chaired by the two Governments. The two Governments will also meet negotiating teams at their request, either separately or together.
26. It will be open to the parties to submit their own views, either orally or in writing both on issues under discussion in Strand Three and on any other issues appropriate to Strand Three which the parties may wish to raise. Any response that may be given by the two Governments will be given jointly.
27. The outcome of Strand Three issues will be considered by all the participants alongside the outcome of the other elements of the negotiations as a whole.

Records of Meetings

28. Records of formal meetings will be prepared by note-takers under the general direction of the Chairman of the format within which the meeting takes place. A draft record of each formal meeting will be circulated as soon as possible to the negotiating team of each Government and political party participating in the meeting and will be subject to their approval at the next meeting in that format, or earlier if appropriate.
29. The British Government will provide a team of civil servants responsible for taking the record of formal Strand One meetings. The two Governments will provide a pool of civil servants responsible for taking the record of formal meetings in other formats. The Chairman of the format in question shall appoint note-takers for each meeting from among the officials nominated by the two Governments.
30. The participants in any meeting may, with the agreement of the Chairman of the format concerned, agree to depart from the arrangements set out in paragraphs 28 and 29.

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DRAFT AGENDA FOR SUBSTANTIVE ALL-PARTY NEGOTIATIONS

1. Paragraph 14 of the Ground Rules for Substantive All-Party Negotiations provides that the opening plenary session of the negotiations will adopt a comprehensive agenda for the negotiations which will:

- be in accordance with the necessity for confidence building measures as spelt out in paragraph 12 of the joint Communiqué adopted by the two Governments on 28 February 1996;
- provide reassurance, both in terms of addressing the report of the International Body and ensuring that a meaningful and inclusive process of negotiations is genuinely being offered; and
- include all the significant items which the various negotiating teams consider relevant and which will, therefore, have to be addressed in the search for an agreement.

2. Paragraph 3 of the Ground Rules provides that any participant in the strand in question will be free to raise any aspect of the three relationships, including constitutional issues and any other matter it considers relevant.

3. The attached draft agenda is intended to be compatible with the requirements of paragraph 14 of the Ground Rules and is without prejudice to the provisions of paragraph 3. Consideration of the agenda, therefore, is not at this stage intended to determine whether or not a particular matter should be on the table, but rather to facilitate agreement on an efficient structure for discussion of all the relevant issues which does not prejudice a fair hearing for any of them.

4. A preliminary list of issues which the two Governments consider it necessary, as a minimum, to include on the agenda is attached. (The list of Strand 1 issues for inclusion on the agenda is suggested by the British Government alone.)

OPENING PLENARY SESSION

1. Formal opening by two Governments and hand-over to Independent Chairman.
2. Introductory remarks by Chairman.
3. Participants to make formal declaration making clear their total and absolute commitment to International Body's principles of democracy and non-violence.
4. Public statement on behalf of all participants recording total and absolute commitment to principles.
5. Appointment of Business Committee.
6. Opening statements by the participants.
7. Discussion of comprehensive agenda for negotiations.
8. Discussion of International Body's proposals on decommissioning.
9. Adoption of comprehensive agenda for negotiations and procedural rules.
10. Report of the Chairman for the purpose set out in paragraph 12 of "Scenario for the Opening Plenary Session"; Governments' proposal to establish a sub-committee on decommissioning.
11. Concluding statement by the Independent Chairman.

THE BUSINESS COMMITTEE

1. Consideration of any proposed changes to the rules of procedure drawn up by the two Governments for adoption in plenary.
2. Adoption of an indicative calendar for the negotiations.
3. Possible consideration of draft agenda.
4. Decisions on venues of Strand Two meetings.

STRAND ONE ISSUES

1. Discussion of requirements for a new beginning for relationships within Northern Ireland.
2. Consideration of possible principles and criteria for new arrangements within Northern Ireland.
3. The question of institutional and other practical implications of these discussions.

Topics likely to arise include:

- The constitutional position of Northern Ireland
- The nature of institutional arrangements for and within Northern Ireland, which meet any agreed criteria, including, nature and extent of powers eg legislative, executive, administrative; structures for exercising these powers; safeguards to maintain cross-community confidence and financial arrangements;
- The extent to which present or proposed arrangements attract the assent and support of both sides of the community and ensure equity of treatment;
- Relationships with other institutions eg Westminster Parliament, any new North/South relationships, any new Intergovernmental arrangements and the European Union;

- Consideration of arrangements for the protection of rights
- law and order matters

This list is not comprehensive and other issues may emerge in discussion.

4. Report to Plenary

STRAND TWO ISSUES

1. Discussion of requirements for a new beginning for relationships within the island of Ireland, including fundamental aspects of the problem: underlying realities; identity; allegiance; constitutional.
2. Common interests (including matters such as economic co-operation and development, security co-operation and law enforcement co-operation) and themes.
3. The question of institutional arrangements and any other practical implications to meet agreed requirements (including principles to govern any such arrangements).
4. Relationship of such new institutional arrangements to other structures - eg: UK Government and Parliament; Irish Government and Parliament; Northern Ireland structures; Irish-UK intergovernmental structures; the European Union.
5. Measures for the guarantee and protection of rights.
6. Consequential measures needed to implement, support and underwrite such new structures.
7. Report to Plenary.

STRAND THREE ISSUES

1. Opening presentations by the two Governments.
2. Establishment of necessary mechanisms to provide a meaningful role for the political parties in respect of Strand Three issues.
3. Examination of the causes of the conflict in Northern Ireland, its impact and its implications for the two Governments.
4. Principles and criteria which should underpin new arrangements, including requirements to acknowledge and recognise the rights of the two major traditions that exist in Ireland.
5. The question of institutional arrangements and provisions of any new agreement or structure.
6. Arrangements needed to implement, support and underwrite any new agreement or structure.
7. Constitutional issues.
8. Consideration of arrangements for the protection of rights.
9. Arrangements for the approval and implementation of a comprehensive agreement.
10. Report to Plenary.

CONCLUDING PLENARY SESSION

- 1 Consideration of outstanding issues arising from the three strands and the sub-committee on decommissioning.
- 2 Consideration of arrangements for the approval and implementation of a comprehensive agreement.