

FAX SHEET

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de Rossa & Taylor; Attorney
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Coveney; Messrs. Teahon,
Donlon & Dalton; Amb.
London and Washington; Joint
Secretary; Counsellors A-I.

To: Second Secretary, DFA

Date: 17 July 1996

From: David Cooney, Belfast

SDLP and UUP proposals on the rules of procedure

previously
circulated

I attach a table prepared by the Chairman setting out the respective positions of the SDLP and the UUP on the Rules of Procedure which was given to us in confidence this morning. The Chairmen met with Trimble this morning and with Sean Farren and Alex Attwood of the SDLP this afternoon. We discussed the situation with the British Government (Ancram) this morning and subsequently have had two meetings with the Independent Chairmen - the first jointly with the British Government, the second on our own. We also spoke to Farren and Attwood, following their meeting with the Chairmen.

The Chairmen are working with the UUP and the SDLP with a view to achieving an agreed text, if possible by close of business tomorrow. In the meantime, the British have given Trimble a copy of the draft agenda for the opening plenary agreed with us some weeks ago. According to them, Trimble's reaction was reasonably positive and they are now of the view that the time is right to try and force a decision on the Rules and the agenda. It was agreed that we would pass a copy of the draft agenda to the SDLP, which we have done.

The present intention of the two Governments and the Chairmen is that, if agreement on the rules and the agenda can be reached with the SDLP and the UUP by tomorrow night, the documents would be circulated to all parties on Monday morning and an effort made to sell the agreement more widely before re-convening the plenary on Monday afternoon and proceeding to formal adoption, if necessary by sufficient consensus.

Obviously, these intentions have not yet been signalled other than to the UUP and the SDLP.

The following is a brief analysis of the outstanding points on the Rules of Procedure in the light of today's discussions.

Paragraph UK1

The UUP want to delete all reference to the Ground Rules paper. The British have indicated that, like us, they would oppose this. However, they would be prepared to live with a simple reference to Command paper 3232 and to drop the reference to the title, currently contained in brackets.

Comment: While we would obviously prefer a specific reference to the Ground Rules, the British fall-back of limiting the reference to the Command Paper would appear to be a compromise which we could live with. So, it appears, could the SDLP.

Paragraph UK1A

The UUP have suggested replacing "conduct" with "proceedings and outcome".

Comment: We had originally suggested that UUP concerns might be met by replacing "conduct" with "procedures and outcome". Obviously "proceedings" has a potentially broader interpretation than "procedures" and, it could be argued, could potentially have the effect of excluding any reference to the Ground Rules. However, the British appear relaxed on this point and the Chairman expressed the view that it was not one on which the discussions should break down. At our meeting with the Chairmen we said that we could live with "conduct and outcome" if this would help.

Paragraph 15

There are two points of difference here.

The first point relates to the procedure for the adoption of the comprehensive agenda and Unionist concerns that the Dublin Government should have no role in the adoption of the agenda for Strand One. The UUP have suggested that the agenda be "adopted by agreement by the relevant participants in the opening plenary", instead of, as is currently proposed "in the opening plenary, as it relates to the participants' area of competence".

Comment: The UUP proposal retains the ambiguity of the present text and does not appear to present a substantial problem.

The second point relates to the sentence giving participants the right to raise any significant issue of concern to them. The SDLP have proposed that the phrase "to receive a fair hearing on those concerns" be dropped. The UUP have omitted the entire sentence on the understanding that the SDLP were to come back with compromise language.

Comment: It is hard to understand the purpose of the SDLP's amendment. While they were unhappy with the term "to receive a fair hearing on those concerns", which they considered to be too weak, by deleting it they have set up a situation whereby participants could raise any issue that they wished but with no guarantee that other participants would be obliged to address such issues.

The text tabled by the two Governments remains on the table. The language in the comments column is to be amended to reflect that the SDLP text differs from the text proposed by the British and Irish Governments. We have persuaded the SDLP of the need to retain an obligation on the participants to address issues raised by others. We have agreed to assist them in finding an acceptable compromise.

Paragraph 17A

The UUP propose replacing "procedures and substance" with "proceedings and outcome".

Comment: This is essentially the same point as at paragraph 1A. The Chairman explained that the UUP had agreed to exchange "outcome" for "substance" in return for replacing "procedures" with "proceedings".

Whatever about the substance of this point, the question should be asked as to why it is necessary to repeat the same point twice in the Rules of Procedure.

Paragraph 17

The UUP are proposing the omission of the words "the indicative calendar and".

Comment: The Chairman and the British are in agreement that the UUP amendment is consequential on the earlier agreement to omit the obligation on the Business Committee to draw up an indicative calendar. It is difficult to refute the logic of this point.

Paragraph UK - amended GR 17

The UUP propose the omission of the words "in the negotiations" and the inclusion of the language in Ground Rule 17 citing the example of resorting to force etc. to influence the course or the outcome of the negotiations. They also propose that instead of the independent Chairman referring formal representations to the two Governments, that they should be referred to the British Government alone.

The Chairman sees no problem with the omission of "in the negotiations", which he claims is merely stylistic. There seems to be no reason why we should have a problem with this. The Chairman is also in favour of the inclusion of the language from the Ground Rules on resorting to force etc. Apparently the UUP have sought to include this language in order to illustrate that, whatever the truth behind the allegations concerning their incitement of violence over the last few days (and they obviously reject them), they were not in breach of the Mitchell principles because they were not seeking to influence the course or the outcome of the negotiations. However hollow these arguments, we should accept their amendment which would bring the Rules of Procedure into closer conformity with the Ground Rules.

As regards the UUP proposal that complaints regarding non-compliance with the Mitchell principles be referred solely to the British Government, the British are adamant that they do not want to be the sole recipients of this poisoned

chalice. They informed the Chairmen, in our presence, that representations had to be referred to the two Governments for appropriate action.

2. Adoption of Rules of Procedures.
3. Establishment of Business Committee.
4. Opening Statements.
5. Consideration of International Body's proposals on decommissioning:
 - (a) Discussion of proposals.
 - (b) Participants' commitment to work constructively to implement all aspects of Report of International Body.
 - (c) Consideration of mechanisms necessary to enable further progress to be made on decommissioning alongside negotiations in three strands.
6. Discussion of comprehensive Agenda for negotiations.
7. Adoption of comprehensive Agenda.
8. Establishment of agreed machinery to carry forward work on decommissioning, launch of three-stranded negotiations.
9. Concluding remarks by Independent Chairman.

17 July 1996

PROPOSED AGENDA FOR RESUMED OPENING PLENARY

1. Adoption of Agenda for Opening Plenary.
2. Adoption of Rules of Procedures.
3. Establishment of Business Committee.
4. Opening Statements.
5. Consideration of International Body's proposals on decommissioning:
 - (a) Discussion of proposals;
 - (b) Participants' commitment to work constructively to implement all aspects of Report of International Body;
 - (c) Consideration of mechanisms necessary to enable further progress to be made on decommissioning alongside negotiations in three strands.
6. Discussion of comprehensive Agenda for negotiations.
7. Adoption of comprehensive Agenda.
8. Establishment of agreed machinery to carry forward work on decommissioning; launch of three-stranded negotiations.
9. Concluding remarks by Independent Chairman

Legend: Differences indicate differences between the UNDP and UNCTAD texts.