

## COPY TO:

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Summary Report (24 July)

MR. CALLAGHAN

Confidential

OST, PSS, Ministers Owen  
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General, Minister of State  
Coyne, Messrs. Teanon,  
Dillon & Dalton, Amos,  
London and Washington, Joint  
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1. For much of the day, the Chairman carried out further consultations with the UUP, the DUP and the SDLP on the draft rules and reported developments at intervals to the two Governments. His compromise text reflecting an agreed outcome of this work (attached - NEG 3/96) was finally circulated to the other delegations at 6pm. The informal round-table session to consider this text was convened at 6.30pm and concluded at 10.30pm.
2. An unwelcome development was the DUP's notification to the Chairman, very shortly before this session began, that they wished to table a number of amendments which might be discussed when the session resumes tomorrow. They indicated privately that they expected these amendments to be voted down and were essentially going through the motions. They were also willing to accept a time limitation for debating them (a few minutes each). Pointing out that it would in any event not be possible to agree the rules ahead of Monday's Plenary, they proposed that the round-table group would agree that the first item of business at that Plenary should be the adoption of the decision-making section of the draft rules (which enshrines sufficient consensus). This would permit the subsequent adoption of all the other rules.
3. Senator Mitchell was attracted to the DUP proposal as it appeared to hold out the prospect of avoiding a lengthy dispute at this evening's session on the issue of where authority to take the rules towards decision resided. He was not inclined to view it as a delaying tactic. He understood, furthermore, that the UUP and the UKUP supported it (including the time-limitation aspect).
4. The two Governments warned that there would be a strong reaction from other delegations to an attempt to extend an already extraordinarily protracted negotiation and to reopen matters which had been settled, after hard-fought compromises all round, in the Chairman's text. There was no guarantee that a time-limitation undertaking would be honoured by each of the Unionist parties. Moreover, valuable time which had been earmarked for discussion of the agenda would be lost.
5. These and many other concerns were indeed voiced by the SDLP and most other delegations during this evening's session. The general theme was that, after forty days of exhaustive consultation on these rules, the time had come to decide on them. The Secretary of State mentioned a view, inside and outside the talks, that "enough was enough" and the Minister for Justice strongly endorsed his remarks. The two Governments and eight parties signalled their clear support for the Chairman's text.
6. The DUP duly circulated nine amendments, all of which were familiar from earlier exchanges (attached - NEG 4/96). The UUP said it would not be putting forward amendments, and anticipated decision on these rules next Monday, but expressed support for some of the DUP amendments (not specified).

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7. It was ultimately agreed that parties would be free to table amendments up to 11am tomorrow (but no later) and that these would be considered at tomorrow's session.
8. An additional complication was created this evening by the behaviour of the UKUP representative (Paddy Roche, in McCartney's absence on holiday). Announcing that his party would also be tabling amendments, Roche indicated that one of them would relate to sufficient consensus. The Chairman pointed out that, combined with the DUP proposal, this could have the effect of preventing any decisions being taken on any matter by the round-table group and would, accordingly, have very serious consequences for the talks.
9. The row which subsequently developed may have arisen to some extent from ignorance on the part of Roche, an infrequent attendee, about the position taken by his own delegation earlier in the talks on a matter which, it was agreed, would be handled in the form of a resolution to be moved by the Chairman in Plenary. A number of sallies by the DUP to rescue Roche did not appreciably reduce his isolation. The evening concluded with the Chairman supplying him with a draft of the resolution in question and agreeing to discuss it with him. The episode deepened suspicions on all sides about UKUP intentions in relation to the talks.
10. The second major development today was agreement by the two Governments on a joint paper which will circulate to delegations the proposed agenda for the opening Plenary (as agreed between us on 20 June) and propose the completion prior to the recess of the decommissioning discussion and the discussion/adoption of the comprehensive agenda. This paper also proposes that the three-stranded negotiations would begin no later than 16 September. It will be distributed early on Thursday morning, partly with a view to providing an alternative focus for discussion in the round-table session (which resumes at 10am).
11. In addition to a round of meetings with the Chairmen and the British Government, the Government delegation had bilateral contact today with the SDLP and the NIWC.

David Donoghue  
24 July 1996

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**Rules of Procedure: Chairmen's Compromise Text**

1. (UK 1) The negotiations to which these rules of procedure refer and whose conduct they are intended to govern are, as provided for by Section 2(1) of the Northern Ireland (Entry to Negotiations, etc) Act 1996, the negotiations referred to in Command Paper 3232 published on 16 April 1996.
2. (UK 1A) The conduct and outcome of these negotiation is exclusively a matter for those involved in the negotiations. These rules of procedure are adopted as the single set of rules governing the conduct of the negotiations. These rules can only be amended by agreement, in accordance with the decision-making process outlined in paragraphs 30 through 35, following discussion in the Business Committee.

Structure of Negotiations

3. (2) Negotiations will be organised so that issues are discussed in the following formats:

- Plenary;
- Strand One;
- Strand Two;
- Strand Three; and,
- a Business Committee.

Strand One will cover the relationships within Northern Ireland, including the relationship between any new institutions there and the Westminster Parliament; Strand Two will cover relationships within the island of Ireland; and Strand Three will cover relationships between the British and Irish Governments. Negotiations on Strand One issues will involve the British Government and the political parties. Negotiations on Strand Three issues will be between the two Governments. Negotiations in all other formats will involve the British and Irish Governments and the political parties.

4. (3) The British Government will chair Strand One of the negotiations and the British and Irish Governments will jointly chair Strand Three. Senator George Mitchell, General John de Chastelain and Prime Minister Harri Holkeri will chair the various aspects of the negotiations which require independent chairmanship, as follows:

(3)

- Senator Mitchell (Plenary);
- General de Chastelain (Strand Two and the Business Committee); and
- Prime Minister Holkeri (Alternate Chairman for the Plenary, Strand Two and the Business Committee).

5. (4) Where appropriate, other committees and sub-committees of the negotiations may be established 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.

#### Role and Responsibility of Chairmen

6. (5) The designated Chairmen shall preside over all the business of the negotiations and will exercise their functions impartially at all times.
7. (6) The Chairmen will moderate in all meetings to allow an opportunity for full discussion of issues on the agenda, guided by the aim of securing agreement of as broad a spectrum of participation as is possible, and doing so as expeditiously and efficiently as possible.
8. (7) In their conduct of these proceedings, all Chairmen will be governed by these rules of procedure, having due regard to the views of the Business Committee on the arrangements of business and the exercise of their functions.
9. (8) The Chairmen will be bound by the same requirement for confidentiality as the participants.
10. (9) The Chairmen may bring forward specific suggestions if it is regarded as helpful by the relevant delegations.

#### Sequence of the Negotiations

11. (10) Following the conclusion of the Opening Plenary, the appropriate Chairmen will convene meetings of the negotiations within the three strands and any committees or sub-committees subject to their having regard to the views of the Business Committee. Negotiations in each strand will open on the same day and proceed in parallel, consistent with the provisions of paragraph 14.

12. (11) The Independent Chairman of the Plenary may convene further meetings of the Plenary if he considers such meetings to be necessary in the light of developments across the negotiations as a whole. He shall, in addition, convene further plenary meetings at the request of the Business Committee.

#### Business Committee

13. (12) The Business Committee shall comprise up to two representatives of each participating delegation. It will co-ordinate the progress and procedures of the negotiations. It will not deal with the substance of the negotiations but will address unresolved procedural issues. It may also determine the modalities for dealing with any issue which does not fall exclusively within any of the three strands.
14. (13) The timing and duration of meetings in the various formats shall be determined by the relevant Chairman, having due regard to the views of the participants. However, unless otherwise agreed by the Business Committee, negotiating sessions in different formats, or within formats, will not be held simultaneously, to allow participants, if they so wish, the option of fielding the same negotiating team throughout the negotiations.
15. (14) The Business Committee will be available to advise the Chairmen on the day-to-day exercise of their responsibilities and to facilitate communication between participating delegations and the Chairmen.

#### Conduct of the Proceedings

16. (15A) All participants in the negotiations will negotiate in good faith, seriously address all aspects of the agreed agenda, and make every effort to reach a comprehensive agreement. They will maintain confidentiality on all aspects of the negotiations except where they may from time to time agree to publicity.



(7)

17. (15) The negotiations in the various formats, committees and sub-committees, will be on the basis of a comprehensive agenda for the negotiations as a whole, adopted by agreement in the opening plenary, as it relates to the participants' area of competence. Without prejudice to any participant's negotiating position, each participant will be able to raise any significant issue of concern to them and receive a fair hearing for those concerns without their ability to do so being subject to the veto of any other party in the negotiations. Participants may, by agreement, develop or refine the comprehensive agenda.
18. (17A) Any participant in the format in question will be free to raise any aspect of the three relationships, including constitutional issues and any other matter which it considers relevant. The conduct and outcome of the negotiations will be exclusively a matter for the relevant participants. No negotiated outcome is either pre-determined or excluded in advance or limited by anything other than the need for agreement. Participation in negotiations is without prejudice to any participant's commitment to the achievement by exclusively peaceful means of its preferred options. It is common ground that any agreement, if it is to command widespread support, will need to give adequate expression to the totality of all three relationships.
19. (17) 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 in the relevant format, and taking into account the advice of the Business Committee.
20. (16) The relevant Chairman will have responsibility for convening, re-scheduling and adjourning meetings, having due regard to the views of the Business Committee or, as appropriate, of the relevant participants. It is understood, however, that any delegation may request an adjournment of up to 20 minutes at a time and the Chairman shall refuse such requests only if they are made with unreasonable frequency.
21. (15B) Strand One negotiations will take place in Castle Buildings, Belfast. Strand Two negotiations will take place in Belfast, Dublin and London, at times agreed by the Business Committee. The two Governments will determine where Strand Three meetings will take place. The Business Committee shall determine the venue of its own meetings.

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22. (15C) The negotiations shall normally occur only on Mondays, Tuesdays and Wednesdays.
23. (18) Where any negotiating team does not attend at a previously agreed time and fails to provide notice of their inability to attend, the Chairman of that meeting and the remaining participants may proceed to conduct the meeting in the absence of that team or teams. If a delegation should withdraw temporarily or permanently from any aspect of the negotiations, the Chairman and the remaining participants will be free to proceed with business with the remaining participants, notwithstanding such withdrawal.
24. (19) All remarks shall be addressed through the Chairman, who may time-limit interventions at his discretion.
25. (20) The Chairman's ruling on individual procedural matters shall be binding. In arriving at such rulings, the Chairman may apply the rules for determining sufficient consensus as set out in paragraphs 30 through 35.
26. (21) The Chairman may at any time seek a meeting or accede to a request for a meeting with any participating delegation or group of delegations.
27. (22) Any written submissions which may be received from other groups or individuals will have no status.
28. (20A) Participating political parties may only be represented at formal meetings of the Plenary, or to discuss Strand One, Strand Two or Strand Three issues, by elected delegates. Such delegates may be supported in meetings by researchers or others who are not elected. The numbers of delegates and supporters participating in any one meeting shall be agreed by the Business Committee.
29. (GR17) If, during the negotiations, a formal representation is made to the Independent Chairmen that a participant is no longer entitled to participate on the grounds that they have demonstrably dishonoured the principles of democracy and non-violence as set forth in the Report of 22 January 1996 of the International Body, this will be circulated by the Chairmen to all participants and will be subject to appropriate action by the Governments, having due regard to the views of the participants.

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### Decision-Making

30. (23) The negotiations will operate on the basis of consensus. If 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. consult with the participants, with a view to putting forward a solution that he believes will secure agreement; and/or,
  - b. invite the participants to set up a broadly representative working group, including nominees of both Governments (or of the British Government alone in the case of Strand One issues); and/or,
  - c. obtain the agreement of the participants to refer the matter to an agreed group of experts for advice, requesting a report within an agreed specified period.
31. (24) 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 37 below, to refer the matter to the forum for consideration, requesting a report.
32. (25) If, after the participants have considered any further proposals arising from one or more of the courses of action set out above, there is no unanimity on a particular proposition, the Chairman may propose that negotiations proceed on the basis that the proposition has been approved by sufficient consensus, as defined in paragraph 34.
33. (26) Sufficient consensus may apply to all decisions taken in any format.
34. (27) A proposition would be deemed to have sufficient consensus when supported by participating political parties which, taken together, shall have obtained a majority of the valid votes cast in the elections held on 30 May 1996 and which between them represent a majority of both the unionist and nationalist communities in Northern Ireland respectively and which also constitute a majority of the participating political parties. With the exception of Strand One, both Governments must endorse the particular proposition for it to be deemed to have sufficient consensus.



(10)

35. (28) Where it does not prove possible to achieve either unanimity or sufficient consensus, the Chairman will work, in consultation with the participants, to remove obstacles to the reaching of agreement, or, with the agreement of the participants, may decide to move on to the next item on the agenda.
36. (28A) The negotiations will proceed on the principle that nothing will be finally agreed in any format until everything is agreed in the negotiations as a whole. Subject to this principle, it would nevertheless be possible, solely on the basis of agreement among the participants, to proceed on the assumption of contingent agreement on any individual aspect of the negotiations.

Referral to the Forum

37. (29) The negotiating teams in any format of the negotiations, by agreement and on the formal proposal of the participants 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 according to the forum's rules of procedure.

Liaison Arrangements with the Irish Government in Relation to Strand One

38. (30) The British Government, as Chairman of Strand One, will keep the Irish Government informed and will report on the status, as determined by the Strand One participants, of the Strand One negotiations.

Meetings Between the Governments and the Political Parties in Relation to Strand Three

39. (31) 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:

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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; and,

meet the political parties at their request for further discussion of Strand Three issues.


40. (32) To this end, the two Governments will convene regular meetings involving up to three members of the negotiating team of each political party.
41. (33) In addition, in relation to Strand Three issues, each political party, acting independently or in conjunction with others, may, on its initiative or otherwise, confer with either or both Governments in order to consult on issues under discussion and advance its own views, orally or in writing. In response, each Government will explain its own views and take full account of those put to it by the parties.
42. (34) The outcome of the 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

43. (35) 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 of that format, or earlier if appropriate.
44. (36) 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.

**DUP Amendments to Chairman's Compromise Text of 24/07/96**

EC-4/96

(12) 

**Rule 1** Delete the words "the negotiations referred to in Command Paper 3232 published on 16 April 1996" in lines 4 and 5.

**Rule 2** Delete the words "the conduct of" in lines 3 and 4.

**Rule 3** Insert "Opening" before "Plenary" in line 3.

**Rule 4** Delete "Senator George Mitchell, General John de Chastelain and Prime Minister Harri Holkieri will chair the various aspects of the negotiations which require independent chairmanship as follows:

- Senator Mitchell (Plenary)." [lines 3-6]

**Rule 12** Delete entire rule.

**Rule 16** Replace "all aspects of" with "all subjects on" in line 2.

**Rule 18** Delete the final sentence beginning "It is common ground....."

**Rule 28** Insert "opening" before "Plenary" in line 2.

**Rule 29** Replace "Governments" with "Government" in line 7.