

IN CONFIDENCE

B18.

FROM: MRS D E McNALLY  
Political Development Team  
3 July 1996

P.A.B.

04 JUL 1996

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cc PS/PUS (B&L)  
PS/Sir David Fell  
Mr Thomas (B&L)  
Mr Bell  
Mr Leach (B&L)  
Mr Watkins  
Mr Lavery  
Mr Maccabe  
Mr Stephens  
Miss Harrison (B&L)  
Mr Whysall (B&L)

FILE NOTE

DRAFT RULES OF PROCEDURE

Please find attached the latest composite draft of the Rules of Procedure produced by the Chairman's staff.

*D E McNally*

MRS D E McNALLY  
Political Development Team

J. McKEWILL ✓

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IN CONFIDENCE

BB/SSTALKS/361



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The placing of paragraph numbers within square brackets indicates that the paragraph in question has not yet been agreed. Paragraphs not so indicated are understood to have been approved on a provisional basis.

Legend:

Agreed deletions

[Text still under discussion]

*Compromise language and new proposals put forward by participants*

~~Proposed deletions~~

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- [1]. These rules of procedure are adopted for the substantive negotiations and can only be amended by agreement, in accordance with the decision-making process outlined in paragraphs 23 through 28. (17)

(SDLP proposed amendment):

[1]. These rules of procedure are adopted for the substantive all-party negotiations and can only be amended by agreement, in accordance with the decision-making process outlined in paragraphs 23 through 28. *In the event of any conflict of interpretation arising between the following rules of procedure and the Ground Rules Document (Cm. 3232) the relevant Chairman shall take the Ground Rules Document to be the authoritative text.*

(DUP and UKUP proposed amendment):

- [DU.1] *The negotiations to which these rules of procedure refer and whose conduct they are intended to govern are those referred to in Section 2(1) of the Northern Ireland (Entry to Negotiations etc.) Act 1996 (hereafter referred to as the "Act").*

(DUP and UKUP proposed amendment):

- [DU.3] Command Paper 3232 save in so far as it identifies the negotiations to which these rules of procedure will apply (paragraph 1) and the requirements with which the respective negotiations teams must comply in order to participate (paragraphs 8 and 9) shall have no force or binding effect upon the negotiations nor shall it offer any limitations upon it as a body determining its own rules of procedure for the conduct of the negotiations and the extent of their subject matter.



## Structure of Negotiations

- [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. (3)

(British and Irish Governments proposed amendment):

*[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.]*

- [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:

- 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). (3)

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

5. The designated Chairmen shall preside over all the business of the negotiations and will exercise their functions impartially at all times.



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.
- [7]. All Chairmen will operate within these rules of procedure, having due regard to the views of the Business Committee on the arrangement of business and the exercise of their functions.

(DUP proposed amendment relating to paragraph 7, above):

[DU22] *The role and function of the Independent Chairpersons shall not extend beyond that set out in these rules of procedure.*

(UUP proposed amendment relating to paragraph 7, above):

[UU.2] *The duties, functions and powers of the chairmen will be such as are determined by the participants.*

(UKUP proposed revision to paragraph 7):

*All Chairmen will operate within, and not extend beyond, 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.*

(British and Irish Governments proposed revision to paragraph 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.*

(Subsequent DUP proposed revision to paragraph 7):

*In their conduct of these proceedings, all Chairmen will be governed exclusively 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.*

(UUP proposed revision to paragraph 7):

*In their conduct of these proceedings, all Chairmen will be governed solely 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.*

#### Business Committee

12. The Business Committee shall comprise up to two representatives of each participating delegation.



(DUP and UKUP proposed amendment relating to paragraph 7, above):

[DU.4] *The duties, functions and powers of any chairperson will be only such as are granted to him by these rules of procedure as determined by the teams of delegates participating in the negotiations acting as a body in accordance with these rules of procedure only and any duties, functions or powers purported to be given to any chairperson by the papers dated 6 June 1996 (Scenario for the Opening Plenary, Procedural Guidelines for the Conduct of All Party Negotiations and Draft Agenda for Substantive All Party Talks), or in any other documents shall be of no force or effect save in so far as any of them may be incorporated into these rules of procedure in accordance with such procedure for obtaining the necessary agreement of the parties for so doing.*

- [8]. The Chairmen will be bound by the same requirement for confidentiality as participants. (9)

N.B. Proposed paragraph DU.21, regarding public comments by the Chairmen, has been incorporated into paragraph 15A, below.

- [9]. The Chairmen may bring forward specific suggestions, but only [after consultation with] the relevant delegations to establish that it would be regarded as helpful. (9)

#### Sequence of the Negotiations

- [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 [co-ordination with] the Business Committee. Negotiations in each strand will open on the same day and proceed in parallel, consistent with the provisions of paragraph 13. (7, 15)
- [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]. (16)

#### Business Committee

12. The Business Committee shall comprise up to two representatives of each participating delegation.



- 12A. The Business Committee 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.
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.
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

- [15]. 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 Plenary, as it relates to their area of competence. They may, by agreement, develop or refine it. (18)

(British and Irish Governments proposed amendment):

- [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, that agenda will be such as to enable each participant to raise any significant issue of concern to them and to 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)

(NIWC proposed amendment):

- [15]. *The negotiations* in the various formats, committees and sub-committees *will be*, on the basis of the comprehensive agenda for the negotiations as a whole, adopted by agreement in the Opening Plenary, as it relates to their area of competence. They may, by agreement, develop or refine it.



(UDP proposed amendment):

[15]. 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 by agreement in the Opening Plenary, as it relates to their area of competence. *That agenda will, by agreement, include all the significant items which the participants consider relevant and which will, therefore, have to be addressed in the search for agreement. Participants may, by agreement, develop or refine it.*

(British and Irish Governments proposed amendment, incorporating DU.21):

[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. For the duration of the process, Independent Chairmen will not be expected to make any public comment relevant to the talks unless requested to do so by the participants.*

(N.B. The text of UU.1 as originally proposed is as follows:

*For the duration of the process, Chairpersons will not be expected to make any public comment. However, should the need arise they shall obtain the approval of the heads of participating Delegations before doing so).*

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.

[15C]. *The negotiations shall normally occur only on Mondays, Tuesdays and Wednesdays.*

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.



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 indicative calendar and the advice of the Business Committee.

(British and Irish Governments proposed amendment, incorporating UU.1):

- [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 procedures and substance of the negotiations will be exclusively a matter for the relevant participants.] No 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.*

(N.B. The text of UU.1 as originally proposed is as follows:

*The procedures and substance of the negotiations will be exclusively a matter for ~~those involved~~ the relevant participants. No outcome from this process can either be predetermined or excluded and the only limitation placed upon it will be the mechanisms for agreement arrived at in accordance with paragraphs 23 to 28).*

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.
19. All remarks shall be addressed through the Chairman, who may time-limit interventions at his discretion.
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 and 31.



[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.

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.

22. Any written submissions which may be received from other groups or individuals will have no status.

#### Decision-Making

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.

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 34 below, to refer the matter to the forum for consideration, requesting a report.

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 27.

26. Sufficient consensus may apply to all decisions taken in any format.



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.

(UKUP proposed amendment):

[27A]. *While Rule 27 defines sufficient consensus for the purpose of decisions in each format, it shall be necessary in the case of any determination of the outcome of these negotiations as a whole to obtain such a [substantial] level of consensus as will give [political efficacy] to any final action on a comprehensive agreement.*

(N.B. It was also proposed that a statement relating to the support required for any comprehensive agreement be considered separately by the Plenary).

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.

- 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

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

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

- [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]:
- [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]. (29)
32. To this end, the two Governments will convene regular meetings involving up to three members of the negotiating team of each political party.
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.
- [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.] (32)

(DUP and UKUP proposed amendment):

(DU.3) The teams of delegates participating in such negotiations shall be those who from time to time comply with the requirements of Section 1(2) of the Act, as defined in paragraphs 3 and 9 of Command Paper 3232.



## Records of Meetings

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.
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.

\* \* \*

(UUP proposed amendment):

[GR17] *If, during the negotiations, any party demonstrably dishonoured its commitment to the principles of democracy and non-violence set out in the report of the International Body by, for example, resorting to force or threatening to use force to influence the course or the outcome of the negotiations, or failing to oppose the efforts of others to do so, it would no longer be entitled to participate in the negotiations.*

(British Government proposed amendment):

*[If, ~~in the conduct of~~ during the negotiations, a formal representation is made that a participant is no longer entitled to participate in the negotiations on the grounds that they have demonstrably dishonoured the principles of democracy and non violence, the Independent Chairmen will refer this representation to the two Governments for their consideration and, ~~after consultation with~~ having due regard to the views of the participants, [any] appropriate action.]*

(DUP and UKUP proposed amendment):

[DU.2] *The teams of delegates participating in such negotiations shall be those who from time to time comply with the requirements of Section 2(3) of the Act, as defined in paragraphs 8 and 9 of Command Paper 3232.*