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FROM: JOHN MCKERVILL
26 June 1996

POLITICAL AFFAIR
DIVISION

26 JUN 1996

N.I.O. BELFAST

cc PS/Secretary of State(L+B)-B
PS/Sir John Wheeler(L,B+DFP)-B
PS/Michael Ancram(L,B+DENI)-B
PS/Malcolm Moss(L,DOE+DHSS)-B
PS/Baroness Denton(L,DED+DANI)-B
PS/PUS(L+B)-B
PS/Sir David Fell-B
Mr Thomas(L+B)-B
Mr Bell-B
Mr Legge-B
Mr Leach(L+B)-B
Mr Steele-B
Mr Watkins-B
Mr Wood(L+B)-B
Mr Beeton-B
Mr Currie-B
Mr Hill(L+B)-B
Mr Lavery-B
Mr Maccabe-B
Mr Perry-B
Mr Stephens-B
Ms Checksfield-B
Miss Harrison(L+B)-B
Ms Mapstone-B
Mr Whysall(L+B)-B
Ms Collins, Cab Off (via IPL)-B
Mr O'Mahony, TAU-B
Mr Lamont, RID-B
HMA Dublin-B
Mr Westmacott, (via RID)-B
Mr Campbell-Bannerman-B
Mrs McNally(L+B)-B

Handwritten notes:
1. De Smyth
2. Mr H. V. 3/7
3. Mrs Black
m/b

File Note

TALKS: TUESDAY 25 JUNE 1996

Summary

A day when full all-party conferral sessions took over from bilaterals. However, despite the clear wish and intention of the Chairman and the majority of delegations to examine, paragraph by paragraph, the composite draft Rules of Procedure circulated that morning along with parties' amendments, the day developed into yet

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another sterile debate on the state of the Ground Rules. The DUP, UKUP and UUP sought clarification, principally from the Irish Government team (who had fielded their second eleven - Spring, Owen and de Rossa were absent and O'hUiginn disappeared mid-afternoon) of which aspects of the Ground Rules were so important 'that no negotiating process could be envisaged without them'. This led to demands from the DUP and UKUP for the Ground Rules to be analysed and broken down into categories.

2. An inspired proposal from Mitchell, who resumed the Chair from the less effective Holkeri at 1700, for the parties to submit their assessment of and reasons for their attachment/non-attachment to Ground Rules, ensured that the following day would be given over to examination of the Rules of Procedure. Attempts to produce a clear concise statement of the two Governments' position on Ground Rules in order to take matters forward failed through seeming lack of engagement or commitment on the part of the Irish.

Detail

3. Proceedings began at 10.08 with a proposal from Holkeri that delegations should make introductory remarks following which, the Rules of Procedure and the amendments which his staff had circulated that morning, should be examined on a paragraph by paragraph basis. That session was adjourned 10 minutes later until 1100 in order to allow delegations further time to study the revised Rules.

4. The resumed session commenced with opening statements by the two Governments. Michael Ancram began by stating his belief that the two Governments' amendments charted a way through the difficulties encountered the previous week. They would develop the Rules of Procedure to the point where all delegations could be satisfied that they constituted a complete and self-contained statement and demonstrate that there was no restriction or limitation on the range of outcomes other than the need for agreement.

5. He explained that the Ground Rules existed as a document published by the two Governments which, for HMG's part, formed a key

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part of the foundations on which the negotiations rested. The Ground Rules paper was the 'legal descriptor' of the character and nature of the negotiations. Equally, he stressed, as para 7 of Ground Rules outlined, the conduct of the negotiations were a matter exclusively for those involved in the negotiations. He then went on to explain briefly the purpose of the amendments put forward in the name of the two Governments.

6. Speaking for the Irish, Mervin Taylor endorsed the reasons stated by Michael Ancram for putting forward the amendments. The Irish, he said, had approached the problems encountered the previous week by distinguishing two separate dimensions: first the overall structure of the negotiations and "certain fundamental rules which are so important that, in practice, no negotiating process could be envisaged without them." The second dimension was the internal conduct of the negotiations which was a matter to be worked at by participants. He believed that to reconcile the two dimensions, it was necessary to ensure all aspects of the Ground Rules relevant to the internal procedural conduct of the negotiation should find expression in the new procedures paper, but that those wider elements should not be transposed. He described Ground Rules as the document of reference which defined the basic character of the negotiations. While some were "probably a matter for the two Governments", others were of a more procedural significance.

7. Following the Irish statement, there followed a short but pointless and inconclusive debate stirred up by the DUP, as to whether the British endorsed the interpretation of the Ground Rules as stated by the Irish Government. At the request of Labour, it was agreed that the two Government statements would be provided to the other delegations after Michael Ancram had received the 'usual' acceptance of confidentiality!

8. Moving around the table, the Alliance Party, Labour, NI Women's Coalition, PUP and UDP expressed varying degrees of frustration and lack of understanding of the problems which prevented examination of the Rules of Procedure and which they all

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sought to begin forthwith. Seamus Mallon for the SDLP reiterated his party's adherence to Ground Rules and went so far as to say that had Ground Rules not been in place, 'in all probability his party would not have fought the 30 May elections'. He claimed the party had shown flexibility in allowing at least 10 of the Ground Rules to be transposed into the Rules of Procedure. But he was intent in ensuring that their flexibility would not be allowed to undermine the Ground Rules and he put down a marker that if he saw the Ground Rules being manipulated in any way, then he would insist on the SDLP's amendment, which maintained that in any conflict of interpretation between the Rules of Procedure and Ground Rules, the latter should be the authoritative text.

9. Speaking for the DUP, Robinson said his party's attendance at the negotiations was on foot of an invitation from the Secretary of State from 4 June arising from the Entry Into Negotiations Act. His party was not bound by the 6 June document nor by Ground Rules. He had argued in the House of Commons that some parties did not accept Ground Rules, that his party would seek to change them and at no stage did HMG or any other party indicate that that could not happen. The key issue was to ensure a level playing field, and that the negotiations were not set on a course designated by only some of the participants. There had to be collective ownership of the process. It was therefore of fundamental importance to know what was the status of Ground Rules. Cedric Wilson (UKUP), supporting the DUP line, claimed the Chairman's position, powers and rules were the cornerstone of the process. His fear, and that of the people he represented, was that if the rules were fixed, then so too might be the outcome.

10. Trimble, for the UUP, maintained that for the purposes of the negotiations there was a need for a single set of rules but chose principally to focus on some of the amendments which had been tabled. In particular, he noted that the two Governments proposed amendment to Rule 17A - while the wording was different from that proposed by his party - went some way to meet his concerns. He suggested that the way to proceed was by moving through the newly circulated papers, seeing how much of the Rules could be agreed and, if it was found that agreement could not be reached, then the Rules

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should be parked and the delegates go on to define the agenda for the opening plenary.

11. Following these initial statements there followed a sterile debate on whether or not the Ground Rules (which Dr Paisley argued were 'republican oriented' because it was because of their existence that the SDLP and Sinn Fein had entered the elections) had ultimate authority over the negotiations. The DUP and UKUP reserved the right to come back to this issue following examination of the texts of the two Government statements. The UUP registered their concern as to whether or not participants were bound by the Ground Rules. So far there had been a degree of ambiguity. Were they being asked to endorse a document in which they had not had a part in drawing up? An answer on that was essential before procedural discussions could continue. The meeting at that stage (1305) was adjourned until 1430 for delegations to reflect and, if necessary, seek clarification from others in bilaterals.

12. At the resumed session Holkeri unsuccessfully sought agreement to move into examination of the Rules of Procedure. His intentions were thwarted, principally by the DUP and UKUP, who still sought consensus on the status of Ground Rules. They could not otherwise proceed to discuss Rules of Procedure. Attempts by the other delegations, including the UUP, to persuade them that by working through the Rules of Procedure it might be possible to define Ground Rules, fell on deaf ears. Rather, the DUP and UKUP focussed on the Irish claim that some contents of the Ground Rules were so fundamental to the negotiations that without them it would be impossible to carry on, and demanded to know from the Irish what these were.

13. Failing to receive a satisfactory answer, and unconvinced by reassurance from Michael Ancram that no party was being forced to endorse or accept the Ground Rules and that no outcome was pre-determined or limited except by agreement, the DUP then changed tack by suggesting that there should be an analysis of the Ground Rules. Robinson suggested there were at least 3 categories - those aspects of a procedural nature which could be transposed in

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whole or in part into Rules of Procedure; those rules which offered the two Governments' views/policies/aspirations and which would not be transposed into the Rules and by which delegations could not be bound; and finally, as had been stated in the Irish statement, those areas which were 'properly a matter for the two Governments'. He suggested that what was left might reveal those parts of Ground Rules which formed the Irish Government's 'fundamental' category. This was supported strongly by Robert McCartney and backed up by Dr Paisley, who argued that difficult issues need to be addressed rather than be parked. Holkeri, noting that all but two delegations wished to move onto examination of the Rules of Procedure, called an adjournment for 15 minutes in order to reflect on what decision to take. (3) (for those who believe the Ground Rules should have no continuing status) what are the provisions of the Ground

14. The resumed session began almost an hour later at 1710, at which Mitchell took the chair. He announced that some delegations had put proposals to him on how best to move forward. He had not had sufficient time to deal with these proposals and suggested an adjournment until 1800. Before adjourning Robinson declared that the DUP were prepared to proceed to examination of the Rules of Procedure if they got agreement that the Chairman's staff should prepare overnight an analysis of the Ground Rules along the lines he had suggested earlier. It was during this adjournment that HMG sought to agree with the Irish Government (unsuccessfully, in the event, principally due to lack of engagement on the part of the Irish) a short concise statement making it clear that while the two Governments remained committed to Ground Rules, no other participant was obliged to sign up to or endorse them. Further, that no outcome was pre-determined or excluded in advance or limited by anything other than the need for agreement.

15. At the resumed session Michael Ancram, having noted in the interim that the DUP had conceded the principle that it was not possible to enter into discussion of procedural rules without clarity on the Ground Rules, welcomed Robinson's proposal to move on but urged against an analysis of the Ground Rules. After further debate, with the SDLP arguing that it was unfair to ask the Chairman to provide an analysis as the DUP had requested, and others entering

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the fray by giving their interpretation of the Ground Rules, Mitchell showed his true independence with an inspired proposal which earned congratulatory remarks from Robert McCartney. He invited all the delegations to respond to 3 questions which, he said, did not require lengthy legalistic statements. These were:

- (1) What is the status of the Ground Rules with respect to these negotiations?
- (2) How, if at all, is that status affected by provisions of para 7 of Ground Rules?
- (3) (for those who believe the Ground Rules should have no continuing status) What are the provisions of the Ground Rules to which you object? and (for those who believe Ground Rules should have a continuing status) What in the Ground Rules are fundamental to this process so that they should have continuing status?

He invited delegations to submit their answers to his staff by 1400 the next day. These would be compiled into a single document by his staff and then circulated. In the meantime he proposed to re-gather between 1000 and 1200 the following day to begin a paragraph by paragraph examination of the Rules of Procedure. He also agreed to the DUP request to provide a paper comparing the text of the Rules of Procedure with the text of the Ground Rules document.

16. The meeting adjourned at 1910.

Signed.

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