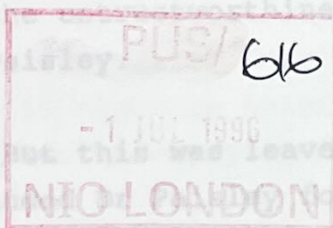


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RTals

FROM: G HARRISON
TALKS SECRETARIAT
28 JUNE 1996

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 -B
Mr Bell -B
Mr Legge -B
Mr Leach -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
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



File Note

TALKS: WEDNESDAY 26 JUNE 1996

Summary

A productive day which took the form of a full conferral session under the Chairmanship of Senator George Mitchell. The majority of the Rules of Procedure were agreed, including those dealing with sufficient consensus but a number of proposed amendments to the Rules still remain to be considered.

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2. The debate was largely constructive with the UUP and DUP making clear that while they might object to individual rules, at the end of the day they were prepared to look at the package as a whole including the agenda. There were some outbursts from Mr McCartney on the untrustworthiness of the British Government and also from Dr Paisley.

3. But this was leavened by some more light hearted moments,. This included Dr Paisley forgetting himself and referring to Senator Mitchell as the Chairman and asking him to take a point of order. His subsequent attempts to justify himself were unsuccessful and caused great amusement.

Detail

4. Senator Mitchell opened the conferring plenary session just after 10.00 am and began by inviting the participants to review the draft rules of procedure (draft of 25 June 1996) together with a paper of proposed additions. Copies were circulated under cover of Mrs McNally's note of 27 June 1996 (not to all). The participants were initially asked to indicate whether they objected or asserted to particular rules and discussion took place on those subject to objection.

5. No objections were received to Paragraphs 4, 5, 6, 14, 16, 17, 18, 19, 20, 21, 22, 23(a) and (b), 24, 25, 28, 29, 35 and 36.

Objections were lodged to the remainder - mainly by the DUP and the UUP.

6. Turning to proposed additions; Mr Trimble withdrew the UUP's proposed paragraphs 8 and 9 and indicated that proposed paragraphs 10 and 11 might be covered by paragraph 20A proposed by the two Governments. He signalled that the UUP proposed paragraph 17 was the key proposal. Objections were then made to various paragraphs proposed the two Governments, the DUP, UUP and the SDLP.

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7. Senator Mitchell noted that agreement had been reached on 20 or so paragraphs of the Rules and hoped that during the morning support agreement could be reached on a process of decision-making so that this process could be used to resolve disagreement over the Rules.

8. A suggestion from Ms Bronagh Hinds, for the Women's Coalition that it might be helpful to time limit input from delegates was resisted strongly by Mr Robinson for the DUP.

9. Mr Empey for the UUP helpfully commented that while delegates may cling to objections to individual rules, at the end of the day parties might look at the totality, which might ease such objections. After securing the meeting's agreement to by-pass paragraph 1, Senator Mitchell's invited the delegates to outline their reasons for objecting to particular paragraphs.

Paragraph 2

10. Mr Robinson, for the DUP, objected to the provision for a continuing Plenary Session. While it might be appropriate for a Plenary Meeting later on in the process, this was a matter which should be decided by the Business Committee. Michael Ancram, for the British Government explained the origin of the concept of a Plenary Session and indicated that the Government favoured retaining powers to call a plenary. Mr Mallon, for the SDLP concurred.

11. Mr McCartney for the UKUP, said that this paragraph referred to the issue of Chairmanship and viewed it as part of pressure from the USA, the British and Irish Governments and the SDLP to enable the admission of Sinn Fein to the talks and alleged that the reference to a decommissioning sub-committee looked suspiciously like a 4th Strand as a means of removing the impasse. He objected to an over-arching Plenary as a late concept designed to enable Sinn Fein/IRA to enter Talks without decommissioning. He went on to refer to the power of the Chairman to admit Sinn Fein to talks and his parting shot was to say he was not clear of the UUP position on this.

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12. Mr Hugh Coveney, for the Irish delegation indicated that the Irish Government concurred with views of Michael Ancram and support for the concept of an continuing Plenary was expressed by Seamus Close, for the Alliance Party and Bronagh Hinds for the Women's Coalition.

13. Mr Robinson, for the DUP, in helpful mode echoed Reg Empey's earlier remarks that they would look at the rules as a whole and if generally satisfied, they would not "press the button" on this particular rule. Mr Empey suggest that consideration of this rule might be left to one side. But Mr Mallon, for the SDLP took the view that it was necessary to distinguish between short term and long term parking and was concerned that there might be many issues parked (presumably in the long-stay park) resulting in procedural matters becoming substantive political ones. Fortunately this metaphor was not pursued.

14. Senator Mitchell suggested that the meeting might look at all the rules as a whole at the end of the discussion.

Paragraph 3

15. Mr Robinson for the DUP, having objected to this paragraph, in continuing helpful mode said the DUP recognised that the majority found this clause acceptable and would accept the view of the meeting as a whole at the end of the day.

Paragraphs 7, 8 and 9

16. Objections by the DUP and the UKUP were noted. Mr McCartney said he might not press his but Mr Robinson for the DUP referred to amendments DU3 and 4 which related to these paragraphs.

Paragraphs 10 and 11

17. The DUP objected to the use of the term "Plenary".

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Paragraph 12

18. Mr Robinson suggested that the larger parties should have 2 representatives on the Business Committee with the smaller parties having only one. There then followed a discussion on whether the membership of the Committee, should reflect a party's electoral vote and whether a non-elected negotiator could participate. The Irish favoured the option of elected representatives and officials (not named in advance). Mr Thomas, for the British delegation suggested one elected delegate plus one support per party but this was not well received by Mr Robinson and Mr McCartney.

Paragraph 13

19. Mr Trimble suggested that this paragraph might be considered with British and Irish draft 12A and expressed difficulty with the term "indicative". After discussion, it was agreed to insert paragraph 12A after paragraph 12 and also insert paragraph 13A from the British and Irish proposals, with the deletion of the first sentence and the phrase "in accordance with the calendar" at the end of the first sentence.

Paragraph 15

20. Discussion of this paragraph evolved into a lengthy exchange between the unionists and the SDLP. Mr Robinson, supported by Mr McCartney argued that if certain parties were not prepared to negotiate particular issues eg the Union, this item should not be allowed to appear on the agenda at all. Mr McCartney objected to what he regarded as the mandatory tone of the rule and said it was not for the two Governments to say that the parties must negotiate on particular issues. Mr Trimble, slightly more magnanimously, accepted that anyone could raise an issue, which could be discussed, but that did not necessarily mean it could be negotiated. He also tried to draw a distinction between the constitutional issue ie Northern Ireland's status as part of the United Kingdom which was

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not for negotiation, and other constitutional matters relating to the form of administration in Northern Ireland which could be negotiated.

20. This generated an inconclusive discussion on the nature of the

21. Bronagh Hinds for the Women's Coalition suggested an amendment to paragraph 15 which received Mr Robinson's support.

22. However this led Mr Mallon to embark on a long speech saying his party did wish to negotiate constitutional issues, including the Union and that it was politically offensive for the SDLP to be demoted from negotiators to discussers. He observed that the current argument went to the very heart of the discussion on Ground Rules.

23. The meeting adjourned at 12.28 to enable delegates to submit answers by 14.30 to the Ground Rules Questions posed by the Chairman the previous day. The answers provided by the British and Irish Governments are attached to this minute (Annex A). The British delegation also supplied the Chairman with an amendment to paragraph 15 - attached at Annex B. A paper was also circulated to the delegates by the Chairman providing a side-by-side comparison of the Rules of Procedure and the Ground rules, (already circulated, but not to all under cover of Mrs McNally's note of 28 June 1996).

24. The meeting re-convened at 15.35 when Senator Mitchell indicated that after considering all the responses to the Ground Rules questions his staff would be preparing a paper. He hoped to circulate this the next day.

Paragraph 23 - 28 the UUP helpfully indicated that if the UUP could be satisfied about agenda, they might be content with the proposed

25. After some discussion of the provisions for decision-taking, the Mr Trimble surprised the smaller parties, and Gary McMichael in particular by withdrawing his objection the section in paragraph 27, which provided for a third element - a majority of the participating parties, when determining whether there has been sufficient consensus. These paragraphs were subsequently agreed with the amendments proposed in the 25 June 1996 draft.

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36. There was a short adjournment between 17.20 and 17.47. On meeting agreed to the deletion of paragraph 37.

Paragraph 30

26. This generated an inconclusive discussion on the nature of the Strand One liaison arrangements between the two Governments with Peter Robinson proposing that such liaison should take place only on the Business Committee, in front of the other participants. This was Mr Trimble agreed with the concept but regarded the Business Committee as inappropriate because it would not deal with substantive negotiations. Michael Ancram pointed out all the rule required was for such arrangements to be agreed and that process would be undertaken later but this point was largely ignored.

27. Mr Mallon's reference to the involvement of 2 Sovereign Governments in these arrangements prompted various unionist outbursts. Dr Paisley referred to a lack of confidentiality in 1991/92 Talks when the British Government gave copies of the minutes to IRA/Sinn Fein and how he had no confidence in the Government. In a later contribution, he slipped up by referring to Senator Mitchell as the Chairman and asking him to take a point of order and express a view on Strand One liaison arrangements. When he realised his mistake, he made several unsuccessful efforts to extricate himself by justifying his action to the great amusement of the other delegates.

28. It was agreed to leave paragraph 30 to one side.

Paragraph 31 - 34

29. Mr Empey, for the UUP helpfully indicated that if the UUP could be satisfied about agenda, they might be content with the proposed Strand Three liaison arrangements. In response, Mr Thomas, for the British Government, confirmed that the Government would be content for Articles 2 and 3 and the Anglo-Irish Agreement to be discussed in Strand 2, while acknowledging that they were also appropriate for discussion in Strand Three. Mr Coveney for the Irish Government, concurred.

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30. There was a short adjournment between 17.20 and 17.47. On return, the meeting agreed to the deletion of paragraph 37.

QUESTIONS ASKED BY THE INDEPENDENT CHAIRMAN

31. Senator Mitchell concluded the meeting by indicating that his team would aim to circulate a revised text of rules of procedure between 09.30 and 10.00 am the next day with a view to resuming at 11.00 am and working through the lunch hour until 3.00 pm. This was agreed, subject to the provision of satisfactory catering arrangements!

32. The meeting concluded at 17.56. The Ground Rules are the legal descriptor of the character and the Northern Ireland (Entry to Negotiations, etc) Act.

For its part, the Government regards the document as forming a signed Gillian Harrison foundations on which these negotiations rest.

The Government, in its approach to these negotiations, remains committed to the Ground Rules.

No outcome is predetermined or excluded in advance by the Ground

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Talks Secretariat
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2. Now, if at all, is that status affected by paragraph 7?

Paragraph 7 recognises that the conduct of the negotiations is exclusively a matter for those involved in the negotiations.

A sensible approach is for those involved to agree a single set of rules of procedure to constitute a complete and self-contained source of reference for the Chairmen in conducting the negotiations. The amendments tabled by both Governments sought to achieve this.

In the event that a procedural difficulty arises which is not covered in the agreed rules of procedure, the Government suggests that the Chairmen should refer the matter in the first instance to the two Governments who, having taken soundings from the other participants, would bring forward a proposal to resolve the issue.

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ANNEX A

The status of Ground Rules remains unaffected.

QUESTIONS ASKED BY THE INDEPENDENT CHAIRMAN

3. What about the Ground Rules are fundamental to this process as

Response by the British Government

1. What is the status of the Ground Rules with respect to these negotiations?

The Ground Rules are the legal descriptor of the character and nature of the negotiations that is necessary as a consequence of the Northern Ireland (Entry to Negotiations, etc) Act. and the continuing commitment of the two Governments to the Ground Rules.

For its part, the Government regards the document as forming a key part of the foundations on which these negotiations rest. The Government, in its approach to these negotiations, remains committed to the Ground Rules.

No outcome is predetermined or excluded in advance by the Ground Rules or limited by anything other than the need for agreement.

2. How, if at all, is that status affected by paragraph 7?

Paragraph 7 recognises that the conduct of the negotiations is exclusively a matter for those involved in the negotiations.

A sensible approach is for those involved to agree a single set of rules of procedure to constitute a complete and self-contained source of reference for the Chairmen in conducting the negotiations. The amendments tabled by both Governments sought to achieve this.

In the event that a procedural difficulty arises which is not covered in the agreed rules of procedure, the Government suggests that the Chairmen should refer the matter in the first instance to the two Governments who, having taken soundings from the other participants, would bring forward a proposal to resolve the issue.

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Responses by the Irish Government

The status of Ground Rules remains unaffected.

1. What is the status of the Ground Rules with respect to these

3. What about the Ground Rules are fundamental to this process so that they should have continuing status?

The Ground Rules is the publicly stated basis and parameters of the process, and negotiations is fundamental.

This is provided for by the reference in Section 2(1) of the Northern Ireland (Entry to Negotiations, etc) Act 1996 and the continuing commitment of the two Governments to the Ground Rules.

The Government does not expect or require other participants to endorse or sign up to the Ground Rules. The official description, set out publicly in advance of elections, of the basis and parameters of the negotiations to which the elections would lead. Consequently parties contesting that election were entitled to rely on the presumption that this description would remain valid and consistent after the election for which they had offered themselves had taken place.

The Irish Government remain totally committed to the Ground Rules Paper as the basic document of definition and reference for the negotiations.

2. How, if at all, is that status affected by paragraph 7?

The Irish Government believes that the Ground Rules Paper does not preclude and indeed envisages in Paragraph 7, that the negotiators, once at the negotiating table, would agree between themselves rules of procedure for the conduct of the negotiations. These rules are a matter for the participants, but parties who arrived at the table relying on the Ground Rules Paper are entitled to insist that these rules of procedure

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Response by the Irish Government

1. What is the status of the Ground Rules with respect to these negotiations?

The Ground Rules is the publicly stated basis and parameters of the negotiations, which both Governments agreed in the communique of 28 February would follow an elective process, and which are now convened.

In the British legal perspective they are legal descriptor of the character and nature of the negotiations that are necessary as a consequence of the Northern Ireland (Entry to Negotiations, etc) Act.

The Ground Rules Paper also has a political significance, as the official description, set out publicly in advance of elections, of the basis and parameters of the negotiations to which the elections would lead. Consequently parties contesting that election were entitled to rely on the presumption that this description would remain valid and consistent after the election for which they had offered themselves had taken place.

The Irish Government remain totally committed to the Ground Rules Paper as the basic document of definition and reference for the negotiations.

2. How, if at all, is that status affected by paragraph 7?

The Irish Government believes that the Ground Rules Paper does not preclude and indeed envisages in Paragraph 7, that the negotiators, once at the negotiating table, would agree between themselves rules of procedure for the conduct of the negotiations. These rules are a matter for the participants, but parties who arrived at the table relying on the Ground Rules Paper are entitled to insist that these rules of procedure

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should not conflict and should be consistent with the Ground Rules paper whose status remains unaffected by the rules of procedure.

Subject to that consideration, it is a matter for decision by the negotiators whether it is convenient to have a single integrated set of rules for the guidance of Chairmen and participants.

If a matter arose in respect of which any delegation claimed a conflict with the Ground Rules Paper, the Chairman in question would refer the matter to the two Governments.

3. What about the Ground Rules are fundamental to this process so that they should have continuing status?

We believe the Ground Rules Paper essentially seeks to protect the freedom of all negotiators 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. The concept of an open agenda, with no outcome predetermined or excluded in advance, is offered in the Ground Rules as a protection to the position of all participants.

Negotiators are offered the further overarching protection of the ultimate test of democratic referendum in respect of any outcome.

It is important for those who entered the elective and negotiating process on the basis of the reassurances provided in the Ground Rules Paper that it should be maintained during the negotiating process.

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ANNEX B

Proposed amendment to paragraph 15 in the "additions" document:

At the beginning of the second sentence, insert, "Without prejudice to any participant's negotiating position,"

| | |
|----------------------------------|----|
| PS/Sir John Wheeler (L, B+DFP) | -3 |
| PS/Michael Ancram (L, B+DEMI) | -3 |
| PS/Malcolm Moss (L, DOE+DRSS) | -3 |
| PS/Baroness Denton (L, DED+DAST) | -3 |
| PS/PUS (L+B) | -3 |
| PS/Sir David Peller | -3 |
| Mr Thomas | -3 |
| Mr Bell | -3 |
| Mr Legge | -3 |
| Mr Leach | -3 |
| Mr Steele | -3 |
| Mr Watkins | -3 |
| Mr Wood (L+B) | -3 |
| Mr Beeton | -3 |
| Mr Currie | -3 |
| Mr Hill (L+B) | -3 |
| Mr Lavery | -3 |
| Mr Maccabe | -3 |
| Mr Perry | -3 |
| Mr Stephens | -3 |
| Ms Checksfield | -3 |
| Ms Harrison (L+B) | -3 |
| Ms Mapstone | -3 |
| Mr Whysall (L+B) | -3 |
| Ms Collins, Cab Off (via IPL) | -3 |
| Mr O'Mahony, TAU | -3 |
| Mr Lamont, RID | -3 |
| HMA Dublin | -3 |
| Mr Westmacott, (via RID) | -3 |
| Mr Campbell-Bannerman | -3 |
| Mrs McNally (L+B) | -3 |

File Note

TALKS: 28 JUNE

SUMMARY

Hard slog in the "conferring" session, with little progress made. Most of the morning taken up with discussion of amendment by Mr McCartney, aimed at a stricter test for agreement of full outcome than "sufficient consensus". The very brief afternoon session was

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