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Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Mary Peters to National Security Advisor re: Revised Ground Rules Paper (1 page)	04/12/1996	P1/b(1) KBH 6/14/2023
002. letter	John Major to Taoiseach (3 pages)	11/22/1996	P1/b(1) KBH 6/14/2023
003. report	re: U.S. Government Report [2 copies] (4 pages)	04/17/1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Staff Director (Nancy Soderberg)
OA/Box Number: 1398

FOLDER TITLE:

[Ireland]-Irish Embassy, Items From The, 1996

2011-0355-F
rs1679

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

WJ

Kessinger, Jodi

From: Peters, Mary A.
To: @NSA - Nat'l Security Advisor; Soderberg, Nancy E.
Cc: /R, Record at A1
Subject: Revised Ground Rules Paper [CONFIDENTIAL]
Date: Friday, April 12, 1996 12:36PM
Priority: High

DECLASSIFIED
PER E.O. 13526
2011-0355-F(3.20)
KBM 4/11/2023

TO: TL
NES
FROM: MAP

What we received from Dermot yesterday is the Irish Government's comments on the British redraft of the ground rules paper that was given to the parties on March 15. (Faxed to TL and NES.) The Irish additions to the new British text are underlined.

The changes proposed by the British do not affect the parts of the paper of most concern to nationalists -- the assurances that the agenda will be comprehensive and that the governments will use their influence to ensure that all agenda items are fully addressed and to overcome any obstacles that arise (paras 12-13 of new draft).

The main change the British made in response to Trimble is to adjust the language on the format of the talks to allow the same people to participate in the negotiations on all three strands -- in other words the meetings will not overlap. The Irish have proposed changes to the British wording on this issue but the net effect is the same -- Trimble can be sure of not being sold out behind his back (maybe to his face...) The British also proposed allowing the parties to participate in Strand 3 but the Irish want to walk that back to consultation and liaison.

There are some phrases still bracketed, but that is the essence of the proposed changes.

FAX COVER SHEET

FOR UNCLASSIFIED MESSAGES ONLY



British Embassy
Washington

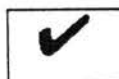
3100 Massachusetts Ave. N.W.
Washington, D.C. 20008-3600

To Nancy Soderberg
At NSC
Fax 456 9460

From Peter Westmacott
Telephone _____
Date 6 June Time 11.35 am
Reference _____ Number of pages 11
(including cover)

FACSIMILE NUMBER FOR REPLY

SENDER
PLEASE
TICK



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	TECHNICAL WORKS GROUP	(202) 371 6819

MESSAGE:

Our / Irish letter to
Mitchell, as promised.

Peter.

6 Jun 1996 15:36

IPI NIO LONDON

PERSONAL

No. 2797 E. 2

cc PS
Minister
Mr. McDonald
Mr. Bean
Mr. Alexander
+ G.M.

The Hon George J Mitchell
Special Representative of the President of the United States
US Department of State
Room 709
2201 C Street NW
Washington DC 20520

for
6/6
(sent
also
to
NSC)

June 1996

Dear Senator Mitchell,

Our two Governments have worked to secure the launch of comprehensive negotiations to achieve a new beginning for relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands, and to agree new institutions and structures to take account of the totality of relationships. We believe the negotiations which start on 10 June offer the best opportunity for many years to secure this goal.

On behalf of our two Governments, we invite you to chair a group of distinguished individuals to play a role in chairing the various aspects of the negotiations which require independent chairmanship.

The two Governments have agreed to invite you, as chairman of this group, to chair the Plenary sessions, to which the various strands and any sub-committees which the Plenary may establish will report and which will periodically review progress across the entire spectrum of the negotiations. We also invite you, with the help of your colleagues, to assist our two Governments in giving effect to our joint commitment under paragraph 15 of the Ground Rules for the negotiations, a copy of which is enclosed.

PERSONAL

1
(determination
to overcome
obstacles, etc)

5 Jun 1996 15:36

IPL NIO LONDON

PERSONAL

No. 2797 P. 3

The other members of the group invited by the two Governments are your former colleagues on the International Body, General de Chastelain and Mr Holkeri. The roles envisaged for the other members of the group are set out in paragraph 4 of the "Scenario for the Opening Plenary Session", a copy of which is enclosed.

As that paragraph also makes clear, both Governments are agreed that it will be open to the group to propose alternative options in the light of the requirements of the negotiations or as circumstances warrant.

The negotiations will be launched at 2.00 pm on Monday 10 June at Castle Buildings, Belfast, by the Taoiseach and the Prime Minister, after which they would hand over to you as Chairman of the opening plenary. The arrangements envisaged for this opening session are set out in the "Scenario for the Opening Plenary Session".

Some other key documents which provide guidance on the negotiations and the role of the chairmen are also enclosed.

Representatives of the following parties have been invited to nominate their negotiating teams:

Alliance Party

Democratic Unionist - DUP

Labour

Northern Ireland Women's Coalition

Progressive Unionist Party (PUP)

Social Democratic and Labour Party (SDLP)

UK Unionist Party (Robert McCartney)

PERSONAL

6. Jun. 1996 15:37

IPL NIO LONDON

PERSONAL

No. 2737 P. 4

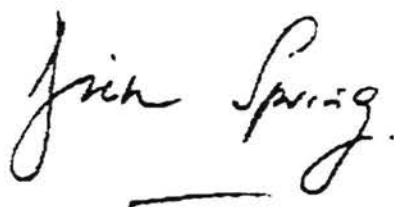
Ulster Democratic Party (UDP)

Ulster Unionist Party (UUP)

The above list does not include Sinn Féin, in line with the policy set out by the Prime Minister and Taoiseach when they met on 28 February. Sinn Féin's participation in the negotiations requires the unequivocal restoration of the IRA ceasefire of August 1994. We very much hope that Sinn Féin can take their place in the negotiations, but this will not be possible unless and until there is an unequivocal restoration of the ceasefire.

We remain profoundly grateful for the distinguished service in the cause of peace offered by you and your colleagues on the International Body. We very much hope you will feel able to accept our invitation to play a key role in these negotiations also. Naturally, we stand ready to answer any questions, and to follow up with all haste in providing you with such other guidance as you may require.

Yours sincerely,



Dick Spring TD
Tánaiste and Minister for
Foreign Affairs



The Rt Hon Sir Patrick Mayhew QC MP
Secretary of State for
Northern Ireland

PERSONAL

6 Jun 1996 15:37

IPL NIO LONDON

No 2797 P. 5

SUBSTANTIVE ALL-PARTY NEGOTIATIONS

6 June 1996

SCENARIO FOR THE OPENING PLENARY SESSION

PAPER BY THE UK AND IRISH GOVERNMENTS

Introduction

1. The communiqué issued by both Governments on 28 February agreed that an elective process "would lead immediately and without further preconditions to the convening of all-party negotiations with a comprehensive agenda". The two Governments agreed that, following consultations, substantive all-party talks would be convened on Monday 10 June.

2. The Ground Rules paper published in April set out the two Governments' intention that the all-party negotiations should start with an opening plenary session. The Governments are agreed that at this session the requirements of paragraph 12 of the 28 February Communiqué must be fulfilled - that is:

- all participants would need to make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body;
- they would also need to address, at that stage, its proposals on decommissioning;
- confidence building would also require that the parties have reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.

6 Jun 1996 15:37

IPL NIO LONDON

No. 2797 P. 6

3. In accordance with these undertakings, this paper sets out in more detail the scenario the two Governments propose for the opening plenary session.

Chairman and Procedures

4. The British Government will chair Strand One of the negotiations and the British and Irish Governments will jointly chair Strand Three. The two Governments have decided to invite a group consisting of Senator George Mitchell, General John de Chastelain and Mr Harri Holkeri to play a role in chairing various aspects of the negotiations which require independent chairmanship. They have agreed to invite the chairman of the group, Senator Mitchell, to chair the plenary sessions, to which the various strands and any sub-committees which the plenary may establish will report, and which will periodically review progress across the entire spectrum of the negotiations. The two Governments will also invite Senator Mitchell, with the help of his colleagues, to assist them in giving effect to their joint commitment under paragraph 15 of the Ground Rules. They have also agreed to invite General de Chastelain to provide the independent chairmanship in Strand Two. He would also chair the Business Committee, unless the participants in the negotiations, in accordance with the Ground Rules, were to decide otherwise. They have agreed to invite Mr Holkeri to act as alternate Chairman in any of the independent chairmanship roles. They agree that it will be open to the group to propose alternative options to the two Governments in the light of the requirements of the negotiations or as circumstances warrant.

5. The opening plenary session will be conducted by the Independent Chairman in accordance with rules of procedure drawn up by the two Governments for adoption in plenary. The rules drawn up by the Governments will operate unless and until amended by the participants, on the recommendation of the Business Committee.

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Business of the Opening Plenary

6. The proposed agenda for the opening plenary session is attached at Annex A. At the start of the session, the leader of each of the negotiating teams will be asked to make a formal declaration making clear their party's total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. The commitments will then be confirmed in a public statement on behalf of all the participants. In the event of any participant failing to make this clear commitment, the Independent Chairman will report this to the two Governments for their consideration and, after consultation with the other participants, any appropriate action.

7. The plenary session will then move to the appointment of a Business Committee. As envisaged in the Ground Rules paper, the Business Committee would be composed of representatives of the two Governments and of the political parties, chaired by the Independent Chairman of Strand Two or, otherwise, by any person agreed by the participants. Its purpose would be to coordinate the progress and procedures of the negotiations. The Business Committee would not deal with the substance of the negotiations but would address unresolved procedural issues. It would therefore be available to meet during the opening session to provide advice on any such unresolved issues to the plenary. It could also determine the modalities for dealing with any issue which does not fall exclusively within any of the three strands. (It will be open to the parties to agree that certain over-arching issues - for example, human rights - could usefully be addressed in plenary format.)

8. There will then be a round of statements which, as the Ground Rules envisage, will give each delegation the opportunity to set out its approach to the negotiations and its position on key issues.

9. As set out in the agenda for the opening plenary, it will subsequently, if necessary after consideration by the Business Committee, adopt, and commit the parties to negotiate, a

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comprehensive agenda for the negotiations. A separate consultation paper is being issued to take the views of parties on the elements of this agenda. The Independent Chairman shall satisfy himself that the agenda provides all the participants with reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.

10. The opening plenary will also address the International Body's proposals on decommissioning. In this context, both Governments confirm their commitment to all aspects of the report of the International Body including their support for the compromise approach to decommissioning set out in paragraphs 34 and 35 which state:

"The parties should consider an approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after as the parties now urge. Such an approach represents a compromise. If the peace process is to move forward, the current impasse must be overcome. While both sides have been adamant in their positions, both have repeatedly expressed the desire to move forward. This approach provides them that opportunity.

In addition, it offers the parties an opportunity to use the process of decommissioning to build confidence one step at a time during negotiations. As progress is made on political issues, even modest mutual steps on decommissioning could help create the atmosphere needed for further steps in a progressive pattern of mounting trust and confidence."

Both Governments agree with the International Body that this approach provides the opportunity to move forward, and that it is on the basis of working constructively to implement this and all other aspects of the Report that the negotiations should be advanced. They will therefore work with all the participants to implement all aspects of the Report.

6. Jun. 1996 15:18

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11. The two Governments have accordingly agreed to invite the Independent Chairman, after open discussion in the plenary, to satisfy himself that there are clear indications of good intent on the part of all the participants to work constructively and in good faith to secure the implementation of all aspects of the Report in the context of an inclusive and dynamic process which builds trust and confidence as progress is made on the issues.

12. Once the Independent Chairman has reported that he is so satisfied, the two Governments will propose that a sub-committee of the plenary, representing all the participants and chaired by the Independent Chairman of the plenary, be established with the attached terms of reference.

13. Once the decommissioning issue has been addressed in this way, the Independent Chairman will make a concluding statement and the opening plenary session will come to an end. The negotiations on the issues in the three strands and the sub-committee will then proceed alongside each other. The Independent Chairman may periodically brief the plenary on the progress made in the sub-committee.

14. The two Governments will also propose that a meeting of the plenary should be held at a suitable date, about the end of September, to take stock of progress in the negotiations as a whole, including the work of the sub-committee. At this meeting, all participants will review the position, and the progress which has been made across the entire spectrum of the negotiations.

Attachments

Annex A. Agenda for opening plenary.

Annex B. Terms of reference for proposed sub-committee on decommissioning.

Annex A

**Opening Plenary Session
Agenda**

1. Formal opening by two Governments and hand-over to Independent Chairman.
2. Introductory remarks by Chairman.
3. Participants to make formal declaration making clear their total and absolute commitment to International Body's principles of democracy and non-violence.
4. Public statement on behalf of all participants recording total and absolute commitment to principles.
5. Appointment of Business Committee.
6. Opening statements by the participants.
7. Discussion of comprehensive agenda for negotiations.
8. Discussion of International Body's proposals on decommissioning.
9. Adoption of comprehensive agenda for negotiations and procedural rules.
10. Report of the Chairman for the purpose set out in paragraph 12 of "Scenario for the Opening Plenary Session"; Governments' proposal to establish a sub-committee on decommissioning.
11. Concluding statement by the Independent Chairman.

Annex B

**Proposed Sub-committee on Decommissioning
Terms of Reference**

To secure implementation of all aspects of the report of the
International Body, including:

- (a) agreement on the modalities of decommissioning on the basis of
the guidelines contained in paragraphs 36 to 50 of the Report of
the International Body;
- (b) advice to both Governments, in the light of those discussions,
on the legislative and practical implications of the course
which is recommended; and
- (c) agreement on any other arrangements necessary for implementation
of the Report.



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

27 September 1996

Dear Tony,

... I enclose a copy of a letter which the Prime Minister has just sent to John Hume, covering a text setting out our approach to the multi-party negotiations. We would aim to publish this text early next week, probably in the form of a press article under the name of the Prime Minister. I have made clear to John Hume, in sending him the text, that the terms of it are not up for negotiation. It represents what we propose to say, no more no less.

It would be helpful if, in any contacts you have with those concerned, you could underline that this is a reasonable statement of British policy and that more cannot be expected. It is now for John Hume and those to whom he has been talking to deliver on what they said.

Yours ever
John

JOHN HOLMES

The Hon. Anthony Lake



10 DOWNING STREET
LONDON SW1A 2AA

THE PRIME MINISTER

27 September 1996

A handwritten signature in dark ink, appearing to read 'Tony Blair'.

Thank you for your letter of 8 August and the text which you faxed on 6 September.

The IRA's position, as you describe it, is that if we were ready to make this statement, and the IRA knew when we were going to make it, they would respond shortly afterwards, at a time specified in advance, with an unequivocal restoration of the August 1994 "total cessation".

When I wrote to you on 24 July, I said that the IRA should restore their ceasefire without any further prevarication. But, in response to the suggestion that reassurances from the British Government on certain issues in line with its established public policy would help to bring this about, I set out words which could be used.

Now they have returned with one significant issue - the timeframe - which is simply not under our control, and an altogether longer text covering a host of other issues. Meanwhile, continued preparation for further IRA attacks goes on, as the arrests and arms finds on Monday demonstrate all too clearly. Intimidation and so-called punishment attacks also continue to increase in

- 2 -

number and brutality. As I have already said publicly, Sinn Fein's talk of peace can have little credibility against this background.

It remains the case that the IRA should restore their ceasefire without further ado and without the need for further statements. The Government is certainly not in the business of negotiating a restoration of the IRA ceasefire, nor in giving secret assurances to bring it about. Sinn Fein must understand that we mean in private what we say in public.

Nevertheless, if there is genuine doubt or uncertainty over the Government's policy, I am happy to look at that. Because I am in no doubt of the benefits, for the people of Northern Ireland and the negotiations, of a genuine and unequivocal restoration of the IRA ceasefire, we will repeat and reaffirm our approach on the key issues. The attached text has been prepared for this purpose, and will be published in the near future.

Yours faithfully
John H.

John Hume, Esq., M.P.

filetext.png

This Government has made clear its approach to the search for peace in Northern Ireland on many occasions. But we continue to be asked about this or that aspect, particularly about the multi-party negotiations which started on 10 June in Belfast. There has been continued speculation about a new IRA ceasefire, despite the latest huge arms and explosives find in London. This has renewed questions about what effect this would have on the negotiations, and our approach to these negotiations. It may therefore be helpful to spell out our position again.

The negotiations have one overriding aim: to reach an overall political settlement, achieved through agreement and founded on consent. They will address all the issues relevant to such a settlement. Inclusive in nature, they involve both Governments and all the relevant political parties with the necessary democratic mandate and commitment to exclusively peaceful methods.

The prospects for success in these negotiations will obviously be much greater if they take place in a peaceful environment. Under the legislation setting up the talks, if the Government considered that there was an unequivocal restoration of the IRA ceasefire of August 1994, Sinn Fein would be invited to nominate a team to participate in the negotiations. We would of course need to be sure that any restoration was genuinely unequivocal, particularly in view of events on the ground. Beyond that, the British and Irish Governments are agreed that these negotiations are without preconditions.

It is equally clear that, to be successful, the negotiations must be based on exclusively democratic and peaceful means. There must be no recourse to the threat (actual or implied) or use of violence or coercion. So, on entering

- 2 -

the negotiations, each participant needs to make clear their total and absolute commitment to the principles of democracy and non-violence set out in the Report of the International Body chaired by Senator George Mitchell. The parties in the talks have all done just that already.

The range of issues on which an overall agreement will depend means that the negotiations will be on the basis of a comprehensive agenda. This will be adopted by agreement. Each participant will be able to raise any significant issue of concern to them, and to receive a fair hearing for those concerns, without this being subject to the veto of any other party. Any aspect can be raised, including constitutional issues and any other matter which any party considers relevant. No negotiated outcome is either predetermined or excluded in advance or limited by anything other than the need for agreement.

Among the crucial issues is decommissioning. So the opening plenary will address the International Body's proposals on decommissioning of illegal arms. At that stage, we, along with the Irish Government, will be looking for the commitment of all participants to work constructively during the negotiations to implement all aspects of the International Body's report. This includes its compromise approach under which some decommissioning would take place during the process of negotiations. We want to make urgent progress in this area so that the process of decommissioning is not seen as a precondition to further progress, but is used to build confidence one step at a time during the negotiations. As progress is made on political issues, even modest mutual steps on decommissioning could help create the atmosphere needed for further steps in a progressive pattern of mounting trust and confidence.

It is important to emphasise that all parties are treated equally in the negotiations in accordance with the scale of their democratic mandate. No

- 3 -

party has an undemocratic advantage. The negotiations will operate on the basis of consensus, requiring at least the support of parties representing a majority of both the unionist and nationalist communities in Northern Ireland. But no one party can prevent them continuing by withdrawing from the negotiations.

It is essential that all participants negotiate in good faith, seriously address all areas of the agreed agenda and make every effort to reach a comprehensive agreement. For their part, the two Governments are committed to ensure that all items on the comprehensive agenda are fully addressed. They will do so themselves with a view to overcoming any obstacles which may arise.

For our part, we are wholly committed to upholding, so far as we can, our responsibility to facilitate agreement in the negotiations. This must be based on full respect for the rights and identities of both traditions. We want to see peace, stability and reconciliation established by agreement.

We are also determined to see these negotiations through successfully, as speedily as possible. This is in line with the hopes and aspirations of people in both the United Kingdom and the Irish Republic. These have already given momentum to a process which will always have its difficulties. We have already proposed that a plenary meeting should be held at a suitable date to take stock of progress in the negotiations as a whole. We will support any agreed timeframe for the conduct of the negotiations adopted by the participants.

Meanwhile we are committed to raising confidence, both through the talks and through a range of other measures alongside them. The International Body's report itself proposes a process of mutual confidence-building.

- 4 -

So we will continue to pursue social and economic policies based on the principles of equality of opportunity, equity of treatment and parity of esteem irrespective of political, cultural or religious affiliation or gender. We are committed to increasing community identification with policing in Northern Ireland.

It is worth recalling that, in response to the ceasefires of Autumn 1994 and the changed level of threat, we undertook a series of confidence-building measures. These included changed arrangements for release of prisoners in Northern Ireland under the Northern Ireland (Remission of Sentences) Act 1995, security force redeployments, a review of emergency legislation and others. If the threat reduces again, the opportunity for further confidence-building measures returns.

But confidence-building is a two-way street. Support for the use of violence is incompatible with participation in the democratic process. An end to punishment beatings and other paramilitary activities, including surveillance and targeting, would demonstrate real commitment to peaceful methods and help build trust.

The opportunity for progress has never been greater. The negotiations are widely supported internationally and benefit from independent chairmen from the USA, Canada and Finland. They also have the overwhelming support of people throughout these islands. They want them to take place in a peaceful environment, free of all paramilitary violence. That is our aim too.

SODERBERG



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

22 November 1996

Dear Tony,

NORTHERN IRELAND

... We spoke earlier about how things stand on the so-called Hume/Adams Initiative. I now attach a copy of the letter the Prime Minister has sent this evening to the Taoiseach, and the revised text of a statement we would be prepared to make. This text will be passed to John Hume shortly.

Yours ever

John

JOHN HOLMES

Professor Anthony Lake



10 DOWNING STREET
LONDON SW1A 2AA

MAILED
18.30 22/11/96
to Tammie - 100

THE PRIME MINISTER

22 November 1996

I have been reflecting on the position we have reached following our phone conversation on 6 November.

Since the summer when I first discussed this matter with John Hume and in my recent discussions with you, I have had two concerns. First, the IRA's actions on the ground, and what we know of their future plans, are incompatible with what we have been told is Mr. Adams' readiness to guarantee a permanent ceasefire immediately following a Government statement which, as I have said throughout, can only repeat existing policy positions. But, secondly, I am determined that the peace process should continue because that is what the people of Northern Ireland want and deserve. We have therefore kept the door open for Sinn Fein to join the negotiations if there is a genuinely unequivocal restoration of the IRA ceasefire. But each atrocity the IRA has committed has widened the credibility gap to be bridged in the event of a new ceasefire.

As I have repeatedly made clear, I cannot - and will not - negotiate Government policy in exchange for a ceasefire. All along, I have said I will stick strictly to what is existing Government policy as set out on the public record. The text I was given by John Hume on 10 October departs from existing Government policy in places. I cannot accept it as it stands.

When we spoke following the text we showed you on 5 November, we agreed that any ceasefire declaration needed to offer more credible guarantees

- 2 -

than the last one. I made clear we would need to be convinced that a new ceasefire would be intended to last and that we also looked for more commitment to the consent principle and parallel decommissioning. You therefore agreed to ask Sinn Fein for the terms of an IRA ceasefire declaration. I said that if these were sufficiently clear and dependable this would create a new situation, and we might be prepared to reconsider the language used in our text of 5 November about the terms of entry for Sinn Fein following a ceasefire.

I am very grateful for your determined efforts but, as I understand it, Sinn Fein have failed to respond with any language. I am told Sinn Fein said they were not prepared to spell out the bottom line of their language until they were sure what we would say in our statement.

Let there be no doubt I want progress and not stalemate, if that is achievable. Since Sinn Fein failed to respond to your efforts, we have now reached the point where it is right for me to set out our firm position so that Sinn Fein are in no doubt of it and can respond accordingly. The attached text does this.

I believe it is a reasonable and fair position, consistent with our existing policy and with our obligations under the law. It does what John Hume originally told us would deliver an IRA ceasefire - a ceasefire which would be for good this time. It sets out key reassurances on the basis of our existing policy. It takes account of the suggested approach you put to us on 5 November and sets out a process of entry to the negotiations which seeks to take account of the political realities on all sides. I know you understand these realities - created by the IRA's own actions. It is neither credible nor deliverable to ignore them.

What this text cannot, of course, do - not least because Sinn Fein have refused to tell you - is take account of what the IRA will say if they declare a

- 3 -

ceasefire and how that will be reflected on the ground. If there is a new ceasefire, our reaction to it will depend crucially on both of these things.

We now need urgently to establish whether a genuine and dependable ceasefire will be delivered if the British Government sets out its existing policy position on the negotiations and how Sinn Fein may join them in the terms attached. It should lead straightaway to an unequivocal restoration of the IRA ceasefire, which should never have been abandoned. That would greatly enhance the prospects for lasting peace and an overall political settlement.

But if the IRA chooses not to take this route to inclusive negotiations, it should be under no illusions. The IRA will not bomb Sinn Fein to the negotiating table, now or in the future - further violence will simply expose Sinn Fein's words about peace as a cynical ploy which commands no credibility. As you and I have both made clear, the talks will go forward without Sinn Fein.

If Mr. Adams is serious, the clear position set out in the attached text offers the basis on which Sinn Fein can set out the terms of an IRA ceasefire, in which case I hope we can quickly bring this to the conclusion which we all desire. Christmas then offers a natural break over which all can reflect on the new situation. But if not, then to end the current uncertainty and speculation, I believe I must set out our position in public before the end of this month.

I shall be writing shortly in similar terms to John Hume.

Yours Ever,
John

Mr. John Bruton, T.D.

This Government has made clear its approach to the search for peace in Northern Ireland on many occasions. But we continue to be asked about this or that aspect, particularly about the multi-party negotiations which started on 10 June in Belfast. There has been continued speculation about a new IRA ceasefire, despite the no-warning attack on Thiepval barracks, Lisburn and various arms finds, including the huge find in London. This has renewed questions about what effect this would have on the negotiations, and our approach to these negotiations. It may therefore be helpful to spell out our position again.

The purpose of the negotiations is to achieve a new beginning for relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands. The negotiations have one overriding aim: to reach an overall political settlement, achieved through agreement and founded on consent.

They will therefore address all the issues relevant to a settlement. Inclusive in nature, they involve both the British and Irish Governments and all the relevant political parties with the necessary democratic mandate and commitment to exclusively peaceful methods.

It is important to emphasise that all parties are treated equally in the negotiations, in accordance with the scale of their democratic mandate and the need for sufficient consensus. But no one party can prevent the negotiations continuing by withdrawing from them. No party has an undemocratic advantage. Both Governments intend that the outcome of these negotiations will be submitted for democratic ratification through referendums, North and South.

- 2 -

The prospects for success in these negotiations will obviously be much greater if they take place in a peaceful environment. The loyalist ceasefire has made an important contribution. It made it possible for the loyalist parties to join the negotiations. They are now playing their part in shaping Northern Ireland's future, as I have acknowledged by meeting their leaders.

The British and Irish Governments agree that, beyond the unequivocal restoration of the IRA ceasefire, these negotiations are without preconditions. But in the light of the breaking of the ceasefire and the events since then, assurances are obviously needed that any new ceasefire would be intended to be genuinely unequivocal, i.e., lasting and not simply a tactical device. Consistent with this, the process set out below would follow the declaration by the IRA of an unequivocal restoration of the ceasefire with the stated purpose of the conflict being permanently ended.

The successful conclusion of this process would depend on whether words, actions and all the circumstances were consistent with a lasting ceasefire. For example, how far the declaration of a new ceasefire was convincingly unequivocal and intended to be lasting would be an important indicator. Whether or not any paramilitary activity, including surveillance, targeting and weapons preparation, continued would also be directly relevant. Developments which were inconsistent with an unequivocal restoration of the ceasefire or Sinn Fein's commitment to the Mitchell principles of democracy and non-violence would affect consideration adversely. Sufficient time would have to be taken to ensure the requirements of paragraphs 8 and 9 of Command Paper 3232 were accordingly met before Sinn Fein were invited to participate in negotiations.

We envisage that the process would involve:

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- 3 -

*Ministerial
approval?*

meetings with Sinn Fein at various levels to explore with them what assurances could be given and what confidence-building measures established;

- the British and Irish Governments would invite Sinn Fein to meet them together for the purpose of making an early total and absolute commitment to the Mitchell principles of democracy and non-violence;
- the two Governments would then propose bilateral and other consultations with all the parties to seek to determine how, if this process were successfully concluded, the negotiations could most constructively be advanced, including the issue of the participants adopting an agreed indicative timeframe for taking stock of their progress;
- following a successful conclusion of the process set out above, including due time for consideration, the two Governments would expect the independent chairmen to convene a plenary session for all participants, with Sinn Fein invited formally to participate, to consider the outcome of these consultations and the future programme of work.

From their entry into negotiations onwards, Sinn Fein would, in common with all the other participants, be subject to all the agreed provisions and rules of procedure. These include those governing the contingency where any participant is no longer entitled to participate on the grounds that they have demonstrably dishonoured the principles of democracy and non-violence.

- 4 -

The range of issues on which an overall agreement will depend means that the negotiations will be on the basis of a comprehensive agenda. This will be adopted by agreement. Each participant will be able to raise any significant issue of concern to them, and to receive a fair hearing for those concerns, without this being subject to the veto of any other party. Any aspect can be raised, including constitutional issues and any other matter which any party considers relevant. No negotiated outcome is either predetermined or excluded in advance or limited by anything other than the need for agreement.

Among the crucial issues is decommissioning. So the opening plenary is addressing the International Body's proposals on decommissioning of illegal arms. In their report, the International Body said the parties should consider an approach under which some decommissioning would take place during the process of all-party negotiations. We and the Irish Government support this compromise approach. Agreement needs to be reached on how to take it forward, so that the process of decommissioning is not seen as a block to progress in the negotiations, but can be used to build confidence one step at a time during them. So both Governments have already said they will be looking for the commitment of all participants to work constructively during the negotiations to implement all aspects of the International Body's report.

It is essential that all participants negotiate in good faith, seriously address all areas of the agreed agenda and make every effort to reach a comprehensive agreement. For their part, the two Governments are committed to ensure that all items on the comprehensive agenda are fully addressed. They will do so themselves with a view to overcoming any obstacles which may arise.

For our part, we are wholly committed to upholding our responsibility to encourage, facilitate and enable agreement over a period through the negotiations.

- 5 -

This must be based on full respect for the rights and identities of both traditions. We want to see peace, stability and reconciliation established by agreement.

We are also determined to see these negotiations through successfully, as speedily as possible. This is in line with the hopes and aspirations of people in both the United Kingdom and the Irish Republic. These have already given momentum to a process which will always have difficulties. We will encourage the adoption by the participants of an agreed indicative timeframe for the conduct of the negotiations and, if it would be helpful, will bring forward proposals for this. We have already proposed that a plenary meeting should be held in December to take stock of progress in the negotiations as a whole. The two Governments will also review progress at regular intervals. I will be meeting the Taoiseach on 9 December and the Secretary of State regularly meets the Tanaiste. Progress will be reviewed again by the end of May 1997, a date set in the legislation.

Meanwhile we are committed to raising confidence, both through the talks and through a range of other measures alongside them. The International Body's report itself proposes a process of mutual confidence-building.

So we will continue to pursue social and economic policies based on the principles of equality of opportunity, equity of treatment and parity of esteem irrespective of political, cultural or religious affiliation or gender. We support, with equal respect, the varied cultural traditions of both communities. We are also committed to developing policing arrangements so that the police service should enjoy the support of the entire community.

It is worth recalling that, in response to the ceasefires of Autumn 1994 and the changed level of threat, we undertook a series of confidence-building measures.

- 6 -

These included changed arrangements for release of prisoners in Northern Ireland under the Northern Ireland (Remission of Sentences) Act 1995, security force redeployments, a review of emergency legislation and others. If the threat reduces again, the opportunity for further confidence-building measures returns.

But confidence-building is a two-way street. Support for the use of violence is incompatible with participation in the democratic process. An end to punishment beatings and other paramilitary activities, including surveillance and targeting, would demonstrate real commitment to peaceful methods and help build trust.

The opportunity for progress has never been greater. The process of peace and reconciliation has received valuable economic support from the United States, the European Union and through the International Fund. The negotiations are widely supported internationally and benefit from independent chairmen from the USA, Canada and Finland. They also have the overwhelming support of the people throughout these islands. They want them to take place in a peaceful environment, free of all violence. That is our aim too.

10 DOWNING STREET
LONDON SW1A 2AA

DUTY CLERKS' OFFICE
FAX NO 0171- 839- 9044

FAX TO: *Professor Anthony Lake*

FROM: *John Holmes*

TO :

DATE OF DOC : *22/11/96*

TITLE : *Northern Ireland*

CLASS : Confidential / Restricted *(U/C)*

DATE FAXED : *22/11/96*

TIME : *19:05*

NO of PAGES : *10*

MESSAGE : —

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

6 June 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
1600 Pennsylvania Avenue NW
WASHINGTON DC 20500

Dear Nancy

Further to our discussion last night about the agenda for the talks, the attached, on which I have put markings, will confirm that the agenda will be fully comprehensive.

With best wishes.

Yours sincerely

Dermot Gallagher
Ambassador

STRAND ONE ISSUES

1. Discussion of requirements for a new beginning for relationships within Northern Ireland.
2. Consideration of possible principles and criteria for new arrangements within Northern Ireland.
3. The question of institutional and other practical implications of these discussions.

Topics likely to arise include:

- The constitutional position of Northern Ireland
- The nature of institutional arrangements for and within Northern Ireland, which meet any agreed criteria, including, nature and extent of powers eg legislative, executive, administrative; structures for exercising these powers; safeguards to maintain cross-community confidence and financial arrangements;
- The extent to which present or proposed arrangements attract the assent and support of both sides of the community and ensure equity of treatment;
- Relationships with other institutions eg Westminster Parliament, any new North/South relationships, any new Intergovernmental arrangements and the European Union;

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Pg. 06/29

- Consideration of arrangements for the protection of rights
- law and order matters

This list is not comprehensive and other issues may emerge in discussion.

4. Report to Plenary

STRAND TWO ISSUES

1. Discussion of requirements for a new beginning for relationships within the island of Ireland, including fundamental aspects of the problem: underlying realities; identity; allegiance; constitutional.
2. Common interests (including matters such as economic co-operation and development, security co-operation and law enforcement co-operation) and themes.
3.  The question of institutional arrangements and any other practical implications to meet agreed requirements (including principles to govern any such arrangements).
4. Relationship of such new institutional arrangements to other structures - eg: UK Government and Parliament; Irish Government and Parliament; Northern Ireland structures; Irish-UK intergovernmental structures; the European Union.
5. Measures for the guarantee and protection of rights.
6. Consequential measures needed to implement, support and underwrite such new structures.
7. Report to Plenary.

STRAND THREE ISSUES

1. Opening presentations by the two Governments.
2. Establishment of necessary mechanisms to provide a meaningful role for the political parties in respect of Strand Three issues.
3. Examination of the causes of the conflict in Northern Ireland, its impact and its implications for the two Governments.
4. Principles and criteria which should underpin new arrangements, including requirements to acknowledge and recognise the rights of the two major traditions that exist in Ireland.
5. The question of institutional arrangements and provisions of any new agreement or structure.
6. Arrangements needed to implement, support and underwrite any new agreement or structure.
7. Constitutional issues.
8. Consideration of arrangements for the protection of rights.
9. Arrangements for the approval and implementation of a comprehensive agreement.
10. Report to Plenary.

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CONCLUDING PLENARY SESSION

- 1 Consideration of outstanding issues arising from the three strands and the sub-committee on decommissioning.
- 2 Consideration of arrangements for the approval and implementation of a comprehensive agreement.

AMBASÁID NA HÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

~~**Personal and Confidential**~~

5 June 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
1600 Pennsylvania Avenue NW
WASHINGTON DC 20500

Dear Nancy

I am enclosing copy of the text on the Chairmanships for the talks which has literally just been agreed. The next step will be for the two Governments to approach Senator Mitchell (and his two colleagues). I expect this to happen early in the morning - the Senator will be available from eleven o'clock New York time.

We can talk about the enclosed further to-night.

With best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dermot Gallagher', followed by a small checkmark.

Dermot Gallagher
Ambassador

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ms

The British Government will chair Strand 1 of the negotiations and the British and Irish Governments will jointly chair Strand III. The two Governments have decided to invite a group consisting of Senator George Mitchell, General John de Chastelain and Mr Harri Holkeri to play a role in chairing the various aspects of the negotiations which require independent Chairmanship. They have agreed to invite the chairman of the group, Senator Mitchell, to chair the plenary sessions, to which the various Strands and any sub-committees which the plenary may establish will report, and which will periodically review progress across the entire spectrum of the negotiations. The two Governments will also invite Senator Mitchell, with the help of his colleagues, to assist them in giving effect to their joint commitment under paragraph 15 of the Ground Rules. They have also agreed to invite General de Chastelain to provide the independent chairmanship in Strand II. He would also chair the Business Committee, unless the talks participants, in accordance with the Ground Rules, were to decide otherwise. They have agreed to invite Mr Holkeri to act as Alternate Chairman in any of the independent Chairmanship roles. They agreed that it will open to the Group to propose alternative options to the two Governments in the light of the requirements of the negotiations or as circumstances warrant.

ⓐ More Agenda forward if needed

AMBASÁID NA HÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

~~PERSONAL AND CONFIDENTIAL~~

FAX COVER

To:

THE WHITE HOUSE

For:

MS NANCY SODERBERG

From:

AMBASSADOR GALLAGHER

Subject:

Date:

5 JUNE 1996

No. Of Pages:

3

AMBASAÍD NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

Personal and Confidential

5 June 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
1600 Pennsylvania Avenue NW
WASHINGTON DC 20500

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We can talk about the enclosed further to-night.

With best wishes.

Yours sincerely

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Dermot Gallagher
Ambassador

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AMBASÁID NA HÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

~~PERSONAL AND CONFIDENTIAL~~

FAX COVER

To:

THE WHITE HOUSE

For:

MS NANCY SODERBERG

From:

AMBASSADOR GALLAGHER

Subject:

Date:

30 MAY 1996

No. Of Pages:

1. (including cover)

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

~~Personal and Confidential~~

30 May 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
1600 Pennsylvania Avenue NW
WASHINGTON DC 20500

Dear Nancy

I am attaching a paper on procedural guidelines which we have handed over to the British side in advance of tomorrow's meeting at official level in London.

Despite the general encouraging orientation from Tuesday's Ministerial Meeting in Dublin, we are concerned at developments this afternoon, on which we will be in touch.

With best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dermot Gallagher', with a small checkmark at the end.

Dermot Gallagher
Ambassador

~~CONFIDENTIAL~~

IRISH DRAFT - 30 MAY 1996

PROCEDURAL GUIDELINES FOR THE CONDUCT OF SUBSTANTIVE ALL-PARTY NEGOTIATIONS

The following "Procedural Guidelines for the Conduct of Substantive All-Party Negotiations" (hereafter referred to as the "Procedural Guidelines" are intended to supplement the "Ground Rules for Substantive All-Party Negotiations" (hereafter referred to as the "Ground Rules"), published by the two Governments on 16 April 1996. It is proposed that the Ground Rules and the Procedural Guidelines will together serve as the rules of procedure for the negotiations unless or until they are amended or replaced by rules of procedure adopted by agreement among the participants in the negotiations. Subject to this, and with the exception of the provision in paragraph 30 of the Procedural Guidelines, which has the effect of specifying the scope of application of sufficient consensus as laid down in paragraph 24 of the Ground Rules, the Ground Rules should be taken as the authoritative text in the case of any difference of interpretation between the two documents.

Format

1. According to the Ground Rules, negotiations will take place in the following formats:
 - Plenary
 - Strand One
 - Strand Two
 - Strand Three
 - the Business Committee.

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Chairing the Negotiations

2. All formal meetings of the Plenary will be chaired by an Independent Chairperson whose identity will be announced by the British and Irish Governments after consultation with the political parties.
3. All formal meetings in Strand One format will be chaired by a representative of the British Government.
4. All formal meetings in Strand Two format will be chaired by the Independent Chairperson whose identity will be announced by the British and Irish Governments after consultation with the political parties.
5. The two Governments will co-chair their negotiations in Strand Three format. Meetings between the two Governments and the political parties to discuss Strand 3 issues would also be co-chaired by the two Governments.
6. The Business Committee will be chaired by the independent Chairperson of Strand Two or, otherwise, by a person agreed by the participants.
7. The two Governments, by agreement, may also appoint Vice-Chairpersons who, after consultation with the political parties, may be invited by the two Governments to deputise for the Independent Chairperson of the Plenary or Strand Two under her/his overall direction.

Committees and Sub-Committees

8. Where appropriate, other committees and sub-committees of the negotiations may be established by agreement among the participants in the format to which the sub-group relates. Committees and sub-committees shall be chaired by the chairperson of the format of the negotiations in question or, by agreement among the participants in that format, by a person nominated by the chairperson.

Conduct of proceedings

9. The relevant Chairperson will have responsibility for convening, re-scheduling and adjourning meetings, in consultation, as he/she considers appropriate, with the relevant participating negotiating teams. However, any negotiating team may request an adjournment of up to 10 minutes at a time and the Chairperson shall

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refuse such requests only if they are made with unreasonable frequency.

10. Where any negotiating team does not attend a meeting at a previously agreed time and fails to provide notice of their inability to attend, the Chairperson of that meeting may proceed to conduct the meeting in their absence. If a delegation should withdraw temporarily or permanently from any aspect of the negotiations, the Chairperson will be free to proceed with business with the remaining participants, notwithstanding such withdrawal.
11. The Chairperson of each meeting will be responsible for the orderly conduct of business and will conduct the proceedings so as to allow an opportunity for a fair hearing of all the issues.
12. All remarks shall be addressed through the Chairperson. Time limits on interventions may be imposed at the Chairperson's discretion.
13. The Chairperson's ruling on all individual questions of procedure and order shall be final.
14. The Chairperson may at any time ask one or more of the participating negotiating teams to meet with her/him; and will accede to any reasonable request for a meeting with her/him from any negotiating team(s).

Opening of the negotiations

15. Paragraph 12 of the Ground Rules specifies that negotiations will begin on Monday 10 June with an opening Plenary session.
16. The opening session of the Plenary will begin with a round of statements during which all participants will be required to make clear their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. In the event of any participant failing to make such a statement, the Independent Chairman shall report this to the two Governments for their consideration and appropriate action.
17. The Business Committee shall be established. It may *inter alia* consider proposals to amend or replace the rules of procedure constituted by the Ground Rules and these Procedural Guidelines.

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18. The Plenary (if necessary with the assistance of *ad hoc* working groups established to consider the agenda of particular strands) will then adopt and commit the parties to negotiate, the comprehensive agenda for the negotiations. The Independent Chairman shall ensure that this agenda provides all the participants with reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.
19. Subsequent to the adoption of the agenda, the participants will address the proposals of the International Body. The two Governments shall table a joint proposal to establish a Committee of the Plenary to carry forward work on the decommissioning issue and appropriate related issues. The precise function of this Committee shall be determined by the two Governments, following discussion in the Plenary.
20. Once the Independent Chairman of the Plenary, following consultation with the participants, has satisfied himself that the International Body's proposals on decommissioning have been sufficiently addressed to allow for work on the decommissioning issue to be carried forward, and provided that he is also satisfied that participants are genuinely committed to work constructively towards the implementation of the Report, the Independent Chairperson will conclude discussion of this matter in Plenary.
21. The opening session of the Plenary will formally conclude with a statement by the Independent Chairman to the effect, assuming that this is the case, that he is satisfied that all the participants have:
 - made clear their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body;
 - addressed the International Body's proposals on decommissioning and are genuinely committed to work constructively towards the implementation of these proposals;
 - adopted, and committed themselves to negotiate, a comprehensive agenda which provides reassurance that a meaningful and inclusive

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process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.

22. Following the conclusion of the opening Plenary, the appropriate Chairpersons will convene meetings of the negotiations within the three strands and in the Committee of the Plenary established to carry forward work on decommissioning.
23. The Independent Chairperson may convene further meetings of the Plenary as he/she considers necessary, in the light of developments across the negotiations as a whole.

Agenda

24. Participants in the various formats, committees and sub-committees, will negotiate on the basis of the comprehensive agenda for the negotiations as a whole, adopted in the opening session of the Plenary, as it relates to their area of competence. They may, by agreement, develop or refine it.
25. The Business Committee shall establish and maintain an indicative calendar for the negotiations as a whole and within the various formats. The timing and duration of meetings shall be determined by the participants in the various formats in accordance with this indicative calendar.
26. The agenda for each meeting of the negotiations shall be adopted by the participants on the basis of proposals put forward by the Chairperson in accordance with the agenda agreed by the participants in the relevant format and the overall agenda adopted for the negotiations as a whole, and taking into account the indicative calendar and the views of the Business Committee.

Decision-taking

27. The negotiations will operate on the basis of consensus. However, if, in relation to issues whose determination falls outside the discretion available to the Chairperson under the Ground Rules or the Procedural Guidelines, it appears to the Chairperson, after a reasonable period of discussion, that there is no unanimity, he/she may follow one or more of the courses of action set out below:

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- (a) the Chairperson may consult with the participants, with a view to putting forward a solution that he/she believes will secure agreement; and/or
 - (b) the Chairperson may invite the participants to set up a small but broadly representative working group (the composition to be determined by the Chairperson after consultation with the participants, but which must, other than in relation to Strand One issues, include nominees of the two Governments) to investigate the specific issues in dispute within an agreed time scale and, at the discretion of the Chairperson, to recommend possible ways forward; and/or
 - (c) the Chairperson may seek the agreement of all the participants to refer the matter to a group of experts (nominated by the Governments participating in the format in question), for advice, requesting a report within an agreed specified period.
28. 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 32 below, to refer the matter to the forum for investigation, requesting a report.
29. If, after the participants have considered any further proposals arising from one or more of the courses of action set out above, it appears to the Chairperson that there is no unanimity on a particular point, the Chairperson shall have the discretion to determine whether sufficient consensus, as defined in paragraph 31, exists to allow the negotiations to proceed.

Sufficient Consensus

30. The rules for establishing sufficient consensus as described in paragraph 24 of the Ground Rules are set out in paragraph 31 below. In addition to Strands One and Two, sufficient consensus may also apply in the Plenary and the Business Committee. Sufficient consensus may also apply in committees and sub-committees of the Plenary, Strand One and Strand Two and in sub-committees of the Business Committee.
31. [Proposed definition of sufficient consensus to follow.]

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Reference to the Forum

32. The negotiating teams in any format of the negotiations, acting solely by agreement and on the formal proposal of a participant in that format, may direct the relevant Chairperson 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 in accordance with the forum's rules of procedure.

Submissions to the negotiations

33. Written submissions which may be received from political parties, groups, or individuals not participating in the negotiations shall have no status within the negotiations, unless such a submission has been formally requested by agreement among the participants.

Liaison arrangements with the Irish Government in relation to Strand One

34. The British Government, as Chairperson of Strand One, will keep the Irish Government informed of the progress achieved in Strand One, through liaison arrangements agreed between the two Governments following consultation with the political parties.

Meetings between the Governments and the Political Parties in relation to Strand Three

35. Negotiations on Strand Three issues will be between the two Governments. The two Governments will advise the parties of the timing and venue of their negotiating sessions.
36. The arrangements by which the political parties are to be provided a meaningful role are set out in paragraph 21 of the Ground Rules. The following are the procedural guidelines will apply to these arrangements:

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- (a) regular meetings convened at the instigation of the two Governments (as defined in the first indent of paragraph 21 of the Ground Rules)
- all the political parties shall be invited to attend such meetings;
 - the timing and venue of such meetings shall be arranged by the two Governments in consultation with the political parties;
 - political parties shall be entitled to send up to three members of their negotiating teams to such meetings;
- (b) meetings convened at the request of the political parties (as defined in the second indent of paragraph 21 of the Ground Rules)¹
- such meetings may involve one or both Governments and any number of the political parties participating in the negotiations;
 - the timing and venue of such meetings shall be determined by the participants;
- (c) means of communication between the Governments and the political parties
- the two Governments will report progress on Strand Three issues orally, but will also circulate, when they decide an appropriate point has been reached, all papers which have been provisionally agreed by the two Governments in Strand Three;
 - it will be open to the political parties to submit their own views, either orally or in writing, on any aspect of the relationship which are the subject of negotiation in Strand Three;
 - any response that may be given by the two Governments will be given jointly.

¹ It is proposed that travel costs and loss of earnings allowance shall be payable to members of the negotiating teams of the political parties in respect of such meetings only where they involve both Governments.

~~CONFIDENTIAL~~**Records of Meetings**

37. Records of formal meetings will be prepared by note-takers under the general direction of the Chairperson 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 in that format, or earlier if appropriate.
38. 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 Chairperson of the format in question shall appoint note-takers for each meeting from among the officials nominated by the two Governments.
39. The participants in any meeting may, with the agreement of the Chairperson of the format concerned, agree to depart from the arrangements set out in paragraphs 38 and 39.

AMBASÁID NA hÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

~~PERSONAL AND CONFIDENTIAL~~

FAX COVER

Wd

To:

THE WHITE HOUSE

For:

MS NANCY SODERBERG

From:

AMBASSADOR GALLAGHER

Subject:

Date:

28 MAY 1996

No. Of Pages:

10 (including cover)

*CL TO MAP 5
return*

AMBASÁID NA HÉIREANN
 TELEPHONE: (202) 462-3939
 FAX: (202) 232-5993



EMBASSY OF IRELAND
 2234 MASSACHUSETTS AVE., N.W.
 WASHINGTON, D.C. 20008

~~Personal and Confidential~~

28 May 1996

Ms Nancy Soderberg
 Deputy Assistant to the President
 The White House
 1600 Pennsylvania Avenue NW
 WASHINGTON DC 20500

Dear Nancy

I am enclosing a paper on the Draft Agenda for talks, which Dick Spring handed over to Patrick Mayhew at to-day's meeting in Dublin.

With best wishes.

Yours sincerely



Dermot Gallagher
 Ambassador

I would appreciate our discussion on Friday.

HANDLED OVER AT ANGLO-IRISH MINISTERIAL MEETING

~~CONFIDENTIAL~~

IRISH DRAFT - 28 MAY 1996

DRAFT AGENDA FOR SUBSTANTIVE ALL-PARTY NEGOTIATIONS

1. Paragraph 14 of the *Ground Rules for Substantive All-Party Negotiations* provides that the opening plenary session of the negotiations will adopt a comprehensive agenda for the negotiations which will:

- be in accordance with the necessity for confidence building measures as spelt out in paragraph 12 of the joint Communiqué adopted by the two Governments on 28 February 1996;
- provide reassurance, both in terms of addressing the report of the International Body and ensuring that a meaningful and inclusive process of negotiations is genuinely being offered; and
- include all the significant items which the various negotiating teams consider relevant and which will, therefore, have to be addressed in the search for an agreement.

2. Paragraph 3 of the Ground Rules provides that any participant in the strand in question will be free to raise any aspect of the three relationships, including constitutional issues and any other matter it considers relevant.

3. The attached draft agenda is intended to be compatible with the requirements of paragraph 14 of the Ground Rules and is without prejudice to the provisions of paragraph 3. Debate on the agenda, therefore, is not at this stage intended to

DETERMINED TO BE AN
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determine whether or not a particular matter should be on the table, but rather to lead to agreement on how all the various concerns can be organised and discussed in the most efficient manner, and in terms which do not prejudice a fair hearing for any of them.

4. While the agenda cannot be formally adopted until the opening plenary at the earliest, it would be desirable to know before 10 June that the participants are likely to support an agenda on these lines.

5. A preliminary list of issues which the two Governments consider it necessary, as a minimum, to include on the agenda is attached. Most issues are grouped by reference to the strand in which they would most appropriately be discussed. Certain issues, such as decommissioning, are mentioned separately as they do not fall neatly into any particular strand. The format in which such issues should be negotiated will be a matter for the participants in the negotiations. The two Governments, for their part, have proposed that decommissioning be dealt with by a Committee of the Plenary. In all cases, the list of issues, their order and grouping is not definitive and will have to be agreed by the participants in the opening plenary session of the negotiations.

6. The preliminary views of the political parties on the content of this draft agenda as well as ideas on scheduling and sequencing would be welcome.

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The Opening Plenary

1. Opening statements by the participants - must include statement of commitment to the Mitchell principles.
2. Appointment of Business Committee.
3. Adoption of the agenda for the negotiations.
4. Addressing in the Plenary of the International Body's proposals on decommissioning (including consideration of proposal to establish a Committee on Decommissioning).
5. Any procedural issues outstanding, including, further meetings of the plenary, indicative timetable for negotiations, etc.
6. Concluding statement by the Independent Chairman

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The Business Committee

1. Consideration of any proposed changes to the Procedural Guidelines adopted by the two Governments.
2. Adoption of an indicative calendar for the negotiations.
3. Decisions on venues of Strand Two meetings.

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Committee of the Plenary on Decommissioning

(Mandate to be agreed)

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Strand Two

1. Approval of agenda
2. Discussion of requirements for a new beginning for relationships within the island of Ireland, including fundamental aspects of the problem: underlying realities; identity; allegiance; constitutional.
3. Common interests (including matters such as economic cooperation and development, security cooperation and law enforcement) and themes.
4. Institutional arrangements and any other practical implications to meet agreed requirements (including principles to govern any such arrangements).
5. Relationship of any new institutional arrangements to other structures - eg: UK Government and Parliament; Irish Government and Parliament; Northern Ireland structures; Irish-UK intergovernmental structures; the European Union.
6. Measures for the guarantee and protection of rights.
7. Consequential measures needed to implement, support and underwrite such new structures.
8. Report to Plenary.

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Strand Three

1. Approval of agenda.
2. Opening presentations by the two Governments.
3. Examination of the causes of the conflict in Northern Ireland, its impact and its implications for the two Governments.
4. Principles and criteria which should underpin any new arrangements, including on requirements to acknowledge and recognise the rights of the two major traditions that exist in Ireland.
5. Institutional arrangements and provisions of any new agreement or structure.
6. Arrangements needed to implement, support and underwrite any new agreement or structure.
7. Constitutional issues.
8. Consideration of arrangements for the protection of rights.
9. Arrangements for the approval and implementation of a comprehensive agreement.
10. Report to plenary.

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Concluding Plenary

1. Consideration of outstanding matters arising from the reports from the three strands and the Committee on Decommissioning.
2. Consideration of arrangements for the approval and implementation of a comprehensive agreement.

AMBASÁID NA HÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

FAX COVER SHEET

FAX NO.

=

DATE:

21 MAY 1996

TO:

THE WHITE HOUSE

FOR:

MS NANCY SODERBERG

FROM:

AMBASSADOR GALLAGHER

TOTAL NUMBER OF PAGES INCLUDING THIS COVERING SHEET: 5
TRANSMITTED FROM FAX NUMBER: (202) 319-9757

Letter and enclosure follow.

copy sent to MAP

NY

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

Personal and Confidential

21 May 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
WASHINGTON DC 20500

Dear Nancy

I am enclosing copy of a letter about the decommissioning issue which the Taoiseach sent to the Prime Minister this afternoon.

I will give you a call within the next day to review where things are at, in the light of the various meetings and calls that are taking place.

With best wishes.

Yours sincerely

A handwritten signature in ink, appearing to read 'Dermot Gallagher', with a checkmark at the end.

Dermot Gallagher
Ambassador

21 May, 1996.

Oifig an Taoisigh
Office of the Taoiseach

The Right Honourable John Major, M. P.,
Prime Minister.

Dear John,

Having reflected on our telephone conversation of yesterday evening, and on earlier exchanges between us and between our officials I am writing to underline my belief in the importance of remaining with the words you used in your article last week on the decommissioning issue, "decommissioning will also need to be addressed at the beginning of the talks and agreement reached on how Mitchell's recommendations on decommissioning can be taken forward, without blocking the negotiations".

I believe our conversation last evening was useful in focusing of the value of using only the words of the Mitchell Report in providing references for the Decommissioning Sub-Committee. I enclose a proposal on this basis for those Terms of Reference.

I believe we now need to redouble our efforts to agree on remaining issues for the talks procedures. I believe this can be done at tomorrow's Conference. I look forward to speaking to you again later in the week.

Yours sincerely,



John Bruton
Taoiseach.

Proposed Terms of Reference of Sub-Committee

on

Decommissioning

- (a) To secure agreement on the modalities of decommissioning on the basis of the guidelines contained in paragraphs 36 to 50 of the Report of the International Body.
- (b) To consider an approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after, such that consistent with the view of the International Body, as progress is made on political issues, even modest mutual steps on decommissioning could help create the atmosphere needed for further steps in a progressive pattern of mounting trust and confidence, including the role that other confidence building measures set out in the Report of the International Body might play.

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- (c) To advise both Governments, in the light of these discussions, on the legislative and practical implications of the course which is recommended.

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

~~**Personal and Confidential**~~

15 April 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
WASHINGTON DC 20500

WP

Dear Nancy

I am pleased to convey that agreement has now been reached on the text of the ground rules paper between London and ourselves. I am enclosing a copy of this agreed text, which will be published tomorrow afternoon, 16th April.

With best wishes.

Yours sincerely

A handwritten signature, appearing to be 'Dermot', followed by a horizontal line and a checkmark.

Dermot Gallagher
Ambassador

(AGREED TEXT - TO BE PUBLISHED AT 3.30 PM, 16 APRIL 1996)

GROUND RULES FOR SUBSTANTIVE ALL-PARTY NEGOTIATIONS

In their Joint Communiqué of 28 February 1996, the Prime Minister and the Taoiseach confirmed that all-party negotiations will be convened on Monday 10 June 1996 following intensive consultations with the relevant political parties and the completion of a broadly acceptable elective process. Following consultation with the political parties this paper sets out the best judgement of the two Governments on the most suitable and broadly acceptable ground rules for the basis, participation, structure, format and agenda of all-party negotiations, beginning on 10 June 1996.

The Basis, Participation, Structure, Format and Agenda of All-Party Negotiations

Basis

1. The purpose of the negotiations will be to achieve a new beginning for relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands, and to agree new institutions and structures to take account of the totality of relationships.

Agenda

2. The negotiations will, therefore, in a full and comprehensive fashion, address and seek to reach agreement on relationships and arrangements within Northern Ireland, including the relationship between any new institutions there and the Westminster Parliament; within the whole island of Ireland; and between the two Governments, including their relationship with any new institutions in Northern Ireland.
3. Any participant in the strand in question will be free to raise any aspect of the three relationships, including constitutional issues and any other matter which it considers relevant. While no outcome is either predetermined or excluded in advance, and while participation in negotiations is without prejudice to any participant's commitment to the achievement by exclusively peaceful and democratic means of its own preferred options, it is common ground that any outcome which is to command widespread support, will need to give adequate

- 2 -

expression to the totality of all three relationships.

4. Both Governments, as signatories of the Anglo-Irish Agreement, reaffirm that they would be prepared to consider a new and more broadly based agreement, if that can be achieved through direct discussion and negotiation between all the parties concerned. The two Governments, for their part, have described a shared understanding of the parameters of a possible outcome of the negotiations in *A New Framework for Agreement*.

Structure

5. The negotiations will be structured so as to ensure that all issues will be addressed in a coherent and efficient manner in three interlocking strands, reflecting the three key relationships at issue, with appropriate distinctions as to participation and procedural arrangements. Strand One will cover relationships within Northern Ireland; Strand Two will cover relationships within the island of Ireland; and Strand Three will cover relationships between the British and Irish Governments.
6. If appropriate, committees and sub-committees may be established by agreement.
7. The conduct of the negotiations will be exclusively a matter for those involved in the negotiations. Any reference to, or interaction with, the forum to be convened following the elective process held to determine which parties will participate in the negotiations may take place solely by agreement among the negotiating teams to this effect and only at their formal instigation.

Participation

8. Negotiations will involve the participation, in the appropriate strands, of representatives of both Governments and all those political parties operating in Northern Ireland (hereafter referred to as "the political parties") which achieve representation through an elective process and which, as set out in the Communiqué of 28 February 1996, establish a commitment to exclusively peaceful methods and which have shown that they abide by the democratic process.
9. In the Communiqué of 28 February, both Governments expressed the hope

- 3 -

all-party negotiations. However, both Governments are also agreed that the resumption of Ministerial dialogue with Sinn Féin, and their participation in negotiations, requires the unequivocal restoration of the ceasefire of August 1994.

10. There will be no limit on the overall size of the negotiating teams of the political parties and the two Governments (hereafter collectively referred to as "the participants"). However, for any one meeting, unless there is agreement otherwise, participants will generally be limited to teams of three, plus three in support (five in support in the case of the two Governments).
11. The negotiating team of each political party will be designated by the party leader from among the elected representatives. These teams may be supported in meetings by researchers and others who are not elected.

Opening of negotiations

12. Negotiations will begin on Monday 10 June 1996 with an opening plenary session involving all the participants in the negotiations. Each delegation would have the opportunity to make an opening statement setting out its approach to the negotiations and its position on key issues.
13. In their Communiqué of 28 February, the Taoiseach and the Prime Minister said:

"They recognise that confidence building measures will be necessary. As one such measure, all participants would need to make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. They would also need to address, at that stage, its proposals on decommissioning.

Confidence building would also require that the parties have reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify."

14. The agenda for negotiations will be in accordance with this and therefore the opening plenary session will need to ensure that priority is given to these confidence building issues. The opening plenary session will also adopt, and commit the participants to negotiate, a comprehensive agenda which provides

- 4 -

and ensuring that a meaningful and inclusive process of negotiations is genuinely being offered. This agenda will include all the significant items which the various negotiating teams consider relevant and which will, therefore, have to be addressed in the search for agreement. The plenary session would also decide how to deal with any procedural issues which may require resolution in the negotiations.

15. Both Governments are determined that the structure and process of the negotiations will be used in the most constructive possible manner in the search for agreement. They will use their influence in the appropriate strands to ensure that all items on the comprehensive agenda are fully addressed in the negotiating process and commit themselves, for their part, to doing so with a view to overcoming any obstacles which may arise.
16. All participants in the negotiations will take part in good faith, seriously address all aspects of the agreed agenda, and make every effort to reach agreement. They will maintain confidentiality on all aspects of the negotiations except where they may from time to time agree to publicity.
17. 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 the use of 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.

Format

18. Negotiations will address all three interlocking sets of relationships as a totality. Negotiations in each of the three interlocking strands will open on the same day and will proceed in parallel. However, unless otherwise agreed by the Business Committee, negotiating sessions in different strands, or within strands, will not be held simultaneously, to allow participants, if they so wish, the option of fielding the same negotiating team throughout the negotiations.
19. Negotiations on Strand One issues will involve the British Government and the political parties:

- negotiations will take place on the basis of an agreed agenda and in appropriate formations as agreed by the participants;

- 5 -

- formal meetings will be chaired by the British Government operating procedural rules, agreed by the participants;
 - the Irish Government will be kept informed of the progress achieved in Strand One through liaison arrangements agreed between the two Governments following consultations with the parties.
20. Negotiations on Strand Two issues will involve both the British and Irish Governments and the political parties:
- negotiations will take place on the basis of an agreed agenda and in appropriate formations as agreed by the participants;
 - formal meetings will be chaired by an independent Chairperson operating procedural rules, agreed by the participants.
21. 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;
 - meet the political parties at their request for further discussion of Strand Three issues.
- The outcome of Strand Three will be considered by all the participants alongside the outcome of the other two strands.
22. In addition to plenary sessions of the negotiations, some practical arrangements will be needed for liaison between the different elements of these complex negotiations. While the management of each strand is for its participants, a Business Committee composed of representatives of the two Governments and of the political parties, chaired by the independent Chairperson of Strand Two or, otherwise, by any person agreed by the participants, will be established to coordinate the progress and the procedures of the negotiations. The Business Committee would not deal with the substance of the negotiations but would address unresolved procedural issues. It could also determine the modalities for

- 6 -

dealing with any issue which does not fall exclusively within any of the three strands.

23. The negotiations will proceed on the principle that nothing will be finally agreed in any strand until everything is agreed in the negotiations as a whole. Subject to this principle, it would nevertheless be possible, solely on the basis of consensus among the participants, to proceed on the assumption of contingent agreement on any individual aspect of the negotiations. *includes decision*
24. The negotiations will operate on the basis of consensus. However, if in Strand One or Two it should prove impossible after determined efforts to achieve unanimity, the Chairperson may, without prejudice to the provisions of the previous paragraph, operate on the basis of sufficient consensus among the political parties to allow negotiations to proceed. (The rules for establishing sufficient consensus will be agreed in advance of negotiations by the participants and such rules will ensure that any departure from the rule of unanimity is within minimal limits and will, in all cases, ensure that any decision taken will be supported by a clear majority in both the unionist and nationalist communities in Northern Ireland.) Additionally, as regards Strands Two and Three, both Governments would have to endorse a particular proposition for it to be deemed to have achieved sufficient consensus. The overall outcome across all three strands would also need to attract a sufficient consensus from the participants.

Venue

25. 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 meetings.

Validation

26. Both Governments respectively reaffirm their intention that the outcome of negotiations will be submitted for public approval by referendums in Ireland - North and South - before being submitted to their respective Parliaments for ratification and the earliest possible implementation.

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

Personal and Confidential

15 April 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
WASHINGTON DC 20500

Dear Nancy

I am enclosing copy of a letter which the Taoiseach has sent to Prime Minister Major last evening, in which he expresses strong concern about the proposed use of a weighted majority in deciding on the Chairperson and the rules and procedure of the Northern Ireland forum.

With best wishes.

Yours sincerely


Dermot Gallagher
Ambassador

As transmitted through the Anglo-Irish Secretariat, 22.30 14 April

14 April 1996

The Right Hon. John Major MP
Prime Minister

Dear John,

I understand that you will be publishing your proposals on the forthcoming elections and the arrangements for the forum this coming Tuesday. I look forward to the full briefing on your proposals which is to be conveyed through the Anglo-Irish Secretariat tomorrow.

*Why not
together*

On the basis of the limited information I have so far, there is one point which I feel I must raise with you. This is your intention that the chairperson and the rules of procedure of the forum shall be adopted by a weighted majority of 75%.

Your consultation paper of 8 March envisaged, under Option C, that "the forum would operate by consensus". Your paper of 21 March stated that "the forum will be required to proceed by broad consensus".

I need hardly stress to you the profound misgivings and suspicion with which nationalists view the forum proposal. Like you, I am anxious that the process you are launching in the legislation should be characterised by participation at every level, and not boycott.

The rule of consensus was a strong argument to be deployed to show that the proposed forum was indeed about dialogue and reconciliation, and not an embryonic decision-making body.

The fact that the consensus rule now appears to be made conditional on the decision of a weighted majority (in a forum where your election rules, and especially the "top-up" mechanism, are likely to give extra advantage to the unionists) will greatly aggravate the difficulties we face in persuading nationalists that the forum should be looked at constructively.

I appreciate that for practical reasons the selection of a chairperson and the adoption of procedural rules may require a weighted majority. However, I would urge that the consensus rule for any forum decisions should be established by legislation in advance, and these two procedural decisions identified in the legislation as the carefully defined and sole exceptions to that rule.

This issue was raised with me in strong terms by John Hume after he had been briefed on your draft legislation. I think it would be very unhelpful if he is faced with an even more difficult scenario for the forum than the one already flagged in your advance papers on it, and one where, moreover, the likely voting arithmetic in the forum operating by weighted majority would be an added disincentive for the SDLP to participate if Sinn Féin stayed away.

I hope, therefore, that the consensus rule will be enshrined in legislation. Otherwise, even the possibility of the forum operating generally by weighted majority will greatly enhance the suspicion that it is being geared for operational decisions and can become a rival focus to the negotiations.

Yours Sincerely

John Bruton TD

Taoiseach

AMBASAÍD NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

Personal and Confidential

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
1600 Pennsylvania Avenue NW
WASHINGTON DC 20500

A handwritten signature, likely of Dermot Gallagher, written in ink to the right of the recipient's address.

Dear Nancy

Dick Spring very much appreciated the meeting yesterday, and found it most useful.

During the meeting we spoke about the ground rules paper. I am now enclosing a copy of our latest draft, which was passed to London yesterday. We hope to finalise an agreed text either tomorrow or on Monday.

With best wishes.

Yours sincerely

Dermot Gallagher
Ambassador

IRISH DRAFT

10 APRIL 1996

GROUND RULES FOR SUBSTANTIVE ALL-PARTY NEGOTIATIONS

(Additions to the British draft of 2 April are underlined, deletions are in square brackets.)

In their Joint Communiqué of 28 February 1996, the Prime Minister and the Taoiseach confirmed that all-party negotiations will be convened on Monday 10 June 1996 following intensive consultations with the relevant political parties and the completion of a broadly acceptable elective process. Following consultation with the political parties this paper sets out the best judgement of the two Governments on the most suitable and broadly acceptable ground rules for the basis, participation, structure, format and agenda of all-party negotiations, beginning on 10 June 1996.

**The Basis, Participation, Structure, Format and Agenda
of All-Party Negotiations**

Basis

1. The purpose of the negotiations will be to achieve a new beginning for relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands and to agree new institutions and structures to take account of the totality of relationships.

Agenda

2. The negotiations will, therefore, in a full and comprehensive fashion, address and seek to reach agreement on relationships and arrangements within Northern Ireland, including the relationship between any new institutions there and the Westminster Parliament; within the whole island of Ireland; and between the two Governments, including their relationship with any new institutions in Northern Ireland.
3. Any participant in the strand in question will be free to raise any aspect of the three relationships, including constitutional issues and any other matter which it

- 2 -

considers relevant. While no outcome is either predetermined or excluded in advance, and while participation in negotiations is without prejudice to any participant's commitment to the achievement by exclusively peaceful and democratic means of its own 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. Without prejudice to the foregoing, the two Governments, for their part, have described a shared understanding of the parameters of a possible outcome of the negotiations in A New Framework for Agreement

4. Both Governments, as signatories of the Anglo-Irish Agreement, reaffirm that they would be prepared to consider a new and more broadly based agreement, if that can be achieved through direct discussion and negotiation between all the parties concerned. They envisage that such an agreement would develop and extend their cooperation, reflect the totality of relationships between the two islands, and be dedicated to fostering cooperation, reconciliation [conciliation] and agreement in Ireland at all levels.

Structure

5. The negotiations will be structured so as to ensure that all issues will be addressed [in a way which enables relevant participants to address all the issues] in a coherent and efficient manner. They will take place in a coordinated and interlocking three-stranded format, reflecting the three key relationships at issue, with appropriate distinctions as to participation and procedural arrangements. [The subject matter of the negotiations will be divided into three strands reflecting important distinctions as to participation and procedural arrangements.] Strand One will cover relationships within Northern Ireland; Strand Two will cover relationships within the island of Ireland; and Strand Three will cover relationships between the British and Irish Governments.

- 5a. If appropriate, committees may be established by agreement.

[However, the discussions to address these interlinked strands will be so arranged that each party could, if it wished, field the same team for every meeting.]

- 5b. The conduct of the negotiations will be exclusively a matter for the designated negotiating teams of the participants. The negotiating process will be entirely

- 3 -

without reference to, or interaction with, any other body or forum which may be convened following the elective process held to determine which parties will participate in the negotiations, other than by clear agreement among the negotiating teams to this effect, and at their formal and collective instigation.

Participation

6. Negotiations will involve the participation, in the appropriate strands, of representatives of both Governments and all those political parties operating in Northern Ireland (hereafter referred to as "the political parties") which achieve representation through an elective process and which, as set out in the Communiqué of 28 February 1996, establish a commitment to exclusively peaceful methods and which have shown that they abide by the democratic process.
7. In the Communiqué of 28 February, both Governments expressed the hope that all political parties with an electoral mandate will be able to participate in all-party negotiations. However, both Governments are also agreed that the resumption of Ministerial dialogue with Sinn Féin, and their participation in negotiations, requires the unequivocal restoration of the ceasefire of August 1994.
8. There will be no limit on the overall size of each participant's negotiating team. However, for any one meeting, unless there is agreement otherwise, participants will generally be limited to teams of three, plus three in support (five in support, in the case of the two Governments).
9. The negotiating team of each political party will be designated by the party leader [Negotiating teams will be chosen at each party leader's discretion] from among the elected representatives. These teams may be supported in meetings by researchers and others who are not elected.

Opening of negotiations

10. Negotiations will begin on Monday 10 June 1996 with an opening plenary session involving [the negotiating teams of] all the participants in the negotiations. Each delegation would have the opportunity to make an opening statement setting out its approach to the negotiations and its position on key issues.

- 4 -

11. In their Communiqué of 28 February, the Taoiseach and the Prime Minister said:

"They recognise that confidence building measures will be necessary. As one such measure, all participants would need to make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. They would also need to address, at that stage, its proposals on decommissioning. Confidence building would also require that the parties have reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify."

12. The agenda for negotiations will be in accordance with this and therefore the opening plenary session will need to ensure that priority is given to these confidence building issues. The opening plenary session will also adopt, and commit the participants to negotiate, a comprehensive agenda which provides reassurance, both in terms of addressing the report of the International Body and ensuring that a meaningful and inclusive process of negotiations is genuinely being offered. This agenda will include all the significant items which the various negotiating teams consider relevant and which will, therefore, have to be addressed in the search for agreement. The plenary session would also decide how to deal with any procedural issues which may require resolution in the negotiations.
13. Both Governments are determined that the structure and process of the negotiations will be used in the most constructive possible manner in the search for agreement. They will use their influence in appropriate strands to ensure that all items on the comprehensive agenda are fully addressed in the negotiating process and commit themselves, for their part, to doing so, with a view to overcoming any obstacles which may arise. [If appropriate, sub committees may be established by agreement.]
14. All participants in the negotiations will take part in good faith, seriously address all aspects of the agreed agenda, and make every effort to reach agreement. They will maintain confidentiality on all aspects of the negotiations except where they may from time to time agree to publicity.
15. If, during the negotiations, any party demonstrably dishonoured its commitment to the principles of democracy and non-violence set out in the

- 5 -

report of the international Body by [, for example,] resorting to force or threatening the use of 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.

Format

16. Negotiations will address all three interlocking sets of relations as a totality. Negotiations in each of the three interlocking strands [will not be required to follow a numerical sequence but] will open on the same day and will proceed in parallel [, although not at the same time]. However, unless otherwise agreed by the Business Committee, negotiating sessions in different strands, or within strands, will not be held simultaneously, to allow participants, if they so wish, the option of fielding the same negotiator(s) throughout the negotiations.
17. Negotiations on Strand One issues will involve the British Government and the political parties:
 - negotiations will take place on the basis of an agreed agenda and in appropriate formations as agreed by the participants;
 - formal meetings will be chaired by the British Government operating procedural rules agreed [adopted] by the participants;
 - the Irish Government will be kept informed of the progress achieved in Strand One through [agreed] liaison arrangements agreed between the two Governments.
18. Negotiations on Strand Two issues will involve both the British and Irish Governments and the political parties:
 - negotiations will take place on the basis of an agreed agenda and in appropriate formations as agreed by the participants;
 - they will be chaired by an independent Chairperson operating agreed procedural rules, agreed [adopted] by the participants.
19. Negotiations on Strand Three issues will be between the two Governments. They will ensure regular liaison arrangements and meetings with the parties to brief them and, where they agree it appropriate, to consult them on the state of

- 6 -

the negotiations. The outcome of Strand Three will be considered by all the participants alongside the outcome of the other two strands.

[Negotiations on Strand Three issues will be between the two Governments. There will be a meaningful role for the political parties:

- all political parties will be free to participate in discussions of Strand Three issues with the Governments;
- all political parties will be kept in touch with, and fully consulted on, progress on Strand Three issues, with regular meetings between the Governments and the political parties for this purpose;]

20. In addition to plenary sessions of the negotiations, some practical arrangements will be needed for liaison between the different elements of these complex negotiations. While the management of each strand is for its participants, a Business Committee composed of representatives of the two Governments and of the political parties, chaired by the independent Chairperson of Strand Two [or by any other person agreed by the participants], will be established to coordinate the progress and the procedures of the negotiations. The Business Committee would not deal with the substance of the negotiations but would address unresolved procedural issues. It could also determine the modalities for dealing with any issue which does not fall exclusively within any of the three strands.
21. The negotiations will proceed on the principle [basis] that nothing will be finally agreed in any strand until everything is agreed in the negotiations as a whole. Subject to this principle, it would nevertheless be possible, solely on the basis of consensus among the participants, to proceed on the assumption of [reach] contingent agreement on any individual aspect[s] of the negotiations [and to base further discussions upon such an agreement].
22. The negotiations will operate on the basis of consensus. However, if in Strand One or Two it should prove impossible after determined efforts to achieve unanimity, the Chairperson may, without prejudice to the provisions of the previous paragraph, operate on the basis of sufficient consensus among the political parties to allow negotiations to proceed. (The rules for establishing sufficient consensus will be agreed in advance of negotiations by the participants and such rules will ensure that any departure from the rule of unanimity is within minimal limits and will, in all cases, ensure that any

- 7 -

decision taken will be supported by a clear majority in both the unionist and nationalist communities in Northern Ireland.) Additionally, as regards Strands Two and Three, both Governments would have to endorse a particular proposition for it to be deemed to have achieved sufficient consensus. The overall outcome across all three Strands would also need to attract a sufficient consensus from the participants.

Venue

23. Strand One negotiations will take place in Castle Buildings, Belfast. Strand Two negotiations will take place in Belfast, Dublin and possibly, [or] London, at times [as] 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 meetings.

Validation

24. Both Governments reaffirm their intention that the outcome of negotiations will be submitted for public approval by referendums in Ireland - North and South - before being submitted to their respective Parliaments for ratification and the earliest possible implementation.

AMBASÁID NA HÉIREANN
TELEPHONE: (202) 462.3939
FAX: (202) 232.5993



EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

FAX COVER

To:

For:

Ms Nancy Soderberg

From:

Ambassador Gallagher

Subject:

Date:

March 22 1996

No. Of Pages:

7

AMBASÁID NA HÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

22 March 1996

Mr Tony Lake
Assistant to the President for
National Security Affairs
The White House
WASHINGTON DC 20500

Dear Tony

We are extremely appreciative to you for having raised the Kelly case with London.

We have also, of course, been in direct contact with our British colleagues. In this regard, we are transmitting today to the Home Office the attached note concerning the Kelly case. This provides further information on how the relevant Prison Rules would be applied if Mr Kelly's transfer to our jurisdiction went ahead.

The note is, in particular, a response to questions which had been raised with Paddy Teahon by John Holmes, in a letter dated 20th March.

With best wishes.

Yours sincerely

A handwritten signature in dark ink, appearing to read "Dermot Gallagher". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dermot Gallagher
Ambassador

cc: Ms Nancy Soderberg

Patrick Kelly

Further detail concerning Department of Justice sentence management intentions, in the light of the letter dated 20th March from the Prime Minister's Private Secretary, Mr. John Homes

1. In a letter dated 9th February to the Home Office the Department of Justice stated as follows:-

"Having considered all the details which you have made available about Mr. Kelly's case, my opinion, based on experience of the administration of sentences within the State and in the context of continued enforcement under the Convention, is that Mr. Kelly, if he had received a similar sentence in this jurisdiction, could expect, save for exceptional circumstances arising, to serve about 16 years from the date of his conviction before an extended release might arise for him. However, I should add that in the event that Mr. Kelly is transferred here, and in view of his health, he would be medically examined to determine if he was fit to continue to serve a prison sentence in accordance with Rule 178(6) of the Rules for the Government of Prisons, 1947 (extract enclosed). If medical opinion was that he would be permanently unfit for prison discipline it is likely that the Minister would decide to release him. I understand that the Home Secretary has similar discretionary release powers on compassionate grounds under your Criminal Justice Act, 1991.

2. It appears from the letter dated 20th March, from the Prime Minister's Private Secretary, that further detail concerning Department of Justice sentence management intentions in Kelly's case would assist the Home Office in completing its considering his application for repatriation.

Early Release of Prisoners

3. In this jurisdiction, as explained in the course of earlier contacts, early release of prisoners may be effected by way of Remission of the balance of the prisoners's sentence (with or without conditions) or by way of what is called Temporary Release. Temporary Release may be granted for quite limited periods which may be renewed if there are special reasons for doing so or may indeed (despite its title) be granted to cover the full period up to the expiry of the sentence. (The latter is referred to hereafter as "Full Temporary Release"). Sentence Remission is very much the exception - most releases are in the Temporary Release category.

Release conditions

4. While conditions may be attached in the case of a remission of sentence there is a doubt as to their enforceability in law. The same does not apply, however, in the case of Temporary Release. Temporary Release conditions (e.g. to be of good behaviour, to check in daily at a Garda station, or whatever other condition may be considered appropriate in the particular case), survive until the offender returns to prison or the period of sentence expires. (A lifer who has been granted full temporary release, therefore, is bound by the release conditions for as long as he remains on the "outside" thereafter.) Temporary release, in other words, corresponds broadly with "parole" in the British system. If conditions are breached, the offender is liable to immediate arrest (without warrant) and transfer to prison to serve the balance of his sentence.

The Prison Rules

5. As already explained, the Rules for the Government of Prisons, 1947 provide, amongst other things, that -

"Whenever the Medical Officer is of opinion that the life of any prisoner would be endangered by his continuance in prison, or that any sick

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prisoner will not survive his ... sentence, or is totally and permanently unfit for prison discipline, he shall state the opinion, and the grounds thereof, in writing to the Governor, who shall duly forward the same to the Minister."

8. Because of what is already known about Kelly's health, the Department would, on his transfer to this jurisdiction, refer him for independent medical examination by a cancer expert whose report would be submitted to the Prison Authorities. The possible application of the foregoing Rule would then be considered in the light of that medical report.

7. It appears that it would be helpful if more detail were provided in relation to the application of the Rule in Kelly's case (which, incidentally, would be the same as other cases). For this purpose, it is convenient to deal separately with (a) full remission, (b) full temporary release and (c) temporary release.

(a) Full remission

8. If the report referred to at par. 6 was to the effect that Kelly's life expectancy was of the order of six months or less, it is probable that a recommendation for full remission would be made to the Minister for Justice, to enable Kelly to spend the time left to him with his family, free of the threat of further imprisonment. The decision would be one for the Minister herself to make.
9. If, on the other hand, the report referred to at par. 6 was to the effect that that Kelly's life expectancy was over six months, the case would fall to be dealt with under paragraph 10 below. Paragraph 10 would also apply in the event that the cancer expert's report was uncertain as to the likely time of death (e.g. "he might survive for 6 months but I cannot be sure of this") or there was a less optimistic prognosis from another medical expert (i.e. if a medical adviser other than the expert referred to at par. 6 reported that Kelly's life expectancy was of the order of 6 months or less).

(b) Full Temporary Release

10. If the circumstances outlined at par. 8 did not apply, the question of full remission, on health grounds, would not arise either at that point. The question of granting Full Temporary Release could, however, fall to be considered. The need to preserve general sentence "integrity" would, however, be central to the consideration of this option also. It is not for, example, envisaged that the circumstances outlined in par. 9, on their own, would immediately trigger the process of submitting Kelly's case to the Minister with a recommendation that she grant full temporary release, subject, however, to the following:-

(a) The case would continue to be monitored on a regular basis. If the opinion of the expert referred to at par. 6 changed (i.e. that Kelly's health had deteriorated, or, indeed, had improved) the implications of the revised opinion, in the context of the Rule, would be freshly examined by the Minister.

(b) If, following a subsequent examination, the expert formed the opinion that imprisonment itself was significantly accelerating the onset of death, that opinion would also be submitted to the Minister, to enable her to consider whether full temporary release should be granted. Her decision would depend on the expert's assessment as to the actual extent of the damage being caused by continued imprisonment.

(c) Temporary release

11. All prisoners are free to apply for short periods of temporary release (e.g. a few days) and these could be granted in Kelly's case (as in all other cases) if there were reasons which were considered sufficiently persuasive, (where a long sentence is involved and a substantial portion of it remains to be served, as in Kelly's case, the granting of a concession of this kind would be confined

to situations such as the death of a member of the offender's immediate family - parent, spouse or child).

12. Temporary release could also be granted, of course, where a stay in hospital was medically advised. This could be extended for whatever period was advised by the medical expert. This option would not, however, be employed simply as a means of circumventing the general plan in relation to the management of Kelly's sentence, which has been outlined above.



Statement by the Executive Committee of the Friends of Ireland
in the United States Senate
St. Patrick's Day, 1996

On this St. Patrick's Day, the Executive Committee of the Friends of Ireland in the United States Senate join the people of Ireland, North and South, in welcoming the latest developments for peace and in demanding an immediate restoration of the IRA cease-fire.

We welcome the Joint Communiqué issued on February 28 by Irish Taoiseach John Bruton and British Prime Minister John Major proposing steps to renew the peace process for Northern Ireland and pledging to begin all-party negotiations on June 10.

Friends of Ireland everywhere were outraged by the end of the IRA cease-fire last month and by the subsequent bombings in populated London which took the lives of three people and injured many others. Our hearts go out to the victims and the families of those killed and injured in these terrorist attacks. We condemn unequivocally the IRA violence, and we call for an immediate restoration of the cease-fire. We commend the Loyalist paramilitaries for maintaining their cease-fire in spite of the IRA's resumption of violence.

We are greatly encouraged that the political leaders of Ireland and Great Britain have recommitted themselves to achieving a lasting peace. They clearly have a mandate from the vast majority of the people of Ireland -- North and South, Protestant and Catholic alike -- who recently turned out in large numbers to condemn the recent violence and demand a return to peace.

Many of the Friends of Ireland had the opportunity, during the recent visit to Northern Ireland by President Clinton, to see at first hand the determination of people of all traditions to seize the opportunity for peace. This was reaffirmed by the recent rallies in which people turned out in large numbers across Ireland to condemn the recent violence and demand a return to peace. As preparations are made for the commencement of all-party negotiations on June 10, there is an obligation on all parties to ensure that this widespread commitment to peace is turned into a reality for all the people of the island.

Friends of Ireland who accompanied the President on his trip also had the opportunity to observe the excellent work of the International Fund for Ireland, which continues to create jobs and promote understanding in both communities.

In 1994, at the strong urging of responsible leaders in Northern Ireland and Ireland, many of the Friends of Ireland wrote

to President Clinton to suggest an encouraging gesture be made towards Gerry Adams, by giving him a limited visa to visit this country, in hopes that it might bring dialogue and an end to violence. John Hume later called the visa, "crucial" to achieving the subsequent cease-fire. We believe that the participation of Sinn Fein in all-party negotiations is vital for the success of the peace process, but Sinn Fein cannot take its place at the peace table without the restoration of the cease-fire.

In an effort to move beyond the pre-condition that weapons be handed over prior to all-party negotiations, an international commission led by former Senator George Mitchell was established by the British and Irish Governments to assess the issue and make recommendations to overcome the impasse. We commend Senator Mitchell and the other members of the commission for the outstanding job they have done. The commission found that turning in weapons in advance of talks would not occur and suggested constructive alternative ways forward.

When the Irish and British Governments launched the Mitchell Commission last November, they had agreed to "the firm aim" of achieving all-party negotiations by the end of February. Unfortunately, that target date was missed, due to the introduction of a new pre-condition by Prime Minister Major that elections must occur before talks can take place. The insistence by the British Government that elections precede all-party negotiations created unnecessary delays in the process and aroused concern in the Nationalist community of a return to the days when the Unionist majority imposed its will through the Stormont Parliament.

We are also disappointed by the lack of willingness, on the part of the leaders of the largest Unionist parties in Northern Ireland, to participate in good faith in the peace process, despite the fact that the process so clearly has the support of the people of their community. The Friends of Ireland urge the leadership of the Ulster Unionist Party and the Democratic Unionist Party to engage fully in the search for a fair and comprehensive settlement. There is now a unique opportunity for all sides -- Nationalists and Unionists -- working with the two Governments to advance the cause of peace.

We pledge to continue to do all we can to support the peace process. On this St. Patrick's Day, we rededicate ourselves to working with all those who continue to be genuinely committed to the achievement of a lasting peace for Northern Ireland.

FRIENDS OF IRELAND EXECUTIVE COMMITTEE
UNITED STATES SENATE

Edward M. Kennedy
Claiborne Pell

Daniel Patrick Moynihan
Christopher J. Dodd

AMBASÁID NA HÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

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FAX COVER

To: THE WHITE HOUSE

For: MS NANCY SODERBERG

From: AMBASSADOR GALLAGHER

Subject: _____

Date: 31 MAY 1996

No. Of Pages: 8

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

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31 May 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
1600 Pennsylvania Avenue NW
WASHINGTON DC 20500

Dear Nancy

I am enclosing copy of a paper on the opening scenario for talks, which was agreed ad referendum by the British and ourselves at a meeting in London to-day. It will now be taken up by Sir Patrick Mayhew and Dick Spring in London on Tuesday.

With best wishes.

Yours sincerely


Dermot Gallagher
Ambassador

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Draft: 31 May 1996

AD REFERENDUMIllustrative text to aid discussionSUBSTANTIVE ALL-PARTY NEGOTIATIONSSCENARIO FOR THE OPENING PLENARY SESSION

PAPER BY THE UK AND IRISH GOVERNMENTS

Introduction

1. The communiqué issued by both Governments on 28 February agreed that an elective process: "would lead immediately and without further preconditions to the convening of all-party negotiations with a comprehensive agenda". The two Governments agreed that, following consultations, substantive all-party talks would be convened on Monday 10 June.
2. The Ground Rules paper published in April set out the two Governments' intention that the all-party negotiations should start with an opening plenary session. The Governments are agreed that at this session the requirements of paragraph 12 of the 28 February Communiqué must be fulfilled - that is:
 - all participants would need to make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body;
 - they would also need to address, at that stage, its proposals on decommissioning;

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- confidence building would also require that the parties have reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.

3. In accordance with these undertakings, this paper sets out in more detail the scenario the two Governments propose for the opening plenary session.

Chairman and Procedures

4. [BRITISH text to be adjusted in the light of decisions on chairmanships: The negotiations will be formally opened on 10 June by the two Governments, who will then invite [...] to act as Independent Chairman for the opening plenary session and any subsequent plenary sessions. The two Governments have also decided to invite [...] to chair meetings on Strand Two issues. Depending on the agreement of the participants, who might agree on another Chairman, he would also act as Chairman of the Business Committee. The two Governments will also invite [...] to be an Independent Vice-Chairman, to serve as may be agreed by the Business Committee.]

5. The opening plenary session will be conducted by the Independent Chairman in accordance with rules of procedure drawn up by the two Governments for adoption in plenary. These rules (which are attached at Annex A) will operate unless and until amended by the participants, on the recommendation of the Business Committee.

Business of the Opening Plenary

6. The draft agenda for the opening plenary session is attached at Annex B. At the start of the session, the leader of each of the negotiating teams will be asked to make a formal declaration making clear their party's total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. The commitments will then be confirmed in a

- 2 -
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public statement on behalf of all the participants. In the event of any participant failing to make this clear commitment, the Independent Chairman will report this to the two Governments for their consideration and, after consultation with the other participants, any appropriate action. There will then be a round of statements which, as the Ground Rules envisage, will give each delegation the opportunity to set out its approach to the negotiations and its position on key issues.

7. The plenary session will then move to the appointment of a Business Committee. As envisaged in the Ground Rules paper, the Business Committee would be composed of representatives of the two Governments and of the political parties, chaired by the independent Chairperson of Strand Two or, otherwise, by any person agreed by the participants. Its purpose would be to coordinate the progress and procedures of the negotiations. The Business Committee would not deal with the substance of the negotiations but would address unresolved procedural issues. It would therefore be available to meet during the opening session to provide advice on any such unresolved issues to the plenary. It could also determine the modalities for dealing with any issue which does not fall exclusively within any of the three strands. (It will be open to the parties to agree that certain over-arching issues - for example, human rights - could usefully be addressed in plenary format.)

8. The opening plenary will then, if necessary after consideration by the Business Committee, adopt, and commit the parties to negotiate, a comprehensive agenda for the negotiations. A separate consultation paper is being issued to take the views of parties on the elements of this agenda. The Independent Chairman shall satisfy himself that the agenda provides all the participants with reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.

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9. The opening plenary will then move on to address the International Body's proposals on decommissioning. In this context, both Governments confirm their commitment to all aspects of the report of the International Body including their support for the compromise approach to decommissioning set out in paragraphs 34 and 35 which state:

"The parties should consider an approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after as the parties now urge. Such an approach represents a compromise. If the peace process is to move forward, the current impasse must be overcome. While both sides have been adamant in their positions, both have repeatedly expressed the desire to move forward. This approach provides them that opportunity.

In addition, it offers the parties an opportunity to use the process of decommissioning to build confidence one step at a time during negotiations. As progress is made on political issues, even modest mutual steps on decommissioning could help create the atmosphere needed for further steps in a progressive pattern of mounting trust and confidence."

Both Governments agree with the International Body that this approach provides the opportunity to move forward, and that it is on the basis of working constructively to implement all aspects of the Report that the negotiations should be advanced. They will therefore work with all the participants to implement all aspects of the Report.

10. The two Governments have accordingly agreed that, at the opening plenary, the Independent Chairman should satisfy himself that there are clear indications of good intent on the part of all the participants to join in good faith and constructively in negotiations to secure the implementation of all aspects of the Report in the context of an inclusive and dynamic process which builds trust and confidence as progress is made on the issues.

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11. Once the Independent Chairman has reported that he is so satisfied, the two Governments will propose that a sub-committee of the plenary, representing all the participants and chaired by [the Independent Chairman of the plenary], be established with the attached terms of reference.

12. Once the decommissioning issue has been addressed in this way, the Independent Chairman will make a concluding statement and the opening plenary session will come to an end. The negotiations on the issues in the three strands and the sub-committee will then proceed alongside each other. The Independent Chairman will periodically brief the plenary on the progress made in the sub-committee.

13. The two Governments will also propose that a meeting of the plenary should be held at a suitable date, about the end of September, to take stock of progress in the negotiations as a whole, including the work of the sub-committee. At this meeting, all participants will review the position, and the progress which has been made across the entire spectrum of the negotiations.

Attachments

Annex A. Initial rules of procedure.

Annex B. Draft agenda for opening plenary.

Annex C. Draft terms of reference for proposed sub-committee on decommissioning.

- 5 -
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PROPOSED TERMS OF REFERENCE OF SUB-COMMITTEE ON DECOMMISSIONING

To secure implementation of all aspects of the report of the International Body, including:

- (a) agreement on the modalities of decommissioning on the basis of the guidelines contained in paragraphs 36 to 50 of the Report of the International Body;
- (b) advice to both Governments, in the light of those discussions, on the legislative and practical implications of the course which is recommended; and
- (c) agreement on any other arrangements necessary for implementation of the Report.

~~6 -
CONFIDENTIAL~~

AMBASÁID NA HÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
2214 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

PERSONAL & CONFIDENTIAL

FAX COVER

To:

THE WHITE HOUSE

For:

MS NANCY SODERBERG

From:

AMBASSADOR GALLAGHER

Subject:

Date:

15 MAY 1996

No. Of Pages:

6 (including cover)

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

~~PERSONAL AND CONFIDENTIAL~~

15 May 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
WASHINGTON DC 20500

Dear Nancy

I am enclosing copy of a paper on the appointment of an Independent Chairperson, and the Opening Scenario for the talks on 10th June, which we have just submitted to the British side.

The attached paper has been drawn up in the light of British comments on our earlier paper (25th April).

With best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dermot Gallagher', with a stylized flourish at the end.

Dermot Gallagher
Ambassador

~~CONFIDENTIAL~~

Dublin, 15 May 1996

Substantive All-Party Negotiations**Appointment of an Independent Chairman and the Opening Scenario**

On 25 April, the Irish Government tabled a paper setting out a proposal for dealing with decommissioning in terms of the communiqué of 28 February. The following proposals, drawn up in light of subsequent presentations of British concerns, represent an expansion and qualification of these earlier proposals within the overall context of an opening scenario for the negotiations and the need to appoint an Independent Chairman.

Independent Chairman

1. Senator George Mitchell will be invited by the two Governments to act as Independent Chairman for the negotiations. He will chair the negotiations in Plenary and Strand Two format. He will also act as Chairman of the Business Committee unless, in conformity with paragraph 22 of the Ground Rules, the participants should agree on a different chairperson.
2. The two Governments will also invite General John de Chastelain and Mr. Harri Holkeri to assist him in this role and to act as Independent Vice-Chairmen for the negotiations. The Independent Chairman may, with the agreement of the two Governments, designate a Vice-Chairman to deputise for him during a temporary absence, or to assume, under his overall direction, ongoing responsibility for chairing committees or sub-committees within his remit.

The Opening Scenario

3. The negotiations would open in Plenary session on the basis of rules of procedure drawn up by the two Governments following consultations with the major parties. These rules could be amended by agreement among the participants.
4. The Plenary session would begin with a round of statements during which all participants would make clear their total and absolute commitment to the

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- principles of democracy and non-violence set out in the report of the International Body. In the event of any participant failing to make such a statement, the Independent Chairman would report this to the two Governments for their consideration and appropriate action.
5. The opening Plenary (if necessary after adjournment to allow the respective strands to agree their particular agenda) would then adopt and commit the parties to negotiate, the comprehensive agenda for the negotiations. The Independent Chairman shall ensure that this agenda provides the participants with reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.
 6. In the context of the discussion on the agenda, the Governments will table a joint proposal to deal with the decommissioning issue and appropriate related issues as follows:
 - A Committee of the Plenary would be launched to progress decommissioning on the lines set out in the report of the International Body.
 - This would comprise representatives of all participants in the Plenary.
 - The opening session of the Committee would be chaired by the Independent Chairman, Senator Mitchell. Thereafter, it would be chaired, under his overall delegation, by General de Chastelain. The Committee will receive appropriate technical support, as agreed between the Independent Chairman and the two Governments.
 - The detailed remit of the Committee would be communicated by the two Governments to the participants at the opening Plenary. A proposed remit of the Committee is annexed.
 - The Independent Chairman, or his deputy, would periodically brief the Plenary of the negotiations on the progress made on decommissioning and appropriate related issues, to enable participants to consider progress across the negotiations as a whole.
 - Before the conclusion of the political negotiations, the Independent Chairman would lay before the participants in the Plenary a report

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setting out the results achieved on the decommissioning issue and appropriate related issues.

- These results would be considered by all the participants alongside the outcome of the three strands of the political negotiations.
7. Following the adoption of the agenda, the Independent Chairman will convene a meeting of the Committee of the Plenary to address the proposals of the International Body on decommissioning.
 8. At that meeting, the Independent Chairman will invite the parties to address the International Body's proposals on decommissioning and will seek to satisfy himself that all the participants are genuinely committed to work constructively towards the implementation of these proposals.
 9. Once the Independent Chairman is so satisfied, he shall publish a statement recording that he is satisfied, assuming that this is the case, that all the participants have:
 - made clear their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body;
 - addressed the International Body's proposals on decommissioning and are genuinely committed to work constructively towards the implementation of these proposals;
 - adopted, and committed themselves to negotiate, a comprehensive agenda which provides reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.
 10. Following publication of this statement, the appropriate Chairpersons shall convene initial meetings of the negotiations within the three strands, according to an indicative calendar drawn up in the Business Committee. Work in the Committee of the Plenary would continue in parallel with negotiations in the three strands.

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Annex

Remit of the Committee on Decommissioning

The Committee shall seek to:

- (a) secure agreement, on the basis of the guidelines contained in section VI of the International Body's report, on the precise modalities which would apply for the purpose of decommissioning illegally-held armaments with reference, in particular, to the method or methods to be adopted, the composition of the independent commission and its role in the verification process, and the legal provisions to apply;
- (b) explore the scope for an approach under which some decommissioning would take place during the process of all-party negotiations including the need for the decommissioning process to be mutual and, where appropriate, the role further confidence-building measures might play;
- (c) advise the Governments, in the light of these discussions, on the legislative and practical implications of the course which is recommended.

AMBASÁID NA HÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
3234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

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FAX COVER

Copy
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To: THE WHITE HOUSE

For: MS NANCY SODERBERG

From: AMBASSADOR GALLAGHER

Subject:

Date: 26 APRIL 1996

No. Of Pages: 8 (including cover)

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return

AMBASÁID NA hÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993



EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

Personal and Confidential

26 April 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
WASHINGTON DC 20500

Dear Nancy

I am enclosing, on the usual basis, a paper which our people have prepared on the handling of the decommissioning issue in the talks. This has just been passed over to the British side.

With best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Gallagher', followed by a checkmark.

Dermot Gallagher
Ambassador

~~CONFIDENTIAL~~

**Irish Paper on method of dealing with decommissioning in terms
of the communiqué of 28 February**

1. In the joint communiqué of 28 February 1996 the Taoiseach and Prime Minister recognised the need for confidence-building measures relating to all-party negotiations. In particular, the communiqué envisaged in paragraph 12:

"As one such measure, all participants would need to make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. They would also need to address, at that stage, its proposals on decommissioning. Confidence building would also require that the parties have reassurance that a meaningful and inclusive process of negotiations is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify".

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2. The negotiations should therefore be ordered so as to provide reassurance on two sets of concerns:

- (a) that the decommissioning issue will be dealt with meaningfully in the course of negotiations.
 - (b) that, as envisaged in the "ground-rules" paper, all items of a comprehensive agenda will be fully and constructively addressed, and that no participant will seek to control the agenda, or veto the concerns of others, by making negotiation on any particular agenda item conditional on its own prior satisfaction on any other item.
3. The decommissioning issue requires particular treatment for a number of reasons:
- (a) It is different to all other agenda items in that it deals with a situation which is in breach of the law, and raises a range of complex legal issues which are the specific concerns of the Governments.
 - (b) The decision to decommission voluntarily is for the paramilitary leaders in control of the weaponry, and the most that those around the table can do is to seek to persuade the paramilitary leaders that weapons must be decommissioned.

- (c) Most participants, for obvious reasons, will have no significant input into technical or operational discussions on decommissioning, and will be concerned mainly with the political and other implications of the progress being made in this regard.
 - (d) The prospect of any progress on decommissioning will depend directly on the degree to which the political negotiations are inclusive and comprehensive and develop a positive dynamic. It is still unclear whether, under the terms of paragraph 5 of the February 28th communiqué, the negotiations opening on June 10th will include the parties on both sides with presumed influence on the respective paramilitaries. The manner in which it is proposed to address the decommissioning issue may itself have a bearing on the inclusiveness or otherwise of the negotiations.
4. If the negotiations are not inclusive, the decommissioning issue will not seriously feature in them. If, however, the conditions for inclusive negotiations in the February communiqué are fulfilled, a different situation will arise. In the light of the factors which set decommissioning apart from the other agenda items, special provisions should be made to deal with it successfully. The issue is too sensitive and important to be left vague, or at the hazard of the opening

the political process as a whole if the negotiations were to become deadlocked or even founder abruptly on this issue.

5. To minimise that risk, and to enhance confidence in the negotiations, we would accordingly propose that both Governments should seek the prior agreement of the main prospective participants for a specific approach to fulfil the requirements of the February 28th communiqué. The need for clarity on this issue has also been accepted by unionist spokesmen.

6. We would propose this approach should be as follows:

- (i) The negotiations would begin with a round of statements in plenary session in which all participants would make clear their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. In the event of any participant failing to make such a statement, the Chairperson would report this to the two Governments for their consideration and appropriate action.
- (ii) The opening statements would also set out participants' views on the proposed agenda, including addressing the proposals of the Body on

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(iii) The Governments would then table in plenary a joint proposal to deal with the decommissioning issue, as follows:

- In parallel with the political negotiations, a separate mechanism would be launched to progress decommissioning, on the lines set out in the report of the International Body.
- This would comprise representatives of both Governments and of the parties which they judged likely to have influence on the paramilitaries.
- To ensure confidence and balance, this separate mechanism should be under the general aegis of the International Body, and its meetings should be chaired by General John de Chastelain, with appropriate technical support, as agreed between him and the two Governments.
- The detailed remit of the decommissioning stream would also be communicated by the two Governments to the participants at the opening plenary.

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- The Chairperson of the decommissioning stream would periodically brief the participants in the political negotiations on the progress made on decommissioning, for example at regular meetings which might be held in plenary session to enable participants to consider progress across the negotiations as a whole.
 - Before the conclusion of the political negotiations, the Chairperson would lay before the participants a report setting out the results achieved on the decommissioning issue.
 - These results would be considered by all the participants alongside the outcome of the three strands of the political negotiations.
- (iv) The opening plenary (if necessary after adjournment to allow the respective strands to agree their particular agenda) would adopt and commit the parties to negotiate, the comprehensive agenda, and their proposal on the decommissioning issue would be activated by the two Governments in the light of this.

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

Personal and Confidential

4 April 1996

Ms Nancy Soderberg
Deputy Assistant to the President
The White House
1600 Pennsylvania Avenue NW
WASHINGTON DC 20500

To TG
MAR
fyi

Dear Nancy

I am enclosing, on the usual basis, copy of a letter from Dick Spring to Patrick Mayhew. This refers to a tentative discussion between the two on the Chairmanship of Strand Two (North South) of the forthcoming talks. Our strong view, as you will see from the letter, is that Senator George Mitchell would make an ideal and highly credible and effective choice for this sensitive position.

With best wishes.

Yours sincerely

Dermot Gallagher
Ambassador

I need to have a quick word
with you on a separate issue,
about Dick Spring's call last
night.
D.



AN ROINN GNÓTHAÍ EACHTRACHA

BAILE ÁTHA CLIATH 2

4 April, 1996

The Rt. Hon. Sir Patrick Mayhew, Q.C., M.P.,
Secretary of State for Northern Ireland,
Stormont Castle,
Belfast BT4 3ST.

Dear *Paddy,*

The pressure of time at the end of our meeting yesterday prevented us having as full an exchange as I would have liked on the chairing of Strand Two of the prospective negotiations.

As you know from our earlier discussions, the complicated electoral preliminaries for the negotiations and the deep uncertainties still generated by the decommissioning agenda have fostered doubts in the nationalist community about whether the proposed negotiations on June 10th will in fact be meaningful and productive. The authority and credibility of the proposed Chairperson assumes added significance in that context.

In seeking a candidate for this challenging task, I feel that our public in both countries would find it odd if we did not first investigate the availability of Senator George Mitchell.

His report, produced with exemplary dispatch, showed his formidable capacity to master all the nuances of the competing agendas and to strike a fair and highly creative balance between them. It has been accepted, and is indeed being strongly invoked, by most of the key players and we hope the paramilitaries can be brought to accept it also. Our two Governments are agreed that it will be the touchstone to measure the democratic commitment of participants in the negotiations.

The authority Senator Mitchell would bring to bear on the political handling of the decommissioning issue would be incomparably greater than any other possible
... and complement a role for General de

You believe that Senator Mitchell would be opposed by the unionists. I am at a loss to know why. If it is the case, it is clearly a problem of acceptability, and not of credibility, and I find it strange they would accept the report and reject the author.

I think it would be helpful in the first instance if we could agree between us, as the two Governments who must ultimately decide and organise this issue, that he is our preferred and best candidate.

In those circumstances we could then begin a dialogue with the unionist leadership, and ask the US administration to do the same, to establish what their objections might be, and how these can best be allayed.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dick Spring', written in a cursive style.

Dick Spring, T.D.,
Tánaiste and Minister for Foreign Affairs

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

~~Personal and Confidential~~

4 October 1995

Ms Mary Ann Peters
Director for European Affairs
National Security Council
The White House
WASHINGTON DC 20504

Dear Mary Ann

You will recall that, at last Friday's meeting, we promised an informal paper on the Republican prisoners in Britain issue. This, as discussed, is attached.

I need hardly emphasise that the paper is for guidance purposes only, and strictly between our two Offices.

May I also take this opportunity to express great appreciation for all your great advice and support last week. The meeting was exceptionally positive and has, I believe, made a significant difference.

Best personal wishes.

Yours sincerely


Dermot Gallagher
Ambassador

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AMBASÁID NA hÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

October 5, 1995

Ms Mary-Anne Peters
National Security Council
White House

Dear Mary-Anne

As promised I have checked on the number of Republican prisoners in Britain who have expressed a preference for transfer to the Republic. Of the total of 27, present indications are that about 14 would be in line for transfer to our jurisdiction.

I hope this is helpful to you.

Yours sincerely,

Pat Hennessy
Pat Hennessy
Political Counsellor

Fax to NES p/s.

REPUBLICAN PRISONERS IN GREAT BRITAIN

Background

1. Prison issues are extraordinarily sensitive for paramilitaries on both sides, partly because of the prisoners claims on solidarity, but also because they are influential arbiters of policy. The ceasefires would not have been called on either side without their agreement.
2. The death of ten men on hunger-strike in 1981 over what to outsiders were mundane matters of prison regulations, illustrates the depth of Republican attitudes on this issue, and the potential damage from confrontation.
3. While both Governments would reject the notion of political prisoners, there is a pragmatic recognition in the prison regimes both in the Republic and Northern Ireland that some allowance must be made in practice for the particular psychology and "culture" of politically-motivated prisoners. A body of experience has been built up by the prison authorities in both parts of Ireland which has helped to defuse potential confrontations.
4. The prison culture in Great Britain is quite different. Given the background, there is inevitably little tolerance or understanding of the particular outlook of Republican prisoners. Points of punctilio which could be readily defused can be misinterpreted as root and branch challenges to prison discipline.
5. The difficulty is compounded by the particularly emphatic "law and order" policies of the present Home Secretary, who has sought to impose a rigid and demonstratively

disciplinarian regime (aspects of which have attracted reprimand from the British Courts).

6. The result has been an actual deterioration of the condition of Republican prisoners in Britain since the ceasefire. The Home Secretary has explicitly rejected any connection between the peace process and the treatment of prisoners.

Suggested approach

7. Most of the problems could be solved relatively easily if the Home Secretary were to interpret existing policies and procedures in a more flexible and constructive way.
8. The simplest way of dealing with the twenty seven remaining Republican prisoners in Britain would be to transfer all those who wish to do so to serve out their sentences in either Northern Ireland or the Republic, as applicable, so as to bring them closer to their families. This last criterion is already an accepted goal of British prison policy. (18 prisoners, including some convicted of very serious offences, have been transferred to Northern Ireland since July 1994).
9. Irish legislation implementing the International Convention on the Transfer of Sentenced Persons will enter into force on 1 November next and will enable prisoners, in particular those whose families live in the Republic, to apply for transfer here.
10. The Irish Government has made clear to the Home Secretary, whose consent is necessary in the case of each transfer, that it stands ready from that date to receive immediately as many of the Republican prisoners as wish to apply for transfer to this jurisdiction, and to agree mutually acceptable provisions governing the conditions for

the continuation of their sentences.

Exceptional Risk Prisoners

11. Seven prisoners are in this category, which involves incarceration in Special Secure Units (SSUS) under extremely stringent conditions (23 hour isolated lock-up, lack of proper exercise, etc.). Two prisoners, Patrick Kelly (who has recently been operated on for a serious melanoma) and Michael O'Brien, are on "dirty protest". Others, because of the recent introduction of "closed" visits (i.e. communication through heavy glass only) are refusing all family and other visits. A flexible application of existing transfer mechanisms to Northern Ireland, and those governing transfer to the Republic after November 1st, would head off the undoubted potential for escalation inherent in the present situation, which places a quite gratuitous extra burden on the peace process.

AMBASÁID NA HÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

FAX COVER

*Wp
Kelly*

To:

For:

Ms Nancy Soderberg

From:

Ambassador Gallagher

Subject:

Date:

March 22 1996

No. Of Pages:

7

AMBASÁID NA hÉIREANN

TELEPHONE: (202) 462-3939

FAX: (202) 232-5993



EMBASSY OF IRELAND

2234 MASSACHUSETTS AVE., N.W.

WASHINGTON, D.C. 20008

22 March 1996

Mr Tony Lake
Assistant to the President for
National Security Affairs
The White House
WASHINGTON DC 20500

Dear Tony

We are extremely appreciative to you for having raised the Kelly case with London.

We have also, of course, been in direct contact with our British colleagues. In this regard, we are transmitting today to the Home Office the attached note concerning the Kelly case. This provides further information on how the relevant Prison Rules would be applied if Mr Kelly's transfer to our jurisdiction went ahead.

The note is, in particular, a response to questions which had been raised with Paddy Teahon by John Holmes, in a letter dated 20th March.

With best wishes.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Dermot Gallagher'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dermot Gallagher
Ambassador

cc: Ms Nancy Soderberg

Patrick Kelly

Further detail concerning Department of Justice sentence management intentions, in the light of the letter dated 20th March from the Prime Minister's Private Secretary, Mr. John Homes

1. **In a letter dated 9th February to the Home Office the Department of Justice stated as follows:-**

"Having considered all the details which you have made available about Mr. Kelly's case, my opinion, based on experience of the administration of sentences within the State and in the context of continued enforcement under the Convention, is that Mr. Kelly, if he had received a similar sentence in this jurisdiction, could expect, save for exceptional circumstances arising, to serve about 16 years from the date of his conviction before an extended release might arise for him. However, I should add that in the event that Mr. Kelly is transferred here, and in view of his health, he would be medically examined to determine if he was fit to continue to serve a prison sentence in accordance with Rule 178(6) of the Rules for the Government of Prisons, 1947 (extract enclosed). If medical opinion was that he would be permanently unfit for prison discipline it is likely that the Minister would decide to release him. I understand that the Home Secretary has similar discretionary release powers on compassionate grounds under your Criminal Justice Act, 1991.

2. **It appears from the letter dated 20th March, from the Prime Minister's Private Secretary, that further detail concerning Department of Justice sentence management intentions in Kelly's case would assist the Home Office in completing its considering his application for repatriation.**

Early Release of Prisoners

3. In this jurisdiction, as explained in the course of earlier contacts, early release of prisoners may be effected by way of Remission of the balance of the prisoners's sentence (with or without conditions) or by way of what is called Temporary Release. Temporary Release may be granted for quite limited periods which may be renewed if there are special reasons for doing so or may indeed (despite its title) be granted to cover the full period up to the expiry of the sentence. (The latter is referred to hereafter as "Full Temporary Release"). Sentence Remission is very much the exception - most releases are in the Temporary Release category.

Release conditions

4. While conditions may be attached in the case of a remission of sentence there is a doubt as to their enforceability in law. The same does not apply, however, in the case of Temporary Release. Temporary Release conditions (e.g. to be of good behaviour, to check in daily at a Garda station, or whatever other condition may be considered appropriate in the particular case), survive until the offender returns to prison or the period of sentence expires. (A lifer who has been granted full temporary release, therefore, is bound by the release conditions for as long as he remains on the "outside" thereafter.) Temporary release, in other words, corresponds broadly with "parole" in the British system. If conditions are breached, the offender is liable to immediate arrest (without warrant) and transfer to prison to serve the balance of his sentence.

The Prison Rules

5. As already explained, the Rules for the Government of Prisons, 1947 provide, amongst other things, that -

"Whenever the Medical Officer is of opinion that the life of any prisoner would be endangered by his continuance in prison, or that any sick

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prisoner will not survive his ... sentence, or is totally and permanently unfit for prison discipline, he shall state the opinion, and the grounds thereof, in writing to the Governor, who shall duly forward the same to the Minister."

6. Because of what is already known about Kelly's health, the Department would, on his transfer to this jurisdiction, refer him for independent medical examination by a cancer expert whose report would be submitted to the Prison Authorities. The possible application of the foregoing Rule would then be considered in the light of that medical report.

7. It appears that it would be helpful if more detail were provided in relation to the application of the Rule in Kelly's case (which, incidentally, would be the same as other cases). For this purpose, it is convenient to deal separately with (a) full remission, (b) full temporary release and (c) temporary release.

(a) Full remission

8. If the report referred to at par. 6 was to the effect that Kelly's life expectancy was of the order of six months or less, it is probable that a recommendation for full remission would be made to the Minister for Justice, to enable Kelly to spend the time left to him with his family, free of the threat of further imprisonment. The decision would be one for the Minister herself to make.
9. If, on the other hand, the report referred to at par. 6 was to the effect that that Kelly's life expectancy was over six months, the case would fall to be dealt with under paragraph 10 below. Paragraph 10 would also apply in the event that the cancer expert's report was uncertain as to the likely time of death (e.g. "he might survive for 6 months but I cannot be sure of this") or there was a less optimistic prognosis from another medical expert (i.e. if a medical adviser other than the expert referred to at par. 6 reported that Kelly's life expectancy was of the order of 6 months or less).

(b) Full Temporary Release

10. If the circumstances outlined at par. 8 did not apply, the question of full remission, on health grounds, would not arise either at that point. The question of granting Full Temporary Release could, however, fall to be considered. The need to preserve general sentence "integrity" would, however, be central to the consideration of this option also. It is not for, example, envisaged that the circumstances outlined in par. 9, on their own, would immediately trigger the process of submitting Kelly's case to the Minister with a recommendation that she grant full temporary release, subject, however, to the following:-

- (a) The case would continue to be monitored on a regular basis. If the opinion of the expert referred to at par. 6 changed (i.e. that Kelly's health had deteriorated, or, indeed, had improved) the implications of the revised opinion, in the context of the Rule, would be freshly examined by the Minister.
- (b) If, following a subsequent examination, the expert formed the opinion that imprisonment itself was significantly accelerating the onset of death, that opinion would also be submitted to the Minister, to enable her to consider whether full temporary release should be granted. Her decision would depend on the expert's assessment as to the actual extent of the damage being caused by continued imprisonment.

(c) Temporary release

11. All prisoners are free to apply for short periods of temporary release (e.g. a few days) and these could be granted in Kelly's case (as in all other cases) if there were reasons which were considered sufficiently persuasive, where a long sentence is involved and a substantial portion of it remains to be served, as in Kelly's case, the granting of a concession of this kind would be confined

to situations such as the death of a member of the offender's immediate family - parent, spouse or child).

12. Temporary release could also be granted, of course, where a stay in hospital was medically advised. This could be extended for whatever period was advised by the medical expert. This option would not, however, be employed simply as a means of circumventing the general plan in relation to the management of Kelly's sentence, which has been outlined above.

**Patrick Kelly**

Born 12/4/53 - of Laois - May 1992. Arrested on explosives charges - October 1992. Sentenced to 25 years for conspiracy to cause an explosion and attempted murder of a police officer. Held in HMP Full Sutton - December 1994. Held in solitary confinement following a protest. Believed to be suffering from a cancerous condition. Classified as "Cat A - Exceptional Risk".

Jan 18, 1995: Transferred to SSU at Whitemoor - July 14: Began dirty protest: Wearing only blankets and smearing their cells with excrement; Demanding immediate transfer to NI pending their release, open visits, better medical care and freedom to opt out of prison work - July 25.

Aug 1: Visited by a skin cancer specialist; diagnosed as being in need of immediate hospitalisation - Aug 10: Transferred to Peterborough Hospital - Aug 11: Underwent major surgery - Aug 13: Visited by his wife and solicitor: Found to be chained to one of seven security personnel in the room with him - Efforts made to secure a re-classification out of "Cat A - Exceptional Risk" which would have reduced the security presence around his hospital bed - Aug 18: Home Office decided not to re-classify the prisoners: Examined by his surgeon and found to be clear; however, concern voiced over the distinct possibility of recurrence - Aug 29: Returned to Prison Health Care Center at Whitemoor.

Sept 13: Application for temporary transfer to Northern Ireland turned down by the Home Office - Sept 29: Moved from Health Care Centre back to the SSU - Sept 30: Resumed dirty protest.

Oct 13: Visited by a (Canadian) cancer specialist, Dr Amil Shah - Oct 20: Won leave to seek judicial review of the refusal to transfer him to NI, his categorisation as an exceptional risk prisoner and the SSU regime at Whitemoor.

Nov 11: Re-classified from Exceptional Risk to High Risk; Moved out of the SSU to punishment block before being moved to the ordinary wings in Whitemoor on Nov 13; Dirty protest ended - Dec 13: Temporarily transferred to Maghaberry prison in Northern Ireland.

Jan 15 1996: Transferred to City Hospital Belfast - Jan 16: Underwent surgery - Feb 9: Returned to Maghaberry - seen by a doctor there each day to monitor his recovery - has apparently agreed to drop his appeal against conviction on the advice of G Pierce (lawyer) - Papers consenting to his transfer were returned to the Home Office by D/Justice.

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