

DRAFT SUMMARY RECORD OF OPENING PLENARY SESSION -
MONDAY 23 SEPTEMBER 1996 (14.33)

Those present:

Independent Chairmen	Government Teams	Parties
Senator Mitchell	British Government	Alliance Party
Mr Holkeri	Irish Government	Labour
General de Chastelain		Northern Ireland Women's Coalition
		Progressive Unionist Party
		Social Democratic and Labour Party
		Ulster Democratic Party
		Ulster Democratic Unionist Party
		United Kingdom Unionist Party
		Ulster Unionist Party

1. The Chairman convened the meeting at 14.33 and informed participants that the subject of confidentiality as set forth in rule 16 of the rules of procedure would now be discussed. In conjunction with this was the question of the procedures to be adopted in relation to the distribution of minutes.
2. The Chairman stated that the notetakers had advised him that it took between one and two days, depending on the length and frequency of sessions, to produce a draft record. On this basis the Chairman proposed that given the 3-day-week format, draft minutes from the previous week would be distributed each Monday. The Chairman emphasised this was only one proposal and it was ostensibly the participants who had to ultimately agree and decide on the procedures for distribution. On confidentiality the Chairman stated that decisions on rules to be adopted was again in the hands of the participants. In the interim the Chairman would continue to observe the rules of procedure and issue nothing to

the media unless the participants agreed to this. The Chairman then invited comments and/or suggestions on his remarks.

3. The UKUP recalled the previous week's business and asked about the resolution of the Alliance indictment of the DUP and UUP. The Chairman indicated that this was a matter for the Governments, rather than for him and asked the British Government to comment. Following a request from the British Government to restate their question, the UKUP asked whether the issue of the Alliance indictment was going to be dealt with now and, if not, were either the DUP and UUP entitled to take part in the impending discussion on confidentiality?

4. The British Government indicated that the Governments' decision would hopefully be concluded soon and circulated to all participants later in the day. The Irish Government concurred with this stating that it hoped the decision would be made available shortly. The DUP asked whether any conclusions should be drawn from the fact that the Governments were taking more time to resolve this issue than dealing with the fate of parties associated with groups who issued death threats. The Irish Government stated that it didn't consider it appropriate to draw any conclusions. The UKUP outlined its view that an outstanding matter such as the Alliance indictment should have been dealt with before moving on to other business. The Chairman asked participants, in the light of the Governments' comments on the timing of the release of their decision, whether it was appropriate to continue with a discussion on confidentiality.

5. Alliance stated that it was perfectly content for business to continue. It hadn't intended that any parties be excluded as a result of their submission so there was therefore no need to halt

business, pending the outcome of the Governments' decision. The SDLP commented that it didn't believe too many participants were sweating on the decision, therefore it viewed it as appropriate to discuss confidentiality now particularly since minutes of meetings had already been distributed. Such documents could get into the hands of the media thereby leading to greater frustration developing. Some parties had already been frustrated in terms of confidentiality by others in the process. It was therefore important to have a discussion on this now as it was a serious and substantive issue.

6. The DUP stated that two issues needed to be addressed. One was the Alliance submission. In its view, Alliance had known full well that exclusion was a potential outcome when it had submitted its allegations to the Chairman so it did not appreciate the party's earlier remarks on this issue. The DUP also recalled the fact that when deliberations were ongoing on the PUP/UDP position, following their indictment paper, the Governments' decision was made clear before other business was progressed in plenary. The DUP contested that if that was the rule then, and it was deemed to be satisfactory, why should it not apply again in this case? On the second issue of confidentiality, the DUP stated that this had raised its head during previous political processes and would only fully work if all participants consistently adhered to the rules and didn't adopt a piecemeal approach whenever it suited them. That said, the DUP's experience of other processes suggested some considerable difficulty was likely to be encountered in attempting to pinpoint leaks of information.

7. Alliance pointed out that, unlike the DUP's indictment paper which contained a determination to exclude, it had not sought exclusion, but instead hoped that the relevant parties would

recommit themselves to the Mitchell Principles. Regarding confidentiality, it was essential that progress on substantive issues occurred soon. In tackling this, the issue of confidentiality should be accepted by all as vitally important. The situation of the previous week, when copies of the DUP and UUP documents as well as Alliance's paper were in the hands of the press within half an hour of being circulated internally, was not something on which to build trust around the conference table. The Chairman indicated that the rules were silent on the issue of whether business should continue while a decision such as this remained outstanding. It was, in his view, up to the participants to resolve this particular point.

8. The UKUP commented that the last time confidentiality was discussed, it had informed the media that rules were in force. Some hours later, however, the party discovered that the rule was being breached in any case. The UKUP said that the most important point was what was to be treated as confidential and what wasn't. It continued saying that there was, in its view, a distinction between parties publicly stating a position on an issue and a "without prejudice" negotiating position advanced by its team at the negotiations. The UKUP referred to the holding of a discussion on decommissioning to be held in the Forum in the forthcoming week. The UUP took the view that such an issue couldn't be discussed in an open forum without revealing party negotiating positions and the extent of movement/manoeuvre likely to be given. The UKUP, however, took a different view in that such a discussion could take place without negotiating positions being revealed. In their view such a discussion should not compromise the "without prejudice" negotiating stance of any party as there was sufficient information already on public record on

this issue which could be used in the debate. It was therefore important to make this distinction clear.

9. The NIWC referred to an earlier procedural point and said that the participants should discuss other issues while a decision was awaited. The SDLP stated that ordinary common sense dictated that a discussion on confidentiality should be undertaken now without wasting any further time on procedural debate. The UKUP commented that it had no difficulty with the comments of other parties. It had simply wondered why the position pertaining to the timing of the decision on the Alliance indictment was different to that of the PUP/UDP. The SDLP stated that part of the answer to the UKUP's point was that those who made the indictment regarding the PUP/UDP would not sit in Plenary again until the issue was resolved. Alliance had not adopted that approach in their submission.

10. The Chairman asked whether there were any other comments. In referring to the UKUP's previous point he stated that he did not have a clear recollection of the overall timing of the DUP indictment, the hearing and the rebuttals as well as the Governments' decision. He thought that in both cases an overnight period had preceded the Governments' decision. This time, however, the time gap had incorporated a weekend so there was some difference. The UKUP agreed with the Chairman's analysis, but stated that it still remained puzzled because the two Governments had arrived at a reasonably quick decision on the PUP/UDP case which itself was a clear indictment. The Chairman, however, had pointed up the fact that several more days had elapsed in reaching a conclusion on the Alliance submission. The UKUP thought that perhaps some politics were being played out here but stated that

if a decision could be reached shortly then it might be better to adjourn for a short period and reconvene to hear the decision.

11. The Chairman responded that he didn't mean to imply that an inordinate delay had occurred. His point was that there may not have been sufficient working days intervening. In the case of the earlier DUP allegations, he thought the matter had been disposed of over the usual working period, whereas in the present case, the non-working period for plenary meetings - Thursday through Sunday - had intervened.

12. The British Government cautioned against jumping to conclusions and said that there was a need to think long and carefully before adopting a position that could be regarded as a precedent. Otherwise there might be an incentive to disrupt progress by making complaints.

13. The UKUP said it seemed strange that while the Governments were supposed to be at one, they seemed to hold different views on the question of the timing of the actual decision. If it was the case that a ruling was expected soon, then the issue of confidentiality could be dealt with at that stage.

14. The DUP said it was interested in the British Government's position on the value of precedent. This question also arose in the case of their earlier allegations against the UDP/PUP in the context of the Governments' refusal to debate the rationale of their decision. This was a relevant matter in the context of an attack over the weekend on a family which had associations with a party in the talks.

15. The UUP said that it believed there was a cloud hanging over it and that it felt uncomfortable about proceeding. As the Government had said that a determination on the allegations was imminent, the meeting should be reconvened at 16.00 to deal with the issue then. The point made by the British Government about the need to proceed carefully to avoid giving parties the means to cause delays in the future, was a weak one. If spurious allegations designed to waste time were made, the Governments could avoid this by acting expeditiously. The NIWC said that it was being penalised by the delay and it wanted to get on with the business in hand.

16. The UUP also said that Alliance cannot determine the sentence for a breach of the principles. The sanction was expulsion, so how could the meeting proceed in these circumstances? That party knew full well that the procedure it initiated would delay the process, so the blame for laying a spurious charge lay with them.

17. The SDLP said that it hoped the record of the past 30 to 35 minutes did not find its way into the public arena. The matter of confidentiality was a procedural one, not a matter of substantial negotiation, so progress should not be delayed unduly. The UKUP said that the SDLP, rather than pointing the finger at the pro-union parties, should direct its attention at the two Governments who have delayed taking a decision on the Alliance allegations. The British Government said that the two Governments are at one on the decision and that it would be given today.

18. The SDLP said that it didn't identify or lecture any party about time-wasting. It simply wanted to deal with the confidentiality issue at this time. No contribution from any party would be impaired or incapacitated by virtue of the

allegations hanging over them. The UKUP said it found it amazing that the SDLP put a premium on wasting time. The UKUP had been present on successive days when no business was being done and no reasons were given for the inertia. Yet there were no squeals of protest from the SDLP. The UKUP said it had no views on the question of deciding the confidentiality question at that time or later, and it criticised the SDLP for continuing to go on about delays when other monumental and inexplicable delays have occurred. The UKUP was willing to discuss confidentiality now.

19. The DUP said that there was a danger in making an issue out of a relatively minor matter. However, a very precise definition was needed on what constituted a breach of confidentiality because there were tensions in this regard with the role of politicians. The SDLP said that the written record of the proceedings could well be circulated widely, so rules were needed. On the subject of delays, they refuted the allegations by the UKUP that they were responsible for any hold-ups and said that they had been accused by the UKUP for showing their frustration at delays. The UKUP responded by saying that it wasn't so much a question of the SDLP causing delay but rather that party's criticism of the pro-union parties for raising issues for the purposes of delay and bad faith. At this point, Alliance pleaded for a cessation of the ping-pong argument around the table. It wanted to discuss the confidentiality issue and so did other parties present.

20. The Chairman asked the UUP whether it would be prepared to discuss the matter of confidentiality at that point. The UUP wondered how long it would take the Governments to decide on the Alliance allegation. The Chairman said he would adjourn the meeting for 20 minutes to ascertain when the Governments' determination in the matter would be ready.

21. The meeting adjourned at 15.20.

Independent Chairmen Notetakers
26 September 1996

OIC/PS12