

DRAFT SUMMARY RECORD OF OPENING PLENARY SESSION -  
TUESDAY 3 DECEMBER 1996 (13.25)

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 13.25 and gave the floor to the UKUP. The UKUP said it wished to make one or two general comments regarding the chair's ruling, delivered in the previous session, to enable some clarification to be gained on the implications of it.

2. The party stated that it had never argued that participants should have an absolute right to insist upon and to obtain a vote on any matter presented. What it had put forward was the qualified right for any participant to put forward a motion and obtain a vote on it. Such qualifications had been clearly spelt out previously by the DUP. For example one couldn't expect to obtain a vote on a motion which came completely out of the blue, unconnected with the business at that time. The motion had to be linked to an issue on the agenda, or germane to it. The UKUP motion was linked to the agenda and followed several weeks of discussions on the decommissioning issue, after which it had been tabled. The UKUP

said it noted the comments of the British Government the previous day when it had indicated its wish to reach a determination on decommissioning before Christmas. This had gained broad agreement, but to reach a determination, some sort of voting mechanism needed to be deployed. The UKUP said it didn't accept the chair's ruling, on the basis that it (the UKUP) had not sought the absolute right of a participant to insist upon and obtain a vote on any matter presented, but rather the qualified right, in certain circumstances, to do this. It believed the chair's ruling did not reflect this distinction.

3. The UKUP continued saying that, on listening to and since reading the chair's ruling, it accepted that there was no absolute right in either the House of Commons or the US Senate for a member to raise an issue and expect to obtain a vote on it right away, but on this occasion the issue had been debated extensively, prior to a qualified motion appearing which sought to bring the issue to a determination. But the analogies drawn in the ruling were not necessarily apposite. The UKUP stated that the Chairman's response was therefore not strictly in line with the question on which a ruling had been sought. The party said that it recognised that its comments (the UKUP's) carried no particular weight in the circumstances and acknowledged the Chairman was not bound to reverse his decision, but it believed that the distinction had not been responded to properly.

4. The UKUP moved on to the two part conclusion of the chair's ruling. It said that such language appeared to echo the language of the Ground Rules on inclusive dialogue which are code words for putting the union on the table. Suppose a motion supported by all unionists on the constitutional position of Northern Ireland was tabled. Under this ruling, not even the combined unionist parties

would have the right to vote on that issue. Conversely, if any party were to put the union on the table, and the combined unionists wanted the issue taken off the table, under point two of the ruling, without sufficient consensus, that could not occur.

5. The UKUP, continuing with the example, said that under rule 34, the Irish Government could prevent such a motion going before a vote. The party read aloud rule 34, highlighting in particular the language that "both Governments must endorse the particular proposition for it to be deemed to have sufficient consensus." The UKUP said that not only would the Irish Government have to endorse it in strands 2 and 3, it would need to endorse it in plenary. In such circumstances where the pro-union parties and the SDLP called for a vote, then the Irish Government could veto it. In the more usual circumstances of the SDLP not supporting a pro-union motion, then the SDLP alone could veto the proposition. The UKUP asked whether the chair was therefore saying that if all the pro-union parties moved a motion to obtain a vote on it, the motion could not be taken, under the second part of the chair's conclusion, unless the SDLP or the Irish Government provided the ingredient of sufficient consensus. The UKUP asked for clarification from the chair on this.

6. The Chairman, in response, stated that his ruling was given in relation to a specific inquiry. There was, in his view, little point in responding to a series of hypothetical situations. If these arose in due course, then a ruling, if sought, would be given at that time. The Chairman added that it was worth noting that both the UKUP and the other parties unanimously agreed to the contents of rule 34. The UKUP said it accepted the ruling but wished to ask the Chairman whether, during the past debate on confidentiality, the issue of procedural matters and rulings on

these by the chair were not subject to the rule of confidentiality. The Chairman said he wasn't sure about the context of the UKUP question. He said he didn't recall that rulings from the chair on procedural matters were exempt from the rule of confidentiality. The UKUP returned to say that, so far as it could recall, the subject of procedural matters and their handling was the subject of debate during the confidentiality discussions. Though the UKUP said it could be mistaken about this, it believed it had been agreed that these matters were not subject to rules of confidentiality. In the interim it would get its staff to check previous minutes to verify the position.

7. The Chairman said that he would also have his staff check the position on the issue. The DUP said that the rules of procedure were handed out to the media; therefore any ruling from the chair on how these rules should be interpreted could not be regarded as confidential. To consider it otherwise would appear strange. The DUP then asked whether it was the case that the chair's conclusions applied to the UKUP motion only. The party said that the chair's ruling either becomes part of the rules or applies only to the UKUP motion and was therefore subject to change in other circumstances. The party said that it had never claimed the absolute right to make a motion and obtain a vote. In referring to the chair's comments regarding procedures in the House of Commons, the DUP said that the chair had been ill-advised. The House of Commons had the freest voting system of any democratic structure, where only two members out of six hundred could call for a vote. During the committee stage in the House - any amendment could be voted upon at short notice.

8. The DUP continued saying that it had entered the debate on decommissioning on the firm understanding that a determination

would be reached. The party said that it seemed strange that the rules of procedure were never challenged in July, but when it came to the issue of decommissioning the chair now appeared to be denying the party the right to express the views of its constituents through any vote on the motion tabled - yet the decommissioning issue had been given more debating time than any other matter. The DUP said it was time to reach a consensus on the matter and referred to rule 30. The party stated that the Chairman already knew by now that there was no likelihood of unanimity being achieved on the decommissioning issue. If the Chairman didn't know this, then a vote on the UKUP motion would tell him so. This meant that the Chairman should follow the route as outlined in rule 30. The DUP said that with regard to the chair's ruling just presented, this was all about fudging the decommissioning issue, but a determination was what was required. The party recalled comments by the British Government the previous day when it had said that the process needed to reach a determination of the decommissioning issue before the Christmas recess. Participants were generally agreed on this, but how did the process get to this point. What was needed was the enactment of rule 30(a), (b) and (c).

9. The DUP said it didn't want a position whereby the SDLP or the Irish Government could block a motion such as the UKUP's - as had been illustrated earlier by the UKUP's criticism of the chair's ruling. The ruling only removed the fundamental democratic rights of participants in the process. The process must be allowed to bring the matter of decommissioning to a determination. The DUP stated that the unionist view had been fully articulated during the debates and papers submitted. The Chairman had the powers under the rules to take the issue forward to a determination. The party returned to an earlier point and again said that the Chairman must now realise that there was no unanimity on the issue. If he

didn't, then a vote would determine this, but the chair was saying that there wouldn't be a vote. This meant that the chair's ruling was a serious one. Furthermore the DUP asked what the Chairman had meant when he had stated that another ruling could be given in another set of circumstances. Was this ruling for all similar occasions or did it just refer specifically to the UKUP motion?

10. The Chairman asked whether he was correct in his view that the DUP had supported rule 34 during discussions on the rules of procedure. The DUP said the Chairman was correct in the technical sense that the party had supported the rule but was wrong in the conclusion he was drawing from it. The Chairman said he wasn't implying any conclusion. He had simply answered a specific question on which a ruling had now been given. There was surely nothing of surprise in this approach. The Chairman continued saying that if another issue was raised and a ruling on it sought from the chair, then he would provide such a ruling. The Chairman said that the UKUP had criticised the ruling and he accepted and understood this, but that didn't suggest that the ruling was incorrect in regard to the conclusions to be drawn from it on this specific issue.

11. The UKUP said it recognised and understood the difficulties of providing specific rulings. The party, referring to earlier comments, said that it could not have escaped the Chairman's notice that the constitutional position of Northern Ireland within the United Kingdom was fundamental to the negotiations. The Chair's ruling was one of principle and under it, there could be a set of circumstances whereby every pro-union party was willing to support a motion subject to vote but the Chair's ruling would prevent this occurring because of the SDLP and/or the Irish Government. The UKUP said one didn't have to be a clairvoyant to realise how

explosive such a situation like this was. It was therefore vital that procedural issues, such as those recently highlighted, were fully considered and not simply replied to on an "as and when" basis. The party said that such a ruling might be deemed to be satisfactory if the issue was nebulous in nature. However this wasn't the case and with such a clear ruling now being provided, the UKUP said it was extraordinarily worried by its implications.

12. The UUP referred to the fact that the UKUP motion had been brought in the previous week at a point where the collective view of the body was to attempt to seek a determination of the decommissioning issue. The party said that some 6 to 7 weeks had been devoted to the agreement of rules of procedure but this issue was more important. The UUP said that many of the participants had tolerated the passage of time in an attempt to see if agreement could be reached, but it was obvious that there was presently no agreement. The UUP said that, in its most recent paper on the issue, the party had envisaged certain circumstances whereby the chair ought to consider utilising other means to reach a determination of the situation. Referring to the UKUP comments on the "union", the UUP said it was not its intention to be part of any vote on the "union". The party had made it crystal clear that it would not be involved in any negotiations on that issue. Having said that, the UUP said it wished to consider the UKUP's comments further as it realised that the issue of the constitutional position of Northern Ireland within the United Kingdom could be raised within the bounds of the comprehensive agenda. Returning to the decommissioning issue, the UUP said it was prepared to take whatever time was necessary to resolve the matter. If others wished to take a formal view now on the implications of the ruling then that was fine. So far as the UUP was concerned, it would study the contents of the ruling at greater length, but what was

required now was the need to have the decommissioning issue disposed of quickly, because the process couldn't continue beyond this if the matter was left unresolved.

13. The DUP said there was an important distinction to be made between the issue of how decisions could be taken, which was provided for in rule 34, and the separate issue of when decisions should be taken. The implication of the Chair's ruling was that the SDLP and/or the Irish Government could veto the holding of votes on fundamental issues as the ruling seemed to imply that it was necessary to have sufficient consensus in order for a vote to be taken. The DUP asked how one achieved sufficient consensus in this context? It could only be achieved with a vote. Was the chair now saying that the process needed a vote to have a vote? The DUP said that these procedural issues could have been resolved if the Business Committee had been allowed to sit but the SDLP had blocked this proposal.

14. The Chairman said that in his discussions with the parties the previous week, it had been suggested by some that the Chairman should consider proceeding to apply rule 30(a) if he believed there was a solution that could secure agreement. The Chairman said he now proposed to consult the parties over the following two days to ascertain; (i) if there was agreement to proceed according to rule 30(a) and (ii) if there was a reasonable basis for a solution to the current impasse.

15. The UKUP said that the reality of the problem was that there were two sets of negotiations underway. There was a belief abroad that the two Governments, the SDLP, Sinn Fein, the loyalist parties and the Ulster Unionist Party could deliver a consensus arising from discussions outside the talks process. The UKUP motion had

been tabled with a view to bringing the issue back into that process.

16. The Chairman replied that he hoped that a decision could be reached on the issue in the negotiations without reference to events elsewhere. The comments made by many of the parties the previous week indicated that while they shared the desire of the UKUP and the DUP for a determination on the decommissioning issue, they did not share the view that the UKUP motion would aid agreement at that point in time.

17. The UKUP said that its motion had deliberately incorporated the views expressed in the Ulster Unionist Party's submission on decommissioning. The fact that the UUP was not prepared to support a motion which mirrored its own proposals was evidence that there was another process underway, to which the UKUP was not privy.

18. The DUP said that under the terms of rule 30, there was no obligation on the Chairmen to seek the permission of the parties in order to proceed. The parties had made their contribution and the debate was now exhausted. The Chairman said that while he was not strictly required to consult the parties for their agreement to proceed under rule 30, he did not want to act dictatorially. He proposed to seek agreement to proceed according to rule 30(a) and to discuss the details of a possible solution with the participants.

19. The UUP said, in relation to earlier comments by the UKUP, that it had made its attitude to the separate negotiations taking place between the British Government and Sinn Fein clear. The party had requested publication of the material related to those negotiations. The UUP agreed that it would be desirable to deal

with the decommissioning issue before the recess but was determined to resolve the issue regardless of the length of time involved.

20. The British Government said that all parties were agreed that it would be desirable to resolve the decommissioning issue before the Christmas recess. The parties were also agreed that sufficient consensus on how to do so had not yet been reached. The British Government supported the proposal that the Chairmen now proceed according to rule 30(a). The DUP suggested that the chair list the points dividing the parties. The PUP indicated its support for the procedure suggested by the Chairman.

21. The SDLP, in indicating its support for the Chairman's proposal, said that there was no question of confining the search for agreement to the UUP/SDLP axis. Rules 7 and 26 of the Rules of Procedure obliged the Chairman to search for agreement from as broad a range of the participants as possible. The party said it viewed the UKUP motion as an exercise in "procedural graffiti" intended to advance a very partial point of view.

22. The UKUP objected to the alleged inference by the SDLP that that party had been linked to the recent desecration of churches etc. The DUP asked the chair to rule the phrase, used by the SDLP, out of order. The Chairman said it would not be practicable for him to rule on every contentious phrase that arose during the course of the negotiations. The SDLP said it did not withdraw the phrase and that the phrase had not been used to suggest that the UKUP had any part in recent acts of graffiti.

23. The Alliance party then indicated their support for the chair's proposal and referred to the obligations placed on the parties in the Rules of Procedure to endeavour to find consensus.

The Chairman then announced that the plenary would adjourn until Tuesday 10 December at noon to enable all three Chairmen to proceed as outlined. The meeting was adjourned at 14.38.

Independent Chairmen Notetakers  
6 December 1996

OIC/PS54