DRAFT SUMMARY RECORD OF OPENING PLENARY SESSION - MONDAY 27 JANUARY 1997 (14.55)

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 14.55 and stated that in accordance with the business prior to lunch he now wished to focus on two issues; firstly he wished to have the views of participants, if they wished to comment, on Alliance's pre-lunch proposal for a general plenary debate on loyalist violence and related matters and secondly, what the views of participants were in relation to the conduct of business relating to item 2 on the agenda and the specific proposal from the British Government that the process immediately move into bilateral mode.

2. Moving on the Chairman stated that he now wished to ask Alliance whether it wished to restate its comments by way of beginning the round table hearing of views on its original proposal. Alliance commented that there was no need for any restating of its position. Colleagues were aware of the nature of the proposal and the reasons for it. The Chairman then asked each of the parties in turn whether they wished to comment.

3. With Labour temporarily absent, the NIWC responded with a "no". The PUP said it saw no value in the proposal. The SDLP responded with a "no". The UDP referred to its pre lunch comments saying it would be content to talk to any party about its position, its commitment to peaceful means and maintaining the loyalist cease-fire. The UDP also stated that a response was still outstanding to the legitimate point, which had been raised in the morning session by the DUP. Vis a vis the status of such a general debate, the UDP said it wished to reserve any further comment until it had a ruling from the chair on the DUP point.

4. The DUP stated that the issue of the loyalist parties continued attendance at the talks was one which had to be addressed by the British Government. The party said that Sinn Fein would be saying that there was nothing in what it was doing which was not being done already by the loyalist parties. It was therefore important for the British Government to explain the rationale behind its position outlined to the media earlier in the day. The DUP continued saying that, in relation to rule 29, the key question was whether the recent events from the loyalist side could be deemed to be a breach of the Mitchell Principles and was there a link between a party at the talks and those activities. The party said that in looking back at previous indictments, there had been clearer evidence to the fore as well as statements made by the CLMC. As to the more recent series of activities, the only available evidence was that something had happened plus statements from the Chief Constable and others. The DUP said that only the British Government knew all the facts about the relationship between parties present at the talks and events outside. The party did not believe it prudent to pursue any further action without the proper evidence. The DUP repeated its earlier comments in asking

for an explanation from the British Government as to its rationale for not making an indictment itself. Was it the British Government's view that the activities had not been sufficiently serious to warrant an indictment or was there no linkage between the loyalist parties and the activities? The British Government had to provide answers to these points.

5. The UKUP stated that as far as it was concerned the two recent under vehicle bomb attacks on republicans had been planted by the UFF. The party said that RUC sources had declared this to be the case. The situation had now reached the point whereby two members of the UFF had been warned by the IRA that they were under surveillance. The UKUP referred to the Chief Constable's statement that these activities had been the work of "extreme loyalist groupings". The party said that, from what it had learned, the explosive devices in both cases had been expertly assembled and forensic staff had recognised and attributed the package to a specific group. The UKUP stated that all this information was in the gift of the British Government. Given this, the party asked whether the British Government's earlier decision not to make an indictment was therefore based on the belief that either the devices didn't constitute a breach of the Mitchell Principles or alternatively they had been placed under each vehicle by people unconnected to the CLMC? The UKUP said that this was a farcical situation. The British Government's earlier statement at the entrance gates was a disgrace but yet the participants around the table had to pretend to those in the community that the farce was a serious business. The UKUP asked the Chairman for his assessment as to how long he should stay presiding over such a process before the same lack of credibility befell him. The UKUP stated that the Chief Constable had said one thing, but today the British Government had said something different. However another member of

the British Government, with responsibility for security in Northern Ireland, was recently on the record saying that the loyalist cease-fire was only partially intact. The UKUP asked how could the general public have any credibility in such a process when the British Government was today saying that the CLMC cease-fire was intact. The UKUP pressed the British Government for a response. The Chairman intervened at this point to remind participants of the manner in which previous debates had been held. He then asked the British Government to comment.

6. The British Government said that if the UKUP was going to assert that certain comments had been made by it (the British Government) then its statement of earlier in the day needed to be read very carefully before such assertions were made. The UKUP asked again whether the British Government believed the CLMC cease-fire to be intact, partially intact or broken. The party also asked for clarification as to the statement made by the British Government's Minister for security in Northern Ireland. Had this been an error?

7. The UUP said that while it didn't wish to stifle any debate on the business before the meeting, it seemed likely that it was going to be difficult to hold a constructive debate on the issue unless there was a willingness, on behalf of the British Government, to provide the necessary evidence. The party said it fully recognised the position with regard to unveiling intelligence sources etc but it had corresponded with the British Government on 9 January, stating that it was the responsibility of the Government to provide a report on the state of the paramilitaries. The British Government had responded on 21 January to the effect that the position of the loyalist parties had to be addressed if there was some doubt that a breach of the Mitchell Principles had occurred.

If such a breach could be demonstrably shown to have occurred then the parties would be excluded. The UUP said that in this situation the onus was on the British Government to disclose the evidence which was needed to make a firm judgement. The party stated that it didn't wish to see those political parties, which were attempting to maintain a cease-fire, pushed out of the talks on its (the UUP's) evidence. It was therefore up to the British Government to provide further information. Labour, having returned to the meeting, said it did not wish to comment on the Alliance proposal.

8. The British Government said that it was not fully convinced of the need for a general discussion or for it to make a statement in the matter. However, it understood the strength of feeling and the emotion of the UKUP, but that party should pay particular attention to the words which had used by the British Government in dealing with this issue; it had not mentioned the loyalist cease-fire. Accordingly, the UKUP should withdraw what it had said. The British Government said it had spoken to the media earlier that morning, following interviews given by the DUP and the UKUP. With regard to the point made by the DUP that the British Government were participants in the process and the question of making judgements, it said that it was necessary to see if any of participants in the talks had demonstrably dishonoured the six Mitchell Principles. The British Government did not believe that to be the case, but it wanted to hear what the other parties had to say in the matter. It would continue to evaluate the position as there could be no double standards. As to the point raised by the DUP, the British Government said it had always accepted that it was a participant in the process and it was therefore open to it to put in a representation provided that it was justifiable. That was not the case on the basis of the information available at present.

9. The British Government then said, as it had made clear in its statement of 21 January, 1997, it shared the increasing public concern that had arisen as a result of recent car bomb attacks, the first two of which had been attributed to loyalist extremists by the Chief Constable. It had raised the incidents with the PUP/UDP at meetings on 14 January, 1997 and it had continued to evaluate the situation. It had publicly stated that those incidents, and possibly that at Larne on 20 January, 1997, had inevitably raised questions over the position in the talks of the two parties associated with the loyalist paramilitaries. However, no participant in the talks had exercised its entitlement to make a formal representation under Rule 29 to the effect that those parties were no longer entitled to remain in the talks. Nevertheless, the British Government had considered the issue very carefully. The question turned on whether the parties had demonstrably dishonoured their commitment to the Mitchell Principles. Whether a cease-fire was in force or not did not directly determine the question, though it might still be relevant. The British Government said it believed that the rules must be scrupulously observed. There must be no double standards. No party should be ejected from the talks unless, as was made clear in the earlier Rule 29 proceedings, there had been "a clear and unmistakable demonstration that there had been a dishonouring of the principles". On the other hand, where there was such a demonstration, there was no scope for indulgence: the party concerned could not be allowed to remain within the talks. In its consideration of the matter, British Government had taken note of the statements made by the two parties concerned in recent days. It had noted, in particular, the statement from the UDP dated 14 January, since repeated, that it remained active in its opposition to violence, as well as other similar statements from or on behalf

of that party and the PUP. It had also noted the assurances on the part of the two parties that the CLMC cease-fire remained in force - though that was not seen as determining the question. The British Government said it had considered the position of the parties in the light of these statements and also in the light of all the information available. It believed that the evidence was not such that it could conclude that there had been any demonstrable dishonouring of any of the Mitchell Principles by either party. Accordingly, the question of it making a formal representation did not arise. The British Government concluded by saying that it was aware of the continuing concern, and it would continue to evaluate the position closely.

10. The Irish Government said it had listened with interest to what the British Government had to say. It had no strong views as to whether the Plenary should discuss the loyalist cease-fire or not. It would abide by the decision of the Chairman in the matter. The UKUP said the British Government had carefully avoided dealing with the question of whether there had been a breach of the loyalist cease-fire. Also its statement had distinguished between the position of a party as such and its terrorist front. This contrasted with the British Government's position on Sinn Fein/IRA which it maintained was one and the same organisation. What about the loyalist parties who were fronting for the CLMC? The Prime Minister had said he would not be fooled by the Killyhevlin Hotel bombing into thinking that that was not the work of the IRA acting under another name (the Continuity Army Council). The loyalist parties had consistently refused to condemn acts of loyalist violence. They had even adopted IRA speak by referring to "felon setting". The British Government, the UKUP said, were willing to accept that the loyalist parties spoke for themselves, not for the parties behind them, so they could not be expelled from the talks.

The British Government should answer the question put by the UKUP, namely, did it agree with the statement from the Security Minister that the CLMC cease-fire was only partially intact. The SDLP wondered whether a debate on the matter had started at that point. The Chairman said the discussion about whether or not to have a discussion on the loyalist cease-fire had become a discussion on the loyalist cease-fire. The British Government said it regretted that the UKUP had not withdrawn its earlier remarks to which the UKUP replied that it had no intention of withdrawing them. The British Government said it was clear that the two parties concerned were associated with loyalist paramilitaries. The question was, however, whether they had demonstrably dishonoured their commitment to the Mitchell Principles. As to the position regarding Sinn Fein's entry to the talks (as raised by the UKUP and DUP) the Government said that both Governments on 28 February, 1996, had stipulated that an unequivocal restoration of the IRA cease-fire was required before Sinn Fein could enter the talks process. In response to further requests by the UKUP for an answer to its question on the status of the loyalist cease-fire from the British Government, the Chairman said that the talks process operated on the basis that participants were not required to respond to questions just because they were put by another participant.

11. Alliance said its understanding was that the views of delegations in the matter would be expressed. The meeting now appeared to have strayed into a discussion and there was a need for a ruling from the Chairman or a decision by way of a vote to proceed in such a manner. The DUP said its view was that there could not be a proper discussion on the matter unless the British Government provided evidence on which parties could decide as to whether there was a breach of the loyalist cease-fire or not. There was also a need to know how the British Government arrived at

its conclusion. The UKUP said that the proposal made by the UUP would resolve the matter - the British Government should provide answers to the question raised by the DUP. The PUP said that there should be a decision as to whether the loyalist parties were to be indicted or not. The SDLP suggested that the matter should be put to the parties. All the issues at stake were known. Alliance said that a prior question on the table had to be dealt with first. The Chairman said the opinions which had been offered by the parties were not all unambiguous, so it was impossible to categorise them into yes or no listings. More parties seemed to offer no comment than those who did. One party expressed clear and unambiguous opposition to the proposition. It seemed also that a discussion about whether or not to have a debate on the particular matter of necessity involved a discussion on the subject matter itself. Accordingly, he proposed to devote the period between that time (15.32) and 17.00 to deal with the question posed by Alliance.

12. The PUP said it had taken the opposite view and it was of the opinion that no party wanted to discuss the Alliance point. It wondered what would be achieved by having such a discussion. The Chairman said four parties had offered no comment and one party had clearly said no (PUP). The SDLP clarified its position by stating it had said no also to having a discussion in the matter. The Chairman said he had taken the opposite interpretation from the SDLP's remarks and confirmed his earlier ruling on having a discussion.

13. Alliance opened the debate by requesting a copy of the lunchtime statement by the British Government. It was surprised that the Government had made a decision on the matter. However the position had now been clarified. Alliance said it wanted a discussion because the matter was a serious one and governed the

question of who should be in the talks and who should be out. Some parties might be in the position of being semi-detached from the talks because of their commitment to violence. The position was that last summer public statements were made which could be adverted to as sources of direct evidence in considering indictments against certain parties at that time. In the present context, the parties in the talks were dependent on the views of the Chief Constable in relation to the activities of loyalist extremists. Those statements as matters of opinion might not carry the same weight as direct public statements by parties alleged to have infringed the Mitchell Principles. Alliance referred to statement by the PUP that "rogue elements may have done this". The problem was that material on which to base an indictment was not available to the parties. Accordingly, Alliance wanted to have a discussion to clarify participants minds on the issue. It would be helpful if the two loyalist parties concerned could give some views as to what had happened. Perhaps it was the case that things were done without the agreement of the CLMC. Perhaps the CLMC could say that it regarded such activity as unacceptable and that it might be in the position to forward information to the RUC for further investigation. Such statements would be persuasive of a commitment to democratic ways. On the other hand a view might be taken that the perpetrators could be blamed as they were only reacting to IRA violence; that would be a worrying state of affairs. Perhaps it would not be sufficient to ground an indictment but the position needed to be further examined, Alliance maintained.

14. The UKUP referred to the idea that the CLMC might help the police to track down the rogue elements involved in the incidents in question. In this context it had to be remembered that in connection with other matters last year the loyalist parties had said that even if they had to condemn outrages, that alone would

prejudice their powers of persuasion over the paramilitaries. In that event, how then could they move to assist the RUC? Alliance said it had stressed the need for violence to be condemned on previous occasions and it was still an important marker to be put down. It was also necessary to note that public statements in the media could have the effect of prejudicing criminal trials as happened in a recent case in London. These difficulties notwithstanding, it was still necessary to obtain additional information on the particular incidents in question. The discussion on the matter was also a clear way of signalling to the groups responsible that their behaviour was not acceptable. Alliance also took the view that it would be helpful to have clearer and fuller comments from the two loyalist parties in the matter.

15. The PUP said it was somewhat confused by the proceedings. It understood that Labour had reserved comment on the issue of having a discussion in the matter. So too, it felt, did the NIWC, the PUP itself, the SDLP; the DUP had seen no value in such a debate; the UKUP had put the onus on the British Government and the UUP had prefaced its remarks by saying "whilst not wishing to stifle debate" which in the opinion of the PUP meant no. Accordingly, the assessment by the DUP of the mood of the delegations was different from that taken by the Chairman. Accordingly, it requested a 20 minute adjournment to consider the matter further. The Chairman set out his interpretation of the positions adopted by the delegations (noting again the misunderstanding in relation to the SDLP) and remarked that he intended to be more persistent in future in obtaining a clear yes or no from delegations in these matters! There then followed an adjournment of Plenary at 15.50 to 16.22.

16. On resumption, the SDLP began by saying that it was increasingly worrying that the delegations were becoming depoliticised by having to deal with other matters such as the question of arms and their use. The party said that this particular issue had dominated their entire consideration. The process was again bogged down in debate over the tools of war and that was dangerous in itself. It wasn't possible to ignore the violence, the party said, but it felt that there were really only two choices facing the participants viz., either it was the case that the loyalist parties had broken their commitment to the Mitchell Principles and there was sufficient confidence on that score to file indictments, or there was not. There was a danger that the discussion would further postpone and erode the reasons why the delegations were in the talks process to begin with. They were charged with working for a negotiated political settlement. In a climate of continuing violence there were difficulties, but the primary objective would not be achieved by following a policy of exclusion. It was surely the case that violence would not simply disappear or solve itself. Peace would not come on its own, it had to be created. An alternative to violence meant that it would become redundant. There was a need to proceed in a vigorous manner along a political path to ensure that the counterpoint to violence became as potent as violence itself. The discussions themselves would not contribute to the ending of violence the party said. But decommissioning of weapons would come (as the Mitchell Report made clear) as part of the overall political process. It should not be the case that progress which might lead to decommissioning later in the process should be prevented.

17. With regard to the proposal to adjourn the talks process until after the British general election, the SDLP said that by the time that election, the marching season and the Irish general election

were out of the way, the process might not resume again until Christmas 1997. The same problems would have to be faced at that time as are faced now with the same requirements for a solution. The community outside wanted the political process to advance and to work. Simply having an adjournment without advances being made was not good, the party said. Labour said it abhorred violence from whatever source. It took a different position from Alliance with regard to the two loyalist parties because despite any assurances which those parties could give today in answer to the charges, they could still find themselves in the dock tomorrow because of the attitude of those parties which wanted to see them expelled from the talks. Labour complimented the parties in question for their participation in the negotiations and said they should be given the benefit of the doubt. Labour also identified the UKUP as leading the charge to have the two parties expelled and hinted that the indictment was not made by the UKUP due to fears of personal safety. It said that in expressing its sympathy earlier with the DUP over the attack by the IRA on one of its members, it was prepared to condemn the activities of the IRA and that it did so out of conviction and without regard for personal safety of its members.

18. The UKUP reacted strongly to the suggestion that the remarks by the UKUP on radio earlier in the day about the possible ejection of the parties from the talks would have personal safety implications for whatever party was responsible for making the indictment. The UKUP stressed that it had made no remarks about personal safety in that connection and that the account by Labour was totally inaccurate and the transcript of the interview would establish the true position.

19. With regard to the particular incidents, the UKUP said no party in the talks was in a position to prepare an indictment simply because they had nothing to go on apart from their own analysis of the events. It was certainly clear that the attacks were not suicide attempts; nor were they the work of the tooth fairy. The Chief Constable had said unequivocally that extreme loyalist groups were involved. The question was which ones? It was necessary to look at the minutiae of expert evidence and the assessments of forensic experts before one could attribute blame to a particular organisation with any degree of accuracy. Unless the participants in the talks could have access to that kind of information or there was an admission of responsibility by the CLMC, it was not possible to arrive at a final judgement in the matter. The UKUP went on and said that no one believed what the British Government had said in the matter. It would reason the incidents away in any event. The party referred to the point made by the UUP that the Government should make a report available on all the evidence it had to hand in the matter. It also said that the Government relied on the provisions of Rule 29, but it had to be remembered that the enabling Act vested responsibility in the Government at least to give information to enable the other parties to decide. How otherwise could the parties make a reasoned judgement on whether there was a total or partial breakdown of the loyalist cease-fire? The Government's attitude showed that two standards were being applied, one for those in the talks and one for those outside them. That should not be the case. In effect, the party said, the politics of expediency were replacing the politics of principle and this would inevitably lead to the ultimate breakdown of the process.

20. The DUP said it was amazed to see how those parties which originally did not want a discussion on the issue were now prepared

to roll up their sleeves and get down to it. The position was that the two loyalist parties could ask for the evidence to be produced. Only the British Government had that information in their possession. The parties had to have the details made available to them to enable them to arrive at an informed conclusion.

21. The UKUP said that the SDLP had criticised Alliance for the loss of another day. The UKUP too had fully intended to resume substantive discussions and the present distraction was not of its making. The agreed agenda for the remainder of the Opening Plenary provided for discussion and agreement on decommissioning but it appeared that the SDLP felt that this should not be proceeded with. It also seemed, the UKUP said, that the SDLP did not want to pursue the understanding on decommissioning it had with the UUP and Alliance to fudge decommissioning, and that the SDLP was prepared to put the blame for delay in reaching an agreement on the issue on the other parties.

22. The UUP took up the remark about fudging decommissioning and said it was beneath contempt to answer it and it would not even stoop so low as to deny it. It was the case that the necessity for decommissioning and the substantive proposals in that regard were first articulated in depth by the UUP. If the SDLP and the Irish Government had responded reasonably to those proposals there would have been no delay in moving into discussions on substantive political issues. It seemed to be the case that the UUP was being chided because of its approach to take each step in the process constructively. But what about the time that has been taken to try to convince the IRA to move into the democratic process from as far back as the commencement of the Forum in Dublin?

23. The UUP also said that it was disturbing that in the past 27 years since the IRA became active, some parties were not capable of understanding the subtle differences between one organisation and the other. The loyalist paramilitaries were not the same as republican paramilitaries. The latter were governed by an Army Council which dictated strategy and had a monolithic and cohesive structure with absolute authority. As regards loyalist paramilitaries, the UUP said that the CLMC was a federation of organisations involved in terror and it did not have the overall authority similar to that expressed by the IRA Army Council. It was necessary, therefore, to look at the political efforts of both organisations in that light. Messrs Adams/McGuinness were bound by the IRA Army Council which promoted or endorsed action by the IRA. The position is different with regard to the loyalist groupings. It was not impossible therefore, according to the UUP, to have a partial breach of a cease-fire in these circumstances. Both the PUP and the UDP had articulated their opposition to violence with success over 28 months of a cease-fire and they had to be treated with more than petty ridicule when their motives and actions were being examined. The UUP felt that the debate thus far had a degree of futility. It would judge the CLMC cease-fire on the basis that either the CLMC announced that it had ended, or that the level of terrorism was such that it was clear that the CLMC no longer had control over events. Both the loyalist parties had stated that if the CLMC was no longer in cease-fire mode, they would be unable to represent that group at the talks. The UUP said it was not an advocate of loyalist paramilitaryism, but instead of carping on and on, the differences between it and the IRA should be realised and appreciated.

24. The Chairman said that it was then 17.05 and he proposed to adjourn the meeting to 10.00 on 28 January, 1997. A number of

speakers had offered (4) and they would be taken in order the following day. The UKUP said it wanted to make the point that the UUP's remarks indicated an acceptance of an acceptable level of loyalist violence. Alliance said it did not wish to get eloquent apologias from the UUP, but it had hoped that the two loyalist parties could have clarified the matter. It was clear that no useful purpose would be served in pursuing the matter on the following day. It regarded the debate on the item as concluded and a new topic should be discussed on resumption. The British Government promised to circulate its earlier statement in relation to the position of the loyalist parties. The SDLP said that its remarks were to be construed as applying to the subject of decommissioning, not the question of loyalist violence. The DUP said it was in favour of ending the discussion on the topic at that stage. The PUP suggested resuming the Plenary at 12.00 on 28 January 1997. The UKUP said it was regrettable that the British Government were not prepared to provide the detailed information as requested by the UUP on the basis for its decision that there was no breach of the Mitchell Principles by the two loyalist parties.

25. The Chairman proposed to modify the PUP proposal on the timing of the resumption to 10.00 the following day. That was agreed and the meeting concluded at 17.17.

Independent Chairmen Notetakers
30 January 1997

OIC/PS58