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From: Independent Chairmen Notetakers  
19 June 1996

SUMMARY RECORD OF INFORMAL DISCUSSIONS ON PROCEDURAL GUIDELINES AND  
AGENDA FOR PLENARY SESSION - TUESDAY 18 JUNE 1996 (17.03)

Those present:

Independent Chairmen	Government Teams	Parties
Senator Mitchell	British Government	Alliance Party
General de Chastelain	Irish Government	Labour Party
Mr Holkeri		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. At 17.03 the Chairman welcomed all to the meeting and thanked them for their patience. He continued saying that he now hoped everyone had had a chance to review the document circulated prior to the meeting at 16.05. The Chairman commented that during the break some participants had suggested that the business might be taken forward in a different direction. Mr Trimble posed the question as to how detailed comments should be on the revised draft. (A copy is enclosed at Annex A). The Chairman proposed that it might be helpful to have each of the participants per party speak for about 5 minutes on the highlights as they saw them. Then as per previous sessions it would be his intention for a general discussion to be conducted which would be full and open. As with previous sessions he did not want anyone to feel that they could not make a full contribution to the process at any stage.

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2. Mr Trimble commented that he thought the new draft was quite helpful. It was clearly a better paper than the 6 June documents and he thanked the Chairman's staff for producing it in the time available. Continuing, he questioned the relationship between the current draft and the original Ground Rules and in particular how "participation" in the proceedings would be handled, given that the proceedings so far had been on a somewhat irregular and informal basis. Mr Trimble said that his party believed there was a requirement to look at the provision in the original Ground Rules and the procedural guidelines on this issue. He also had some points of concern regarding the Governments' paper on the Opening Scenario. In addition the area of "sufficient consensus" (now inserted as item 27) which had been based on UUP proposals but now also included proposals from the NIWC, could present difficulties. For example if one was to follow the NIWC proposal it could mean the five small parties out of nine lining up on an issue and carrying a decision on the numerical majority. Mr Trimble also commented that his party continued to have difficulties with some of the provisions for Strand 3 negotiations. He believed these guidelines needed to say more and made reference to the "legitimate" concerns of the Unionist family with regard to the Anglo-Irish Agreement of 1985. To continue the example, Mr Trimble indicated that this Agreement was still rejected by the majority of the NI population, yet the provisions in the current guidelines from Strand 3 did not appear to square up with the proposal in the original Ground Rules that both Governments reaffirmed that they would be prepared to consider a new and more broadly based agreement, if it could be achieved through direct discussion and negotiation between all the parties concerned.

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3. The Chairman at this point welcomed Mr McCartney who had just joined the proceedings. He provided him with a quick recap on the business of the day, explaining how the composite documents had been arrived at and invited him to comment. Mr McCartney explained that he wished to raise two issues but did not want to get involved in the minutiae of the details in the papers. His first major concern focused on the question of who would confer the powers set out in paras 11, 12 and 13 of the Scenario Document and whether in the Chairman's view those powers should be included in the proposed procedural guidelines. Mr McCartney on a second issue questioned the extent of those powers and their apparent confinement to a single individual. Again he raised the question of whether those powers should be contained in the procedural guidelines now being discussed. The Chairman in return commented that he did not believe that the guidelines did confer those powers on him although he pointed out that the guidelines had not yet been adopted. Mr McCartney asked when this was going to be decided and who would make the decision. The Chairman responded to this by indicating his view that it was for the participants to debate the Agenda and it therefore followed that they also would determine the actions to be taken on this Agenda. He therefore believed that it was up to the group as a whole to decide how these matters were progressed.

4. Ms Hinds responded to Mr McCartney's earlier comments stating that these points and others had been open for discussion over the last two days. She was content that everyone present had been involved throughout and had been working towards the resolution of a number of issues. She was, however, unhappy that those who had not been present until now had arrived in the Conference Room and apparently were unaware of what had been going on in the preceding hours. In addition little respect had been paid to this position or to the hard work and commitment of the other participants.

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Having sought clarification from the Chairman, Mr McCartney responded to Ms Hinds saying that his party and staff had kept him informed to date. He believed his questions were relevant and central to the core issues of the process. He did not believe that he had been disrespectful to any of the other participants and indeed felt he had shown courtesy throughout. The Chairman reiterated an earlier point that everyone around the table was free to fully express their views at any time so long as he was in the chair.

5. Mr McCrea indicated that he also believed the issues raised by Mr McCartney were central and extremely important to the discussion of the draft procedural guidelines. He asked for guidance as to how to view the current document. Was the document a free-standing one? Could previous documents, ie, from both Governments dated 6 June, now be set aside and was this document, when agreed, the only one likely to be in force, bearing in mind earlier comments made about "blank sheets of paper"? The Chairman indicated that it was not for him to declare any document dead or alive although he understood that was Mr McCrea's wish with regard to the Government views dated 6 June. The Chairman quoted the first sentences of the Governments' paper dated 6 June regarding "negotiations". He reiterated the point that during discussions the previous day his staff were asked to prepare a draft of the procedural guidelines. He believed its relationship with the original Ground Rules was for the participants to decide upon. He indicated however, that if the meeting wanted him to be given the authority to deal with and decide on this issue, then he would do so. The Chairman indicated that this position had not yet been reached. Mr McCrea commented that he had been trying to ascertain the Chairman's view on the status of the paper before them. Neither he, nor the DUP, accepted the original Ground Rules as put

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forward by the joint Governments. Both these groups were participants and not the rulers of the process. Mr McCrea went on and quoted para 2 of the draft guidelines paper currently under discussion which referred to Plenary sessions. He then reminded participants of Mr Robinson's earlier observation that the Opening Plenary was one which had a conclusion before the process moved into the various strands of negotiations. He also reminded the participants that the DUP did not accept the imposition of Senator Mitchell as Chairman. Mr McCrea continued saying that if the participants agreed with this appointment, then that was a different issue. However, he did not wish the joint Governments to make rules or impose them on this issue. Mr McCrea then turned to another concern and quoted para 7 of the draft rules of procedure. He believed there was no change in this paragraph to what had been offered previously but indicated that the word "consultation" was unsuitable and that any agreement would be for the Business Committee to establish. He then returned to an earlier point, stating that the complete ownership of the process had to be in the hands of the participants, ie, those who were elected on 30 May. In turning to para 9 of the draft rules, he simply did not believe that this would happen. He did not accept the idea of "consultation" and that this mechanism be given to the Chairman or indeed both Governments. Mr McCrea then asked for a definition of "agreement" and what this word meant with regard to para 17 of the current draft. Finally, Mr McCrea stated that there were issues in the 6 June document which were not referred to at all in this current draft and, like Mr McCartney, he also wanted to know who would be conferring the powers already mentioned and when. They should not, he insisted, be invested in the Chairman.

6. Mr Adams stated that apart from a couple of minor issues, his party found the guidelines acceptable.

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7. Mr Mallon thanked the participants for the adjournment which he believed was appropriate as this enabled further consideration to be given to the draft document. He went on to say that the SDLP had certain reservations with the current draft, some bits here and there, and in some areas his party might have wished to push for change. Given the circumstances, however, his party would be happy to say that they accepted the document in its totality. Mr Mallon continued saying that in the interests of the Plenary session and the discussion on the Agenda which were due, he believed this was the right line to take in order to keep the process moving.

Mr Mallon stated that he did not wish to exclude others who had recently arrived in the room and had made a contribution to the discussion. He was, however, somewhat concerned that certain interventions might be construed as attempting to "lift the ball and go home with it", being aided and abetted by others in doing so. Mr Mallon concluded his remarks saying that his party would not allow anyone to "hijack the process" in the interests of proper democracy and substantive discussions. Mr McCrea interjected at this point saying that he believed there was a party trying to bully others into ignoring democracy. Mr Mallon indicated that he would withdraw his earlier remarks concerning interventions from those who had just joined the proceedings but he would not be put down by any bully inside or outside the Conference Room. He indicated that he would not withdraw his remarks concerning the substantive UKUP contribution. Mr Hutchinson reiterated his party's basis for accepting the Chairman into the role.

Mr Hutchinson continued saying that his party had looked at the draft document during the adjournment and was happy to accept it as it stood.

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8. Ms Hinds opened her remarks by saying that she was somewhat confused about the apparent DUP support for para 7 during Mr McCrea's comments a little earlier in the proceedings. She concluded that the current draft was a better version of what had gone before and there was now a better reordering of the Chairman's powers. She believed there were still some bizarre things contained in the draft, making reference to para 14, but was happy to accept hiccups at this stage. She was content with the spirit of the SDLP's earlier comments and agreed that getting on now with the process was important. In relation to the original para 23 (b) from the previous draft, Ms Hinds stated that her party would have preferred the UDP proposal (their para 13) but nevertheless, she claimed, she hoped the spirit of that was now included in the current document. Ms Hinds raised three other matters. She referred back to Mr Trimble's earlier point regarding the original NIWC proposal on "sufficient consensus" adding that she understood the position of the other parties who wanted this test included. She was also content to see the wording in para 28 which, in her view, ensured that all participants were bound into an agreement, thereby establishing the view that consent was very important. On her second point, she believed it vital for everyone to use the overall process to gain ownership of the substance. Finally, in referring to para 34, she believed that the draft now resembled a very good piece of work and did not consider that the issues contained therein conflicted with the original Ground Rules. On this basis, her party was happy to accept the current draft document.

9. The Chairman asked that the business move on to para 7 of the draft document. He commented that this had been drawn directly from the UUP submission, with the minor exception of a couple of words. Mr Curran at this point welcomed the draft document. He

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believed, as his party had indicated earlier, it was now drafted in more moderate language and therefore more acceptable. He believed this now built upon the establishment of the Chairman's consultative approach. He wished to remind those about the emphasis placed on the word "consultation" and drew an analogy of the British Prime Minister and his Cabinet in terms of the progression of business within this framework "primus inter pares". He also commented that he was particularly happy to see the wording in para 27 which now referred to a majority of the participating parties to coming to an agreement. He believed that there had been some astute drafting in terms of the working out of the 5 party test, thereby representing 71% of the valid vote. He considered this formula did move towards a compromise position between the DUP and Alliance and went some way also towards meeting the requirements of the UDP and NIWC. Mr Curran reminded participants that they were attempting as much as possible to achieve unanimity. He did acknowledge, however, that the figure of 71% should go some way to achieving this.

10. Mr Close paid tribute to the contents of the draft document and to the assistance of the Chairman's staff in preparing it. He continued by saying that if the delegations were honest then they would already have spotted their footprints in the draft rules. He also believed the document as it currently stood, did produce comprehensive, workable and practical rules and acknowledged that it must be viewed from a pragmatic position where give and take was required to make it work. The key objective was to make progress in this body and, in this context, he hoped that no-one was deliberately setting out to stymie the process. The only people, he believed, who were attempting to do this were on the outside of the process. He therefore believed that democrats needed to be seen to be pursuing democratic means as successfully as possible.

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In those terms, he was content that his party could run with the document now.

11. Attorney General Gleeson also gave his appreciation of the new document and believed it to be a serious effort towards progress, given the discussion which had previously gone before. He concluded that the document should offer a serviceable basis for the negotiations and was a good replacement for the 6 June documents. The Minister of State also voiced his appreciation of the new draft. He believed it to be an improvement and was prepared to accept it as a replacement for the 6 June document. Mr Trimble then asked whether the document should not now be gone through guideline by guideline as everyone had now had an opportunity to complete their 5 minutes as suggested earlier by the Chairman. The Chairman agreed with this and the meeting proceeded to para 1, page 1. The Chairman asked for comments on this. Mr Robinson asked for a definition of "agreement". He also asked whether there was a distinction between the original procedural guidelines produced by both Governments and the rules now being drafted. For his part, he believed the guidelines indicated flexibility of operation rather than strict adherence and he thought it better if the current set were referred to as "rules of procedure". The Chairman suggested that the views of the Governments should be sought on this point. The two Governments responded, saying that they had no objection to calling them the Rules of Procedure. Mr Robinson returned to his earlier point of a definition for "agreement". The Chairman indicated that in his view there should be a determination to reach "agreement" by unanimity and if this was not possible, then the "sufficient consensus" factors came into play. Paras 23-28 dealt with this and perhaps when the discussion reached this point, further thought should be given to how this would work out in practice.

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12. Mr McCrea also referred to the search for a definition of "agreement". He believed it was correct for the Chairman to indicate that it was contained in paras 23-28. However, given this position, there also needed to be a definition of "a clear majority". The Chairman indicated that this issue had been talked about the previous day in some detail. Mr McCrea intervened, asking what was the definition at this point in the text. The Chairman indicated his view that it seemed to represent more than a bare majority. However, he wasn't participating in the process, he was simply listening. He did, however, recognise the previous day's debate had been compounded by the views on the percentage of the electoral vote and whether formula calculations involved absent parties, thereby raising the threshold of percentage vote from which "sufficient consensus" could be determined. He reminded participants that the discussion on percentages had ranged from 66%-75%. He also acknowledged Alliance's proposal which had suggested that 55% of the total vote be used and the implications that this brought. Mr McCrea indicated that there was no real confusion over the formulations, although he commented that the whole issue of "sufficient consensus" was not really helped by referral to it in other paragraphs. He did, however, not want at this stage to pre-empt discussion on para 27.

13. Mr Close enquired about para 31 of the original DUP proposals. He asked whether this current paragraph required the addition of the words "of all participating delegations". Mr Trimble indicated his belief that "agreement" would be defined in the relevant paragraphs on decision-making later in the text. He pointed out that these paragraphs had not yet been agreed and concluded that the format of "agreement" for these might allow "agreement" to be determined in a similar manner in all other

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respects throughout the process. As he saw it, this would break down into an effort to achieve unanimity, followed by an effort to achieve sufficient consensus through the use of other tests/factors. Mr Robinson stated that he was content with this approach provided that there was no reference to a third means of reaching "agreement". The Chairman indicated this was not the case. He then asked for participants to move on to para 2.

14. Mr Robinson returned to his earlier point in previous discussions that the Plenary had an over-arching role. Mr McCrea restated his position, asking if the function of the Plenary was other than to launch the 3 strands of negotiations. He indicated he would welcome some exposition of this point from others. Mr Mallon commented that there had already been long discussions on this. In his view, for Mr McCrea to arrive and ask for clarification without being involved in the process in the previous hours was not a useful approach. He suggested that if participants were concerned about clarification, then they should be in attendance at meetings. Mr McCrea commented that the point had been raised by Mr Robinson and not by himself. He also indicated that he would continue to raise points irrespective of the comments made by Mr Mallon a few moments previous. Ms Hinds outlined her belief that the point raised by Mr Robinson was different from that raised by Mr McCrea. Mr Robinson was talking about the Opening Plenary but she did not want to get involved in replays of previous business. The Chairman indicated that both points should be addressed. The Minister of State believed the question to be whether there was a Plenary outside the Opening Plenary. In attempting to respond to this point he referred participants to paras 4 and 13 of the "Opening Scenario" document. He quoted both paragraphs fully and said that he accepted and endorsed the use of the word "Plenary" in this context. Mr Robinson commented that

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rather than replay the business of the previous day, this issue should be parked for later discussion. Attorney General Gleeson indicated no objections to Mr Robinson's proposal while endorsing the Minister of State's earlier view. He did, however, offer the view that there must surely be a point further down the road when things came together. He asked the question whether this point was something other than another Plenary?

15. Mr Attwood said that he had listened to very valid comments earlier in the discussion on the ownership of the process. However, he believed that this discussion was not about owning the process but about others wanting more of the process. He referred to the discussion about other Plenaries and believed this to be a good idea. It avoided participants becoming isolated from the process, it enhanced totality and allowed fair and equal treatment and debate across the full range of issues. He went on to say that there could be issues of rights which crossed the various strands of negotiations and as such, because of their nature, might well arise. In addition to this point there also seemed to be a need for another body to be looking at how the strands were progressing so that one strand did not move ahead of the other. Mr Robinson believed it was obvious that the original Ground Rules could enable the Business Committee to convene further Plenaries. He believed it was clear in the Governments' proposals and therefore saw the Business Committee as the means by which these problems were dealt with. The Business Committee could also deal with perceived problems as had been raised by the previous speaker, although he acknowledged that his current comments were probably going against the position that he had taken up earlier. Mr Trimble suggested, in line with Mr Robinson, that this issue be parked for the time being. He believed that issues such as this would become clear when the agenda discussion took place.

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16. The Chairman asked the participants to move on to para 3 and asked for comments. Mr Robinson on hearing no other comments around the table, put forward the point that an absence of comment did not necessarily mean that everyone was in agreement. Developing this point, he indicated to the Chairman that he would rather get beaten by a vote on an issue rather than the substance of it being imposed on him. At least, he stated, he would have the comfort of knowing that the decision was reached in a democratic means against his opinion, but that he had some input to the decision-making process. The Chairman asked for any other comments. Mr McCrea said that he shared Mr Robinson's view. He had been dismayed by the Secretary of State's imposition of installing the Chairman the previous week. He believed this had been a demonstration of political power and was totally and utterly offensive. In the run-up to the proceedings in the early hours of 12 June, there had never been a hint that the British Government would sanction such a thing as occurred with the Chairman. He went along with Mr Robinson's point about democratic decisions. The Chairman indicated that in his view, in responding to Mr McCrea's point, the paper of 12 June (00.01 am) had been supported by both Governments and 7 parties. Viewed another way, this made 9 out of 11 participants. Mr Robinson intervened saying that the Chairman might well be right in these terms but he had been installed without any reference being made to the appointment inside the Conference Room. He therefore returned to his earlier point that decisions should be taken above board on a democratic basis and in the full knowledge of all those around the table. Mr Mallon claimed there was absolutely no doubt as to the decisions taken by the 2 Governments and the 7 parties last week. He believed it was unfortunate that this point was being made at this juncture at all. Having been made, he claimed, one began to suspect this had nothing

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to do with the deliberations of the day's business but to spike the Plenary the following day.

17. Mr McCrea referred to the so-called agreement which had led to the Austrian anschluss in the Second World War and claimed that he wasn't suggesting that there hadn't been an "agreement" on this issue. What he was objecting to in the present circumstances was that "agreement" had been manipulated, like Austria, by a "come what may" situation and this was just not on. Mr Curran concurred with Mr Mallon's earlier view that the day's business could not return and continue with this issue unresolved. Mr Mallon also commented in similar terms. It was clear to him that the basis for the decision made on 12 June should now be reinforced. He therefore asked that the meeting adopt it and that if people wanted to stand outside it, then that was up to them. In his view this was a vitally important point and had to be dealt with at this stage of the discussions. Mr Curran supporting Mr Mallon indicated that he wished to consult with other participants on the issue and sought an adjournment from the Chairman. The Chairman indicating that no formal rules of procedure had yet been adopted, referred to the original party submissions on the issue of adjournments, on which there had been no disagreement, and suggested that on the

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basis contained within these he would accede to Mr Curran's request. The Chairman agreed that the meeting would adjourn until 19.00. The meeting adjourned at 18.37.

[Signed]

Independent Chairmen Notetakers  
19 June 1996

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