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From: Independent Chairmen Notetakers  
24 June 1996

SUMMARY RECORD OF INFORMAL DISCUSSIONS ON PROCEDURAL GUIDELINES AND  
AGENDA FOR PLENARY SESSION - WEDNESDAY 19 JUNE 1996 (14.53)

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. The Chairman said that several participants would have to leave for Parliamentary Business in London and we would not have that much time. However, he said the group could continue as principals from the delegations will remain. The group should endeavour to make progress today and tomorrow.
2. Mr McCartney said an issue was raised about the rules of procedure, the guidelines and the principles for the meeting. The status and effect on the Ground Rules of 16 April and the Scenario paper, particularly paras 9-13 have to be considered and defined. They go to the central matters at issue.
3. In relation to the Ground Rules, Mr Robinson asked what is their legal standing. He thinks that only those provisions

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referred to in the enabling act have effect. The rest do not. Mr McCartney afterwards said that the Ground Rules were agreed by the Governments without any real input by the participants. The language of the Ground Rules is biased in favour of a nationalist agenda. The Unionists take exception to the Ground Rules and they must be removed. The basic objection is that the Governments have agreed them in favour of an Irish nationalist position and they provide a rigid framework for that. As to the basis set out in para 1 of the document, he insists that no economic structures are necessary. This provision is a foundation for an all-Ireland agenda. As to the agenda itself, this infers that the constitutional position of the union is up for negotiation. This is corroborated by para 3, where any aspect can be raised, including the constitutional issue. The issue of consent is central to the process. There is no doubt that no such consent is available from the results of recent elections. This is not in prospect.

5. His party had a manifesto that the union was not negotiable. Accordingly, he objects to his party being obliged to discuss the matter. With regard to para 4 which refers to the Anglo-Irish Agreement, it has been made perfectly plain that pro-unionists reject this as a basis for settlement. The rigidity as reflected in the Ground Rules is reflected in the absence of discussion on an internal settlement even though the majority may desire it. By an internal settlement he doesn't mean a return to the Stormont form of government which didn't always operate on fair principles, but majoritarian principles. However, the possibility of an internal settlement is not even contemplated in the Ground Rules. The Ground Rules might be attractive to Governments for a solution imposed over the head of the majority in Northern Ireland.



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6. With regard to para 9 in the Scenario document, Mr McCartney said that if there is a requirement here for his and other pro-union parties to address the concerns of Sinn Fein, they could not comply with that. They won't put the union on the line for negotiation and discussion. If this means that they have to satisfy Sinn Fein, the answer is no.

7. Mr McCartney then read out the contents of paras 10 and 11 in the Scenario paper. With regard to para 11, he said that its provisions can apply only to the two parties who are present and the one which is absent. The Chairman has the power to look into the hearts of Sinn Fein to see if they have good intent or good faith. He said that the Chairman looked into their hearts before 22 January 1996 (the date of publication of the Report of the International Body) and were so satisfied as to their good faith at that time. But Sinn Fein/IRA were already in the process of constructing a bomb at that time which exploded on 9 February 1996. The three Chairmen acted correctly on the information available to them, but he would be unwilling to place the question of the assessment of the intentions of Sinn Fein/IRA - who killed the garda recently and who placed the Manchester bomb, in the hands of the Chairman.

8. He added that the Irish Government have not even slapped their wrists or broken off communication over these incidents. He said the words in the paragraphs were drafted by wordsmiths; its purpose is to obfuscate. Sinn Fein/IRA only have to satisfy the Chairman as to their intentions and good faith. Inclusive process is Sinn Fein speak for debate on the constitutional position of Northern Ireland and "dynamic process" means a process towards a united Ireland.



9. Mr McCartney then referred to the Chairman's powers in paras 12 and 13 of the document. His objections to those powers have nothing to do with the Chairman personally. He has been fixed with the task of getting Sinn Fein into these talks. This is the central thrust of all these powers. Neither the UUP, the UK Unionist Party or the DUP realised that all these issues would be insisted upon. His central theme is that the guidelines must be closely defined, the Chairman's powers circumscribed and the powers given to him on decommissioning in the Scenario document must be removed. These objections will be maintained.

10. Mr Curran said that he heard Mr Robinson say he stumbled on the present problem before us. Mr Curran said he raised this point in the Labour Party paper earlier. They looked at the relevance of the Ground Rules as published in Command paper 3232. The parties must have known what they were getting into - presumably they read the paper. A ground rule is a fundamental principle. They looked at the Ground Rules because of the amendment affected by the procedural rules and this seemed strange to them - amending a fundamental document. He then referred back to the communique of 28 February and repeated that people must have known what they were getting into.

11. Mr Trimble said it was difficult to proceed with so many people in the room. The issues in the Scenario paper are relevant to the agenda which has yet to be debated. With regard to procedures, he said that there has been some confusion in the matter. The UUP have circulated a short paper to identify those ground rules which relate to procedures which are not yet incorporated in the rules of procedure under debate. We should proceed in this way. The remaining sections in the Ground Rules paper are aspirational or reflect Government policy. That is right



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for a Command paper and parties here will bring their own policies to bear on the issue. We don't give an imprimatur to the documents or a general endorsement of the Ground Rules paper, we take what we want from it, for example sufficient consensus, which was taken out of the Ground Rules paper, altered and put in the rules of procedure.

12. Mr Robinson referred to Mr Mallon's earlier remarks. He said that Mr Mallon had said that the Ground Rules had some significance and standing because they had gone through a consultation process. That is why he (Mr Robinson) had been keen to remove the references to consultation/consult earlier. Yes, there was consultation - they wrote pages of amendments but the end result did not accord with their views. Their thumbprint is not on the Ground Rules. This is a disclaimer for him and possibly others also. The Ground Rules are the views of two governments. Mr Mallon insultingly suggested that he was making a calculated attempt to ambush the proceedings. Perhaps the Chairman should look into his heart/mind to check this out.

13. Mr Robinson said that Mr Curran seems to be baffled by what is going on. We were looking at the role of the Business Committee in providing an indicative calendar for the various strands. All parties are represented in the Business Committee but not all can express views in the various strands, so the rules of procedure should clarify their position. The Minister of State suggested inserting in the rules of procedure a comment that the Ground Rules cover the proceedings. But we thought that everything before our blank page was supposed to be "off the record". He was misled by statements about this blank piece of paper. His question now was, are other elements of the 6 June documents still in force.



14. In relation to the Ground Rules and the other documents of 6 June he made it clear that they were not negotiating the union. The only people who could change the position of the union were the people of Northern Ireland. They have made their views in that matter clear. They want good government in Northern Ireland and good relationships with the Irish Republic. That is what they want to adopt in the negotiations. Both he and Mr Trimble said they had doubts about the Ground Rules document and there is no requirement in the enabling Act to accept the Ground Rules. He was content to continue discussing the rules of procedure but he said that we need to know the status of the Ground Rules and the other documents.

15. Attorney General Gleeson said that Mr Mallon's suggestion to resume on the rules of procedure was a good one. There is a blank sheet of paper before us to assemble the procedural rules on it. But you cannot ignore a Statute of Westminster. The entitlement to write rules does not mean you can ignore the law of the land and the Statute. The Attorney said he found himself in the strange position of supporting the integrity of a Westminster Statute. The Ground Rules and Statute are not based on agreement but they have a statutory basis. No-one can repudiate that. The provision in the Statute in Section 1 is for elections to be held for delegates to be chosen for negotiations. The character of negotiations is covered in Section 2 as referred to in Command paper 3232. So the negotiations are predelineated negotiations known to the House of Commons and to every elector when they made their selection. There is no mystery about the character of the negotiations involved. What did the UUP vote for in the Statute? - the negotiations as prescribed in the Ground Rules paper. Each rule in that paper comprises the total description of the whole enterprise. You can't leave out part of the package. From that fact which is both legal



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and parliamentary, nobody can gainsay or resile from the Ground Rules document.

16. Mr Close said that he was speaking as a layman and a reasonable man. The Act clarifies and expands on the negotiations in the Command paper. Part of the Act includes the references to negotiations. This is wrong place to reopen an argument backed by an Act of Parliament. We were dealing with procedural guidelines in the form of the rules of procedure. The Plenary group can decide on the procedural issue. It is wrong to deal with it here. It should also be noted that the members of the Forum can have the power to establish their own rules of procedure. This may be contrasted with the position of the negotiating body because its rules of procedure are set out in Command paper 3232 and backed up by the Act. It seems to him that there is an attempt being made here to sabotage the whole proceedings.

17. Mr Empey said that they were not trying to sabotage the proceedings. They are at risk of talking at cross purposes which could unravel the work already done. If they are going to proceed they will have to resolve the matters raised. The Ground Rules have a procedural aspect which he wanted reflected in the rules of procedure. Mr Robinson saw a gap and we should fill that gap. Then we should look at the fundamental issues on the main agenda items. Things will become clearer as we go on. We have heard that the Ground Rules document is "the best judgement of the two governments". We would challenge that; it does not mean that you have to accept it. It is wrong to put people in straightjackets.

18. When we come to the agenda it is unlikely that anyone will argue that you cannot address an issue. The remaining issues outside of the procedural ones have no legal standing. They are



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merely the views of two governments and should not be forced on delegations. We should take it one step at a time, answer the questions, and we will have the Act and the rules of procedure. When we discuss the agenda with no end result in view to bind us, we will know how to react at that stage.

19. Mr Mallon said that the UUP has done much work on this. He asked which argument/matter is precluded by the Ground Rules or which matters would put people into a straightjacket, especially in relation to the wording of para 3 in the Ground Rules. Mr Empey replied by saying that Mr McCarty outlined a shopping list of items which might be precluded - his party's negotiating position is threatened or potentially damaged by being forced to accept them. The Minister of State requested an adjournment to explore some constructive comments. The Chairman adjourned the meeting at 16.15.

[Signed]

Independent Chairmen Notetakers  
24 June 1996

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