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From: Independent Chairmen Notetakers
26 June 1996

SUMMARY RECORD OF INFORMAL DISCUSSIONS ON PROCEDURAL GUIDELINES AND
AGENDA FOR PLENARY SESSION - TUESDAY 25 JUNE 1996 (18.00)

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 opened the session by inviting the Minister of State to speak. The Minister referred to Mr Robinson's proposal for an analysis of the procedural rules. Whilst he thought there was some merit in the proposal he considered that in seeking to provide an analysis it could affect the way in which the parties perceived the issues and for that reason he considered it best instead to proceed with the issue-by-issue approach.

2. Mr McCartney said that he failed to see how a logical attempt to address the impasse, such as that proposed by Mr Robinson, could fail to be useful. The Chairman asked if any of the other participants wished to say anything on the subject.

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3. Dr Paisley said that there were three specific areas raised by Mr Robinson namely the procedural points which were amendable by the participants, those which were statutorily based, and those which were core principles which should be adopted by the participants. He did not perceive how the Minister could see the participants proceeding unless the status of the various points was clarified. He emphasised that his Party was trying to be helpful in the matter.

4. Mr Mallon said that the procedural document had been prepared by the two Governments. He asked the Chairman if it was not grossly unfair to expect the Chairman to produce an analysis of this document. Mr Robinson said that there were two ways of proceeding. One was to take a point-by-point approach; the other way was to identify the status of the various points. Some, such as para 7, were clearly amendable and some had a statutory base such as paras 8 and 9. But there were rules which appeared to be outside of these two categories. He would like to see them identified.

5. Mr McBride said that Mr Robinson's suggestion offered a model which the rest of the participants hadn't agreed. He felt that if the DUP disagreed with the Ground Rules document it was up to them to state which parts they did not find acceptable. The Ground Rules are effectively there in the document and have legal significance. It is possible to elaborate on the document and indeed amend it to some degree. Dr Paisley having asked which parts had legal significance, Mr McBride said that the whole document had legal significance and would be viewed in this light by the courts.

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6. Mr Donaldson said that in support of what Mr Robinson was trying to achieve it would be useful for the participants to know which rules were so fundamental that they had to be accepted by the participants and which were not. Mr McCartney agreed with Mr Donaldson. He said that if these fundamental rules were identifiable in the Ground Rules and were incapable of being changed then the participants had a right to know.

7. Mr Mallon said that last week that he had clearly understood from the Ulster Unionist Party that they had concerns about both gaps in the rules and the possibility that the rules would preclude people from raising specific matters. His party had met the Ulster Unionists and had confirmed that these were the perceived problems. It was not for the SDLP to anticipate what the specific matters would be. His party had gone the extra mile to help identify the gaps and how they might be closed. It now appeared that the Ulster Unionists had shifted their ground and were now asking the Chairman to analyse the rules. He reminded the Chairman that two weeks ago the Ulster Unionists had been challenging the Chairman's appointment. He suggested that the present attitude of the Ulster Unionists towards the Ground Rules could bring the talks down. There was an interjection by Dr Paisley at this stage.

8. Mr Empey assured Mr Mallon that the procedural gaps were being addressed. He said that the matters of concern to Unionists on the Ground Rules were more political than legal. The unionist participants wanted merely to ensure that there was nothing in the language of the rules that would give a particular political direction to the talks. There was evidence of progress and now was not the time to lose patience, however it was reasonable to seek to establish if there was any part of the Ground Rules which could direct the proceedings.

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9. Dr Paisley expressed resentment of Mr Mallon's criticism of the three unionist parties. He felt that the procedural document was a sop to the IRA and Sinn Fein and that the unionist parties were entitled, as democrats, to oppose the use of the document for this purpose. [Dr Paisley had a pressing engagement and departed at 18.40. He expressed regret to the Chairman for his early departure.]

10. The Minister of State said it would appear that Dr Paisley had already completed the analysis of the Ground Rules which his party had requested. The two Governments didn't perceive a problem in the Ground Rules. If there are areas of concern these are presently being addressed. If we are to progress we need a set of rules for proceeding.

11. Mr Curran emphasised that there were four new parties now involved. He personally was extremely frustrated by the debate about the Ground Rules and didn't really know what was presently going on. The phrase "broadly acceptable" in the preamble to the rules suggested that there was a perceived degree of unacceptability. However it was up to those who found something unacceptable to let the other participants know precisely what was unacceptable. Mr McCartney said that he endorsed what Mr Curran had said but it was necessary first to establish what were the fundamental and unalterable components of the rules.

12. Mr Close said that he perceived the Command Paper to be the foundation of the negotiations and was concerned that some participants were attempting to undermine those foundations. The Command Paper existed and was a fundamental reality having a force of law to some degree or other and itself could not be changed by

the participants. This was not to say that the Ground Rules themselves could not be changed. It was up to the participants not to play politics with these but to deal with them section by section and try to come up with an acceptable document.

13. Mr Mallon reiterated that he considered it unfair to ask the Chairman to make an analysis of what Mr Empey had agreed was a political problem. He felt that the onus lay on those with objection to specific rules to state their objection.

14. Mr Robinson said that the DUP had never denied the existence of the Command Paper. The issue is how it is to be applied to the present process. He said that the two Governments had already amended the Ground Rules in that revised versions had been produced on the basis of the present discussions. The Governments' staffs had already effectively performed a task similar in scope to the one he was now requesting, namely the production of a text incorporating his party's proposed amendments to the rules. He felt that it would be useful to the participants if the rules were categorised in the way suggested. For example some rules such as No 4 were the views of the Governments rather than binding on the participants. Some, such as No 26 (referendums) were the property of the two Governments. It would be helpful if all the rules were appropriately categorised.

15. The Chairman said that he would like each participating party to submit to him, by 13.00 tomorrow, the answers to these questions:-

Firstly, what is the status of the Ground Rules with respect to your party?

Secondly, how is that status affected by para 7?

And thirdly, for those parties which believe that the Ground Rules have continuing difficulty, which provisions do you object to?

Those parties which deny that the Ground Rules, as they stand, present a problem, should state which of the Ground Rules they consider to be fundamental. He said that he would ask his staff to analyse the Ground Rules, perhaps not in the precise form requested by Mr Robinson. He proposed that the participants should meet at 10.00 tomorrow in order to try to complete the rules of procedure. He hoped that all of the participants would accept this as a reasonable way to proceed.

16. Mr McCartney congratulated the Chairman on the proposal, and asked firstly if the two Governments were going to be offering answers to the questions and secondly, if it might be assumed that the answers to the questions need not be precise legal formulations.

17. Mr Robinson raised two issues with the Chairman. Firstly, as to the analysis requested, could the approach be similar to that adopted for the 17 June paper prepared by his staff which illustrated the DUP proposed amendments. Secondly, there was a serious timing problem for tomorrow. The two Governments had teams of civil servants whereas the parties had additional work with limited resources. His party would have some difficulty in meeting the 13.00 deadline.

18. The Chairman, in answer to Mr McCartney, said that precise legal formulations as answers to the questions would not be

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required. In relation to Mr Robinson's questions he said that he would now extend the deadline to 14.00 which would allow a two-hour period (12.00 noon - 14.00). As for the analysis it would be more properly a tabulation rather than an analysis.

19. The Minister of State in response to Mr McCartney said that the British Government would be answering the Chairman's questions as would the Irish Government.

20. The Chairman said that it was important to make progress tomorrow. He summarised the timings:

10.00 Commence consideration of as many of the draft rules and procedures as possible, including decision making, the session hopefully to be concluded by noon by which time his staff would have prepared the document, in tabular form, requested by Mr Robinson.

14.00 Commence the afternoon session, answers to the three questions having been presented to him by all parties by then.

There being no further comment, he adjourned the discussions until 10.00.

[Signed]

Independent Chairmen Notetakers
26 June 1996

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