

CONFIDENTIAL

From: Independent Chairmen Notetakers  
28 June 1996

SUMMARY RECORD OF INFORMAL DISCUSSIONS ON PROCEDURAL GUIDELINES AND  
AGENDA FOR PLENARY SESSION - WEDNESDAY 26 JUNE 1996 (15.35)

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 we have received in the period 13.45 to 15.15 submissions from each of the parties and the two Governments on the Ground Rules as he requested yesterday. His staff haven't had the chance to read or digest them and he proposed to proceed in the following way. The meeting will remain in session up to 19.00 today on the question of the rules of procedure. After an adjournment at that time he will try to fix a date for tomorrow's meeting. He will review the Ground Rules papers and both he and his staff will stay on and prepare a document for discussion tomorrow. With reference to the rules of procedure, we were discussing para 15 in the draft rules. He had invited amendments before the break and just a few minutes ago he received three submissions on the particular point. What he proposes to do is

CONFIDENTIAL

CONFIDENTIAL

pass over para 15 for the moment to the next item to make progress. He will return to the unresolved matters at a later time.

2. Mr Robinson raised questions of the imposition of a timescale by the Chairman notably in relation to tomorrow morning. His party has problems and they won't be able to field the same team at the meeting. The Chairman said that he presented the proposals for the approval of the participants as he has always done in this forum. He raised the question of tomorrow's meeting yesterday and got no objections at that time. He hopes that we can meet tomorrow. Dr Paisley asked what did the Chairman mean by others staying on tomorrow. The Chairman said that this was a reference to his staff working on the responses to the three statements which he had just mentioned. Dr Paisley wanted to know if the group would sit all day tomorrow. The Chairman replied by saying that that was up to the participants themselves. Mr Paisley suggested that the position should be ascertained now. The Chairman said he had invited suggestions on his proposal. Mr McCartney suggested that the group should meet tomorrow at 09.30 and sit until 15.00. Mr Adams agreed to meet tomorrow and said that he had an open mind on the times. Dr Paisley said he would try to fit in as best he could and finish at 14.00. Mr Close said that his party have made arrangements but they are prepared to work through until 14.00. Ms Hinds said that she was in favour of extending the hours of the sitting to 15.00. The Chairman said it seemed to be agreed to meet tomorrow and conclude no later than 15.00. He proposed to leave open the starting time for the moment. Dr Paisley said that the meeting shouldn't break for lunch and he suggested a 10.00 start. The Chairman said that he was going back to discuss the rules of procedure and to conclude the meeting by 19.00. That was agreed. He said that he would take up at para 16, passing over 16 as with

CONFIDENTIAL

others where there was disagreement. The Chairman said that there seemed to be no objections to para 16, 17, 18, 19, 20, 21 or 22.

Paras 23-28 on Decision Making

3. The Chairman said that there were three objections - to para 23C; to para 26 dealing with the question of Plenary/Opening Plenary; and, para 27 dealing with sufficient consensus. In relation to para 23C, Mr Robinson said that two areas of difficulty could be resolved by replacing the word "seek" with the word "obtain" and put in "an agreed" before "group of experts". Mr Trimble said that this was agreeable. Mr Adams also agreed.

4. The Chairman then referred to paras 24 and 25 about which he said no objections have been raised. With regard to para 25, Minister Ancram said that there were in fact two para 25s. The difference between the two was one referred to proposition and the other referred to point. He suggested that the meeting approve the second draft of para 25 on page 3 of the additions document which referred to "proposition".

Para 26

5. Mr Robinson had objected. This related to the earlier disagreements over whether there should be a Plenary strand or just an open Plenary meeting. The Chairman suggested that this particular point could be parked for now and discussed again later.

Para 27

6. The Chairman invited comments. The changes which have been made are that "would" has been inserted, and it is proposed to repeat the word "clear" in two places. Also the reference to "constituting a majority of the participating political parties" - the so called third test was still in square brackets. Mr Trimble said that this was discussed earlier. They had considerable reservations on the third test as not all delegations had arrived at the meeting by the same route and there were different mandates involved, but he felt that it wouldn't be a problem in practice and accordingly he was removing his objections to the words in square brackets relating to the third test. Mr McMichael supported Mr Trimble's position. Mr Robinson said that the rule will have to produce the same result on all occasions: if you removed "clear" it seemed to him that that would remove the level of consensus. In relation to the third test, the material in square brackets, he felt that his proposition earlier was for a 75% majority which amounted to the same thing. He has reservations about a majority of 50% plus 1 and that being a sufficient consensus when you take into account the fact that the agreements reached have to be put into effect outside. He wondered if it should be at a higher level in some circumstances - perhaps even for the final agreed package.

7. Mr Empey said that as Mr Robinson said before, there was no definition of "clear". 50% plus 1 is an unlikely figure to carry proposals outside. The importance of the paragraph was to have something that was definable and understood. He felt that if you take out the word "clear", there is greater clarity.

8. Dr Alderdice said he appreciated Mr Robinson's degree of discomfort on this issue. Firstly you do not want to work in a

CONFIDENTIAL

process where everything is determined on the basis of unionist/nationalist breakdown. You also do not want to create a situation of having a slight margin to determine sufficient consensus. In adopting this, the aim is not merely to achieve sufficient consensus but something far greater with no need to find out the precise proportion. The best approach was to obtain unanimity as far as possible. The power given in the paragraph should be kept in reserve for deadlock cases only.

9. Mr Attwood said that in order to activate the mechanism, para 23 refers to one or more courses of action. But in some cases it may not be necessary to use sufficient or appropriate consensus. There will be cases as Mr Robinson said which are so important that we may have to move beyond sufficient consensus. The Chairman proposed that the meeting approve para 27 as shown in the document. this was agreed.

10. In relation to para 8 there were no objections. Neither were there any objections in relation to para 29. In relation to para 30, Mr Robinson said that not having dug in on para 27 he would like some flexibility from the Governments on para 30. The Business Committee he felt is the best place to provide for the co-ordination and information flow envisaged in the paragraphs.

11. Mr Mallon said that sovereign governments are involved here. It is unacceptable for them to have to filter that information through such a channel.

12. Mr Trimble agreed with the sentiments expressed by Mr Robinson but the Business Committee he felt was not the right place to channel the information. It is only concerned with procedural matters and not matters of substance. The matter would perhaps be

CONFIDENTIAL

best dealt with through actual practice as in 1992 where steps were taken to inform the Irish Government by the participants deciding amongst themselves which of their documents could be sent to the Irish Government for information on what was happening in that strand. A similar procedure if adopted now might be useful.

13. Mr Robinson said he does not accept the authority of the two Governments in this jurisdiction. They are two participants dealing with our business. It is the delegations who must have control over the information flow.

14. Mr McCartney said that while the Irish Government and the SDLP worked together in close harmony with a close exchange of information, this situation does not exist between the British Government and the unionists. This has led to distrust and suspicion with the Government. When Mr Mallon makes statements about trust in the two Governments, he is reflecting a feeling that the interests of pro-unionists can be over-arched and unwelcome proposals can be imposed on a majority community in Northern Ireland.

15. The position adopted by Mr Robinson is sensible. Mr McCartney shares his lack of confidence in both Governments. He rejects the suggestion that the power of the Governments should be such as to herd the pro-union people into their pen. Pro-unionists are not in the confidence of the British Government anything like the ..... of the SDLP and the Irish Government. He referred to the reference in the Framework Document to the British Government's statement that they have no selfish strategic or economic interest in Northern Ireland. The Irish Government on the other hand operates on the basis of a constitutional imperative to unify Ireland.

16. Minister Ancram said that the actual paragraph suggests that discussion should take place later should we decide now where that process should be. Dr Paisley took up Mr Robinson's point about an internationally binding agreement, and referred to the 1985 Anglo-Irish Agreement stating that it is not the law of this country. The Government was afraid to make it so. The Government would fall now if they tried this. How can the Irish Government be sovereign in this strand when they are not even allowed into it. They fought for three years to get into Strand 1 and to insist that the British Government has to inform them about Strand 1 talks. The minutes of the last talks were fed to Sinn Fein/IRA. Maybe the British Government would like to see this as a way to do down or sell out the unionists.

17. Are the two sovereign Governments participants or directors/manipulators of the whole process? Let them take up their place as participants. He would have no confidence in Strand 1 if the British Government was feeding everything to the Irish Government in order to get the agenda of the Framework Document achieved through the process. The British Government have compromised themselves by saying that there would be a new framework for agreement as a solution. It shouldn't be forgotten that the British Government put up candidates at the recent election and could not get them elected. We should not be helpful to another party which is in the position of manipulating the outcome of the talks process. What the British Government say behind their backs is entirely another matter.

18. Dr Alderdice said he can't get excited about this particular point because there are realities that have to be faced. This is a formal agreed liaison process but it is not one that will be

hermetically sealed. It should also be remembered that the Chairman of Strand 1 is the British Government. In that context and against the background that people will talk anyway, Mr Trimble's proposal is a reasonable one. We can avoid trouble if we recognise that the Governments are not really participants in this process and all participants are not equal in the process either. The two Governments are in a special position. We must recognise this reality because we will go round in circles on this point. Mr Trimble's proposal is the proper one - unofficial liaisons will continue in any event.

19. Mr Mallon said perhaps he should not have contributed on this particular point! All Governments have duties and responsibilities which transcend their involvement here in this forum. They can buy the Belfast Telegraph or the Irish Times and we must live in the real world. The Governments will liaise with each other anyway.

20. Mr Empey said that we all know that there are always secrets between Governments in this matter. It is clear that for the efficient discharge of responsibilities there are matters in Strand 1 which have implications for other Strands. For example, if a local administration was agreed the discussions in Strand 2 could be affected by that. That point was recognised in 1992 and the problem was dealt with by the participants having ownership of the issues in Strand 1. They recognised that the Irish Government should know about certain matters and the chair (J Hanley) said that it would be advantageous to pass over certain documents to the Irish Government. The participants were asked and that was done and the process worked satisfactorily. This was a practical transfer of information which took place. The way the paragraph is phrased, it implies a continuous blow by blow exchange of information. The last time intricate details of the talks were

minuted and sent to other people. Those matters that the Irish Government need to know for the good conduct of the negotiations and some strands, should be passed over with the agreement of the participants in Strand 1.

21. Mr Robinson said that there are three attitudes here. The first is Dr Alderdice's which can be summarised as - "they will do it anyway so it doesn't matter what you have in the rules of procedure". This is tantamount to saying that the Chairman of Strand 1 will be so disreputable as to breach confidentiality. This does not mean that you make it easy for people to do that. Just as the document by Minister Ancram yesterday was handed over to the Irish News today. The second one is Mr Mallon's point that they should do it anyway because there were two sovereign Governments involved who are way over us anyway. The third was his own reasonable attitude based on the need for proper arrangements to achieve this flow of information. As Mr Empey said the process in 1992 was the correct way to proceed when moving from Strand 1 to Strand 2. As the process goes on there could be a need for liaison on an on-going basis but he felt that we should have a clear and transparent arrangement to provide for that.

22. Ms Hinds concurred with the points made by Dr Alderdice. The Governments will operate as governments anyway. As Mr Empey said, she endorsed the position about the relationship between the strands. A good chairman will have liaison with people in the different strands. She agrees with Mr Trimble that this is not a matter for the Business Committee.

23. Mr Wilson said that with reference to the previous talks it must be remembered that they failed. They shouldn't be taken as a precedent and Mr Mallons's proposition that the Anglo-Irish

CONFIDENTIAL

Agreement can be used is problematic because it has failed. It was an imposed agreement against the wishes of the majority in Northern Ireland and he is disappointed that the Alliance Party is going down the same road. Dr Paisley intervened to say the previous talks were brought to an end by the Irish Government imposing an Anglo-Irish Conference on two occasions.

24. Mr Wilson said that Mr Close referred yesterday to the use of the Ground Rules to stop unionists dragging their feet. It is clear that an imposed solution on the majority in Northern Ireland will not succeed as was the case going back as far as Sunningdale.

25. With regard to mechanisms, Minister Ancram said that the arrangements will arise a little further down the road following consultation with the political parties. Whether that is in the Business Committee or not is not the issue.

26. Mr Ervine said this debate is about the lack of trust. The process belongs to the participants. What should be done is a series of parameters should be set within which to work. He saw the Ulster Unionist proposal as a solution to get a formal information channel under way.

27. Mr Robinson wondered could we say that the words "agreed among the participants in Strand 1" after the word "arrangements" in para 30. Mr O'hUiginn wondered if Mr Robinson could accept this arrangement or formula for Strand 3 discussions! Mr Mallon suggested that there won't be agreement on this particular paragraph so perhaps it should be parked. Mr Empey said that he felt we were getting close to agreement on this particular issue but perhaps it was better to leave it for the moment. Dr Paisley said this is a matter entirely for Strand 1. The Irish Government

is excluded and rightly so. Surely the Strand 1 people should decide what they want to do on the issue. The Irish Government are outside the remit of the Strand they are not in it and they can't put a toe in it. Ms Hinds wondered about Dr Paisley's interpretation of the paragraph in these terms. Dr Paisley said he was talking about this meeting and about their contributions on the subject of their input into Strand 1.

28. Dr Alderdice said that he was surprised at the dismissive approach to Strand 3. The parties here should have the right to be informed on Strand 3 matters. Better liaison procedures should be put in place than were in existence before on this Strand.

29. Mr Robinson said that there has been no suggestion that there should not be a transmission of information at appropriate points in relation to Strand 1. It's the means by which this flow of information should be done that is an issue. They are as much part of Strand 1 as Her Majesty's Government and they want to be involved in the exchange of information. Mr McCartney said that rules are needed in this area. He agreed with Dr Alderdice that there should be a proper method for participants in Strand 1 to know what information is being passed to the Irish Government by the British Government. They would want to know the nature and the extent of the information. What is really involved here is the witnessing of the information by one of the participants. Dr Alderdice said that in Strand 3 it is the joint chairs, in Strand 1 it is the chair. The context is different. It is not merely a matter for the participants. It was agreed to park the discussion on this particular item.

Paras 31-34

30. Mr Empey said that his party have raised this before. When we come to the overview at the end of the process of discussion on the rules of procedure and the agenda, the positioning of agenda items will determine whether the participants have proper access and negotiability. Both Governments have made an effort to improve matters here but their attitude to the rules of procedure will be determined by what the agenda items are going to be. If certain matters are left for Strand 3 they would have certain views. If they were left in Strand 3 the position would be different. Dr Paisley said that the question of Articles 2 and 3 of the Irish constitution came up in Strand 2 before.

31. Mr Empey said that if that happened this time it would be acceptable. But other similar matters might be reserved for Strand 3. If that were to happen it would determine their attitude to the entire document. Once they have full and free access to the debate they are content with these rules. He felt for the moment that the amendments should go ahead but he reserved his right to come back to the issue pending decisions on the rules of procedure.

32. The Chairman sought clarification that in the context of letting these amendments go ahead this meant that paras 5 and 6 of the rules document check. Mr Empey confirmed this and referred to the amendments put in by the two Governments - see paras 32 and 33 on page 3 of the additions document.

33. Mr Robinson asked whether the two Governments are of the opinion that the position of the Anglo-Irish Agreement and Articles 2 and 3 of the constitution can be dealt with in Strand 2. At this point the Chairman wanted the meeting to agree that silence on any particular issue does not signify consent unless the proposition is presented in that way. Normally he does not construe silence as

CONFIDENTIAL

meaning consent. Mr Robinson again questioned the Governments in relation to the demarcation line between Strand 2 and Strand 3 matters. Mr Thomas said that as a general proposition we should look for an inclusive agenda which reflected widespread concern on particular issues. The Anglo-Irish Agreement and Articles 2 and 3 would seem to be naturally placed in both Strand 2 and Strand 3. The Irish Government (Minister Coveney) agreed with Mr Thomas on those points. The meeting adjourned at 17.20 and will resume again at 17.45.

[Signed]

Independent Chairmen Notetakers  
28 June 1996

OIC/27