

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 (10.05)

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 10.05 the Chairman welcomed all to the meeting and stated that in accordance with the previous evening's discussion he proposed to continue to review the draft rules of procedure document. By way of background, the Chairman stated that he now had two documents in front of him and he then set out to describe each. Copies of both documents are attached at Annex A and B.

2. The Chairman proposed that participants go through each numbered paragraph quickly, simply noting whether there were any objections to the text. He indicated that there was no need for participants to make lengthy statements on their objections at this stage as he would set aside those paragraphs to which objections

CONFIDENTIAL

CONFIDENTIAL

had been raised. The Chairman indicated that this process would then provide a list of those paragraphs which had no objections against them and a list of objections which would then be taken in further discussion. He hoped that this process could be completed by 12.00 noon but concluded that it might not be possible to reach final agreement on all matters. He wished, however, to reach the stage of at least gaining agreement on the decision making paragraphs. Having put this to the participants and hearing no objections, the Chairman proceeded to para 1 of the first document, ie, the draft rules of procedure.

Para 1

Mr Robinson said that he had objections to this paragraph but suggested that a way round them might be to remove the word "all" and replace it with the word "multi". The Chairman proposed that the words "all party" could be removed without altering the meaning of the paragraph. He asked whether the participants in general had any objections to this. There were no objections raised.

Mr Mallon raised the question as to whether the meeting was considering the "proposed additions" paper separately. The Chairman indicated that this would be considered after the draft rules of procedure document had been completed including certain proposed additions contained in it. The separate "proposed additions" paper would then be worked through matching each paragraph against the original one in the draft rules document.

Para 2

Mr Robinson raised objections to this paragraph in relation to the word "Plenary" as opposed to his proposal of "Opening Plenary".

CONFIDENTIAL

Para 3

Mr Robinson raised objections on this paragraph regarding the issue of consistency in the appointment of chairmanship, ie, the attendance of some parties who had not accepted the appointment of Senator Mitchell as Chairman of the Plenary.

Para 4

No objections raised.

Para 5

No objections raised.

Para 6

No objections raised.

Para 7

Mr McCartney stated that he objected to the general tenor and language of this paragraph.

Para 8

Mr McCartney again stated that he objected to the general tenor and language of this paragraph.

Para 9

CONFIDENTIAL

Mr McCartney again objected to the general tenor and language of this paragraph.

Para 10

Mr Robinson raised two objections to this paragraph; the first focused on the words in square brackets ["co-ordination with"], the second issue concerned the words "having due regard to" which he already raised in earlier discussions.

Para 11

Mr Dodds raised objections to the word/description of Plenary in this paragraph.

Para 12

Mr Robinson raised objections as to whether it should be one or two representatives at the Business Committee as occurred in the Forum.

Para 13

Mr Trimble raised objections to this paragraph.

Para 14

No objections raised.

Para 15

Mr Robinson raised two objections to this paragraph; one related to the word "formats", the second concerned the word "comprehensive".

Para 16-22

No objections raised.

Para 23

Mr Robinson raised two points/objections on this. The first focused on the "agreed group of experts". The second focused on the means of reference to the group.

Para 24

No objections raised.

Para 25

No objections raised.

Para 26

Mr Robinson raised objections as to the on-going issue of the word "Plenary" or "Opening Plenary".

Para 27

Mr Robinson raised objections as to the issue of the majority of participating parties.

Para 28

No objections raised.

Para 29

No objections raised.

Para 30

Mr Robinson drew attention to a minor typographical error in the paragraph. He also had a substantive objection regarding the liaison arrangements and the need for these to be open and above board so that the participants could see what both Governments were up to.

Para 31-34

The UUP had raised objections to these paragraphs. Proposed amendments would be looked at in due course.

Para 35

No objections raised.

Para 36

No objections raised.

Para 37

Mr Robinson raised objections to this paragraph on the basis that he didn't understand the context. He continued saying that he believed para 36 covered the point being made at para 37 and if

this was the case he was therefore concerned that this reference in para 37 could be construed as notes being taken at bilaterals. The Chairman commented that he had never contemplated notetaking at bilaterals.

3. The discussion then moved on to those proposed additions contained in page 8 of the draft rules of procedure document. The Chairman indicated that he would put these additions to one side for the time being. Mr Trimble indicated that he would withdraw paras 8 and 9 of the UUP's proposed additions on page 8. He continued saying that paras 10 and 11 could be covered by para 20A put forward by the Government but this would need further discussion. This left only para 17 remaining from those listed on page 8 of the draft rules document.

4. The Chairman then asked participants to move to page 9 of the draft rules document containing the additional DUP proposals (numbered paras 21 and 22).

5. Mr Mallon raised objections to para 21. Mr McBride raised "technical" objections to para 22.

6. The Chairman then asked participants to move on to the separate "proposed additions" document also circulated. He asked the meeting to begin by looking at the British and Irish Governments' proposals as they corresponded to the paragraphs in the draft rules document.

CONFIDENTIAL

Para 2

Mr Trimble raised objections to the definition of the arrangements for Strand 3. This referred to them as being purely inter-governmental.

Mr Robinson raised objections as to his earlier point regarding the inconsistency in the appointment of the Chairman of the Plenary and he was also unclear as to what "other formats" referred to.

Para 10

Mr Trimble objected to the words "proceeds in parallel" and sought clarification of this.

Para 11A

Mr Empey raised a query on whether this paragraph had been numbered correctly. He believed that it should be numbered 12A. The Chairman indicated that his assumption was correct. Mr Trimble raised objections as to the possible inconsistency between para 12A and the first sentence of para 13. He was also unhappy with the reference to the indicative calendar in para 13 and "co-ordinate the progress" in 12A.

Para 15

Mr Robinson raised objections to (a) the requirement to negotiate rather than to discuss; and (b) the conflicting situation in relation to the agreement required to adopt an agenda as opposed to the position that people had a right to put anything on the agenda.

CONFIDENTIAL

Para 15A

Mr Robinson raised objections to the word "comprehensive". He asked for further clarification of the meaning of this word.

Para 15B

No objections raised.

Para 17A

Mr Trimble raised objections insofar as this paragraph should have included all the UUP proposals. Mr Robinson raised objections to it because it did not include all the DUP proposals.

Para 20A

Mr McMichael raised objections to the word "participation". He believed the meaning of this word needed to be explored more fully in discussion. Mr Robinson also raised objections on the basis of the Plenary/Opening Plenary issue raised earlier.

Para 25

No objections raised.

Para 28A

Mr Robinson raised objections on this but suggested that the word "format" could be changed to "strand". He also raised the question of the word "consensus" and wondered whether this was a reference to "sufficient consensus".

Para 30

Mr Robinson raised objections on the same basis as earlier in terms of the liaison arrangements being open and above board so that participants could see what both Governments were up to.

Para 32

Mr Trimble raised objections regarding the Strand 3 arrangements.

Para 33

Mr Trimble raised objections as per earlier UUP comments.

7. The Chairman then moved on to the DUP and UKUP proposals contained on page 4 of the "proposed additions" document and asked for comments on these.

DU 1

Mr Robinson raised the point that the word "clause" should be replaced by the word "section". This was accepted by all participants.

DU 2 & 3

Mr Mallon raised objections which he stated were central to the core issues surrounding the negotiations.

DU 4

Mr Mallon raised objections to this paragraph.

8. Moving on, the Chairman turned to page 5 of the "proposed additions" document and asked for comments on the following.

SDLP 1

Mr Trimble raised objections to this paragraph.

UU 1

The Minister of State raised objections to this paragraph on the grounds that it provided an inconsistent basis.

UU 2

The Irish Government stated that they needed to reflect more on the wording of this paragraph.

9. Having completed a quick run through both documents, the Chairman proposed that the participants begin to go through the text of the draft rules of procedure paragraph by paragraph. He continued saying that he hoped that the decision making elements within the draft rules could be resolved during this session.

10. Ms Hinds asked whether it might be possible to time limit the inputs from the various participants. She believed the previous 30 minutes had been extremely good in clarifying the issues and allowing everyone to focus on exactly the heart of their objections

CONFIDENTIAL

on a number of paragraphs. This augured well for the process in the future.

11. Mr McCartney said he would not regard any attempt to pressure the participants or time limit their input as being a helpful one. He continued saying that when participants were dealing around the table with some "fundamental principles" a situation should not arise whereby guillotine measures are brought into the proceedings and he objected in principle to what Ms Hinds had said.

12. Mr Empey made reference to the point Mr Mallon had alluded to the previous evening about agreeing the rules on an overall basis. He hoped that participants would look at the totality of the paper, acknowledging the fact that everyone would eventually be in the position of getting some rather than all their points into it. He believed that looking at the document in this context might ease individual objections on the paragraph by paragraph procedure now being commenced. The Chairman said that he was mindful of the first sentence of the decision making paragraphs in this context where it referred to the process operating on the basis of consensus. However he thought that for the sake of completeness rather than preciseness it would be useful to go through the document on a paragraph by paragraph basis and listen to the objections raised, thereby allowing the decision making issues to be dealt with. He then asked participants to look again at the draft rules document to go through it on a paragraph by paragraph basis starting with para 1.

Para 1

The Chairman indicated that this paragraph should be bypassed because it had a direct connection with the issue of the status of

the Ground Rules which would be dealt with in a later discussion. Mr Mallon accepted the Chairman's ruling on this because he didn't want to hold up the discussion on the remaining paragraphs. He did however draw the Chairman's attention to the SDLP amendment in page 5 of the draft rules document and hoped that any bypassing of this issue now would not result in any prejudice against that amendment.

Para 2

(a) Mr Robinson commenced his remarks by saying that the view of the two Governments was to have the overall process working in three parallel strands. However there were also a number of issues they had wanted to deal with at the start in an Opening Plenary session before moving on into the strands. He also recognised the need for co-ordination across the strands and made reference to para 22 of the original Ground Rules which indicated the necessity for a Business Committee. However, he stated that since the Governments had now changed the rules and produced an over-arching Plenary his party wondered by this task could not be passed to the Business Committee. The Chairman commented that original DUP proposals had referred to Plenaries and he wondered whether this did not mean that other Plenaries had been envisaged by the party. Mr Robinson at this point clarified the DUP position, referring to the fact that the party had envisaged plenaries in each or any of the strands as per the 28 February Communiqué (para 6).

(b) The Minister of State acknowledged that Mr Robinson was correct about his concept of the Plenary in the context of the 28 February communiqué. There was however no doubt that an Opening Plenary was required. It was equally clear that "negotiations" would develop and that there was a need for them to come together at some future point to provide a comprehensive agreement and

CONFIDENTIAL

perhaps also to report back on issues such as decommissioning. The Minister of State also said that other Plenary meetings might be helpful to the Governments in periodically reporting back on progress across all strands of the negotiations. This was why the British Government supported the concept of further Plenary meetings rather than just one Opening Plenary. Mr Mallon stated that he fully supported the Minister of State's reasons. He suggested that another reason for further Plenary meetings might be the way in which the various formats were taken forward. He believed it dangerous for the process that semi-detached views could be encouraged without further Plenary meetings occurring because that concept allowed the same people to be involved all the way through.

(c) Mr McCartney said that he hesitated to go back to the original role of the Chairman on this issue. However, in explaining this remark he said that one view of further Plenary meetings was that there was perceived pressure from the USA/UK/Irish/SDLP on the specific aspect of getting Sinn Fein into the talks process. He firmly believed that the Plenary was the Government's format to achieve this. The Minister of State had referred in his remarks to the possibility of the decommissioning subcommittee reporting back. However, Mr McCartney stated that he believed the subcommittee looked more like the Strand 4 which the Irish Government had been looking for as a means of getting Sinn Fein into the talks. Mr McCartney continued by saying that one had to tease out the political significance of minor procedural issues and it was on this basis he also objected, along with Mr Robinson, to the concept of an over-arching Plenary. He went on to say that it was only very late in the day when this concept had been brought in and that when it was firmly in place it could be used as a

CONFIDENTIAL

solution to get rid of the Sinn Fein impasse on their decommissioning policy.

(d) The Irish Government confirmed their position as being in total agreement with that of the British Government as set out by the Minister of State.

(e) Mr Close commented that he and his party believed it was necessary for a Plenary facility to be made available. Looking at it from another way he thought it wrong for the various strands to be hermetically sealed, one from another. The concept of the Plenary was there, in his view, to aid the overall process and to provide an element of inclusiveness for the participants. The Alliance Party did not want the process sectionalised. It was therefore in the interests of the overall talks that the Plenary facility was continuously available.

(f) Ms Hinds commented that she noted the number of times Sinn Fein had been used to derail the debate on procedural issues. She believed it most logical to have both strands and Plenary sessions because this addressed the process from both a practical and logistical position. She continued saying that she agreed fully with the Minister of State on his reasoning plus there was also the totality of the process and the ownership factors to be borne in mind. She questioned whether at the end of the day the participants would really want to find themselves not welcoming the decommissioning subcommittee tackling issues and reporting back to a Plenary format.

(g) Mr Robinson commented that a week previous to this he had suggested that this issue be parked. However, he stated, that if other rules were going to be agreed then his party wouldn't press

the button on this particular issue. There were other more substantive issues to deal with and he made reference to Mr Empey's earlier point about the totality of the rules, etc and viewing them from that perspective.

(h) Mr Empey reaffirmed his point that the whole draft rules picture should be looked at as well as the Agenda items. He referred back to 1992 when that talks process had used a Plenary from time to time and he therefore saw the sense in having this format available again. He also agreed however with the views of Mr McCartney regarding the reasons why the Plenary session was being made available as proposed by both Governments. He continued saying that the UUP hadn't made a particular objection on this but that Mr Robinson had suggested a way forward. Perhaps, said Mr Empey the objection could be dealt with in the totality of the rules rather than by line by line progress. He thought this might be the best way of proceeding at this time.

(i) Mr Mallon referred back to Mr Robinson's remarks about dealing with issues of substance and leaving some others to come back to. Mr Mallon questioned whether this issue was not substantive and wondered what the definition of parking items either on a short term or long term basis was. He believed that this whole policy of parking items would become difficult for the participants because the procedural matters would then not become procedural matters. They would develop into political issues which would only come back to haunt everyone. He pleaded with the participants that these issues shouldn't be camouflaged in this manner.

(j) The Chairman referred back to Mr Empey's proposal seeking clarification on it to the effect that what he was saying was that

there should not be an attempt to force a decision on each paragraph but rather to have a discussion and then try to move towards a wider resolution of the rules. He said he also took Mr Mallons's point into view and thought it was well made.

Para 3

(a) Mr Robinson commented that this was inconsistent with the stated position of some parties around the table. He continued saying that if some parties accepted this paragraph then this would be in direct contradiction with their views regarding the appointment of the Chairman on the first day of the proceedings on 12 June. Mr Robinson pointed out that in his view one either had to accept this or leave the issue parked. Mr Mallon asked whether this could be described as kerb-side parking!

Paras 7, 8 and 9

(a) Mr McCartney indicated that he had nothing further to say on these paragraphs and that his original objections might not now be pressed. Mr Robinson asked about the DUP/UKUP proposals in the "proposed additions" document which referred to paras 5-9 and wondered whether these now undermined the sentiments expressed in para 7.

(b) The Chairman reiterated his earlier point that he wanted to make sure that the participants' views/objections were stated on a minimum basis, in other words for completeness rather than preciseness. He hoped that genuine exchanges between the participants could be kept to a minimum and only when the circumstances really permitted it.

Para 10

(a) Mr Robinson suggested that instead of the words in square brackets "co-ordination with" he would propose "subject to the opinion of the Business Committee". Mr Mallon objected to these words. Mr Robinson suggested the use of the word "veto"!

Para 11

(a) Mr Robinson returned to his earlier objection regarding the word Plenary/Opening Plenary issue.

Para 12

(b) Mr Robinson again raised his objection from earlier as to whether one or two representatives should be sitting on the Business Committee and whether these should be interchangeable. He referred also to the fact that in another place the Business Committee of that body was operating on the basis of two representatives from the larger parties and one representative from the smaller parties. Ms Hinds said that she wanted to lodge an objection to this proposal. Mr McBride commented that his party had suggested two representatives from a logical basis and believed that it was much better if all the parties had a right to have two representatives on the Business Committee. Mr McCartney commented that if the process was going to pay any attention to party strength at all then Mr Robinson's point was a reasonable one even though this meant that he was arguing against his own interests. Mr Trimble recognised that Mr Robinson's proposal meant having to deal with the issue of the size of the parties and although he didn't object to this he acknowledged the position of others and wondered whether one representative on the Business Committee was

CONFIDENTIAL

appropriate with one other representative in support. Mr McMichael confirmed the UDP position that it was beneficial to have two representatives on the Business Committee. He also believed that this was a sustainable position given the fact that the definitions and tests of "sufficient consensus" still had to be finalised.

(b) Mr Mallon said that he supported the NIWC objection because the Business Committee would be a busy committee given the ever increasing amount of responsibilities being attached to it. He was therefore concerned about the smaller parties and believed that representation should not reflect a weighting of electoral strength. He believed that equality was the way to move forward on this issue. Mr Empey said that he didn't believe the Business Committee and the parties could operate with less than two representatives. However, he posed the question as to whether these representatives should be both elected or a mixture of elected and non-elected. He indicated that the UUP's experience of a previous talks process suggested that having less than two representatives was problematical. There was however still the separate issue of the elected number of representatives sitting on the Business Committee to be determined. He said that his party were not particularly exercised about this issue but the main decision had to be whether the representatives on the Business Committee were elected or non-elected.

(c) The Irish Government suggested that the way forward might be to have the option of both elected and non-elected representatives and officials being available without any being named as formal attendees on the Business Committee. Mr Robinson said that as far as the legislation was concerned it was only elected representatives involved in the negotiations. However, as had already been indicated there was a clear distinction between

CONFIDENTIAL

negotiations and the role of the Business Committee dealing with procedural matters. In this way he had no objections to the parties being represented by non-elected people and was also content to have unnamed delegates being available for the Business Committee. As regards the issue of electoral weight in determining actual numbers, he believed that equality did not make sense and that there had to be some cognisance of the size and range of the parties involved in the process.

(d) Mr Adams concurred with Mr Robinson's comments on elected and non-elected representatives. Mr McCartney agreed with Mr Robinson and Mr Adams on this point as well. Mr Trimble indicated his view that the Business Committee was part of the negotiations as a whole and therefore was part of a single process. However, he stated, that the Business Committee would deal with procedural matters, not negotiable issues. Mr Robinson believed there needed to be a further exposition of this point as to whether only elected representatives could take part in the activities of the Business Committee. Mr Trimble returned to the point indicating that a decision might well depend on how one viewed the "back up" concept and whether these staff were there to participate in negotiations but not in the negotiating process. The Chairman asked Mr Trimble to confirm whether he regarded the Business Committee as part of the negotiations, but not part of the substantive negotiations, as this seemed to be what Mr Robinson was saying a few moments earlier. The Chairman went on to add that if he had heard Mr Trimble's comments correctly then he could not concur with his (Mr Trimble's) view as it seemed to run contrary to the Act if non-elected people became involved in the negotiations. Mr Trimble explained that he believed the reasoning from various parties around the table was different, but the point was essentially the same.

CONFIDENTIAL

(e) Mr McCartney commented that he believed the word "negotiations" appeared to have a different interpretation from Mr Trimble as opposed to Mr Robinson and he had some difficulty with Mr Trimble's approach on this. Mr McBride said that aspects of the Business Committee had already been discussed in relation to para 2 without any disagreement other than Mr Robinson's point about the Plenary/Opening Plenary. He therefore wondered whether it might be useful to think about defining the role of the Business Committee in this paragraph together with the rules of attendance to it. The Chairman indicated that the discussion should move on to para 13.

Para 13

(a) Mr Trimble said it was preferable to consider this paragraph with the renumbered para 12A as some alignment of the texts might be required. He said he had discussed the word "indicative" with an official from the British side, but he still wasn't entirely convinced as to its precise meaning.

(b) The Chairman asked whether Mr Trimble's concern would be met if the meeting adopted para 12A and deleted the first sentence of para 13 and the phrase "in accordance with this calendar" in the second sentence. The Minister of State intervened to say that this would be acceptable to the British Government. The five words in the phrase already mentioned would have to be deleted as they referred to the drawing up of the calendar which was now redundant.

(c) Ms Hinds said she could agree to this suggestion on the basis that the Business Committee would be dealing with procedural rather than substantive matters. She queried the continued inclusion of

CONFIDENTIAL

the words highlighted in italics in the paragraph. At this point it emerged that there was some confusion over the two versions of para 13 contained in the draft rules of procedure text (page 3) and the composite additions text (page 2).

(d) Mr McCartney clarified the matter by reading out the text of the agreed version of para 13 which then read as follows:

"The timing and duration of meetings in the various formats shall be determined by the relevant Chairman, having due regard to the views of the participants. However, unless otherwise agreed by the Business Committee, negotiating sessions in different formats, or within different formats, will not be held simultaneously to allow participants, if they so wish, the option of fielding the same negotiating team throughout the negotiations."

(e) Mr Robinson said that he had no objections to the text provided the rules (to be agreed) on decision making applied to the proceedings in the Business Committee. The Chairman noted the point.

Para 15

(a) The Chairman referred to the two texts, namely on page 3 of the rules document and page 2 of the additions document and noted that Mr Robinson had earlier expressed objections in relation to the issue of various formats and a reference to a comprehensive agenda.

CONFIDENTIAL

(b) Mr Robinson said that the requirement to negotiate rather than state views on issues was the point with which he was mainly concerned and specifically any requirement to negotiate the union. His view was that there are issues which were not open for negotiation. They were to be determined by the people alone.

(c) Mr Mallon said that this was not acceptable to his party. The two Governments in the communiqué of 28 February 1996 indicated that a process of meaningful negotiations was under way. That was translated in para 3 of the Ground Rules document and again in para 17A of the procedural rules. He wanted to make it clear that they wished to raise and negotiate constitutional issues such as the union. It was not open to a party to contravene the provisions of these documents and the provisions of para 17A. He did not want his party's position to be misunderstood because this matter went to the heart of the discussions over the past three weeks. Mr McCartney agreed with Mr Mallon that this matter went to the heart of the issue. It also related to the answers to the questions posed by him the previous day. He entered these negotiations on the basis that the union was not negotiable, fortified in his view by the lack of consent for such an approach on the evidence of the elections. He objected to the mandatory tone through the use of the word "will" in the paragraph. The two Governments could not decide that the parties must or will negotiate any particular issues. This had the effect of putting parties in a straitjacket. He objected to being told that he was being constrained to negotiate something which he had no mandate to do.

(d) The Minister of State suggested that it might be helpful to look at paras 15 and 15A in the additions paper which referred to comprehensive agreement and agenda. It was understood that it

CONFIDENTIAL

would not be possible to reach agreement on every single item, that he said was impossible. The requirement was to reach a comprehensive agreement in para 15A and this met Mr McCartney's concerns. His earlier point was covered by the reference in the paragraph to an agreed agenda. The Minister of State also said that para 15A did not suggest that it was mandatory to negotiate.

(e) Mr McCartney said that it might very well be that the question of the union would be put on the table as part of a comprehensive agenda by the SDLP and others. He would discuss it, but he would not negotiate it.

(f) The Minister of State said that all the parties would put down proposals which would draw a negative response from others. The requirement was to reach a comprehensive agreement. Mr McCartney was misreading the provision if he thought that every item put down has to be separately discussed and negotiated.

(g) Mr McMichael agreed with Mr McCartney. The key phrase was "agreed agenda" in para 15A; but he was concerned about the sentence in italics in para 15. Mr Trimble agreed with Mr McMichael. The agenda must be agreed but the reference to "all significant items" in para 15 could be problematic. The matter could be approached in the way that people could raise all issues, including constitutional issues but the status of Northern Ireland as part of the UK was quite a separate issue. That was not a constitutional issue. He also felt that care was needed in relation to the interpretation of the word "negotiate". It did not necessarily mean that change must follow on from it. With regard to having an agreed agenda it would be possible to raise matters for the agenda, but a decision would have to be made as to what actually went on the agenda.

CONFIDENTIAL

(h) Ms Hinds said that you could not force participants to negotiate and she favoured an amendment to para 15 to underscore this. Para 15A should stay as it was. Mr Robinson said that he thought we were making progress. He supported Ms Hinds contribution and said that he favoured the idea that participants may propose items for inclusion on the agenda.

(i) Mr Mallon said that ad hoc amendments such as the ones proposed were not relevant. He remarked that insofar as the document of 19 June was concerned, there was no indication of disagreement on this paragraph so one could assume that the troops were not marshalled at that time. He had listened carefully to the Minister of State's contribution and he wanted to remind him that the Governments' had summoned them to negotiate, not to discuss the issues involved. We were making a distinction between negotiators and discussors. Some delegations had said that certain matters could be discussed but those were quite separate from the negotiations themselves. He found these remarks politically offensive. There seemed to be two categories of persons in the room, those who could negotiate and those who could merely discuss. If we moved away from the negotiations, their very nature changed and this went to the heart of the matter as set out in the Ground Rules. The essence of this was that when an issue of policy arose for the SDLP such as the constitutional position of Northern Ireland, they could discuss it, but they would not be in a position to ensure that it was negotiated. Could they really be expected to agree to let that situation develop and be part of it? Mr Mallon felt that no palliative form of drafting would change that position.

CONFIDENTIAL

(j) Mr Wilson said that Mr Mallon had identified the basis behind the statement in para 5 of Minister Taylor's contribution the previous day in relation to the existence of an important fundamental rule which was so important to a delegation that no negotiating process could be envisaged without it. Mr Mallon wanted to force the Ground Rules on the negotiators in an attempt to coerce unionists to do something that they could not do. His party took out a specific newspaper advertisement on this very point the day before the elections (29 May 1996) stressing that there would be no question of negotiating the union.

(k) Mr Curran suggested they should take one step back at this point. It was clear that the Ground Rules were not acceptable to everyone and all were returning to the substantive arguments on that issue now. He felt that the crunch would come on the discussions on the comprehensive agenda and the question was whether it could provide for meaningful negotiations. He said it was better to address the rules issue now, otherwise everyone would continue to go round in circles. Mr Close asked whether the unionists were moving back from the position they had adopted in the 1992 talks.

(l) Mr McCartney said he was not a party to those talks and he was not bound by discussions in which he had no part and with which he did not agree. Mr Trimble said that the status of Northern Ireland as part of the UK was not an issue in 1992. Mr Robinson said that when attempts were made to raise the issue, the Chairman, Sir Ninian Stephen ruled it out.

(m) Mr McMichael said that the point at issue was whether the agenda would be fixed with the approval of the participants or was it the case that the issues would be tabled without such agreement.

CONFIDENTIAL

Mr Robinson said he favoured an earlier suggestion made by Ms Hinds about the possibility of parties proposing items for the agenda. Mr Ervine suggested that in placing items on the agenda, the parties should look seriously at the requirement for cross community acceptance of it.

(n) Mr Adams said that they were concerned with the text of para 15 as contained in the additions paper, because it had a mandatory tone. The Minister of State said that this was not the case, so perhaps the language could be changed to include the words "by agreement" after "that agenda will". Ms Hinds intervened to say that the UDP's comments were helpful, but that a generosity of spirit and magnanimity was needed.

(o) Mr Mallon referred to the electoral legislation which referred to negotiations in sections 1 and 2. This was mandatory language he felt; it was not discretionary. This was also the case with the Joint Declaration by the two Governments. Mr Mallon asked rhetorically whether the two Governments wanted to withdraw their amended para 15 against this background.

(p) Mr McCartney said that part of the overwhelming atmosphere of these discussions was that the pro-unionists were regarded by some as non-people. Mr Mallon constantly suggested that the two Governments could dispose of the issue between themselves. Appeals by Dublin or the SDLP for deals to be done with the two Governments were resented. The Ground Rules were drawn up to bring recalcitrant people into line. The constant appeals to "Caesar" over the heads of pro-union people would not produce anything of substance. Ms Hinds said that it was important to have a corporate agenda. With reference to her proposed amendment there were interlocking issues between the agenda and the negotiations.

CONFIDENTIAL

13. The Chairman at this point suggested an adjournment. The papers on the three questions posed by him the previous evening were to be delivered to him by 14.30, instead of 14.00. He would address the situation on the Ground Rules and review the possibility of preparing a document. In the meantime, if any party had proposals on how to resolve the present problem over para 15, they could be submitted to him in writing. As soon as possible, he would put forward proposals for the proceedings for the rest of the day. He hoped to proceed with three issues, viz the rules of procedure, the Ground Rules and the agenda for the Opening Plenary. The meeting then adjourned at 12.28.

[Signed]

Independent Chairmen Notetakers
28 June 1996

OIC/26