

DRAFT SUMMARY RECORD OF OPENING PLENARY SESSION -
WEDNESDAY 6 NOVEMBER 1996 (10.30)

Those present:

Independent Chairmen	Government Teams	Parties
Senator Mitchell	British Government	Alliance Party
Mr Holkeri	Irish Government	Labour
General de Chastelain		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 at 10.30 brought the session to order explaining that participants had been given notice of resumption of discussions which had been adjourned at 10.14 (several parties were not present at the immediate beginning of the session) and that he would apply the 10 minute rule.

2. The British Government apologised for the absence of a Minister at the previous session. In response to the UUP re-stating no change, the British Government accepted both that the unionists had expressed scepticism at the time about the sincerity of the 1994 cease-fire by the IRA and that there had been an increasing credibility gap as time went on. The UUP asked if the British Government should not now declare publicly that any further cease-fire which might be announced by the IRA must be qualified by the word "permanent". The British Government said that it was up to Sinn Fein/IRA to come up with a form of words which would be acceptable.

3. The UUP then asked the Irish Government for its position on this point. The Irish Government said it was important that a further cease-fire be unequivocal and that it should be clear that there would be no return to violence. It was a matter for the Republican Movement to find the words that would convince people of this sincerity, and not for the Irish Government to set a form for such a declaration. The UUP asked what criteria the Irish Government intended to apply to such a declaration. The Irish Government explained that by law it was a matter for the British Government to decide who should attend these talks.

4. The UUP, whilst appreciating that it was for the British Government to decide who should attend the talks, asked what criteria would be applied by the Irish Government in making its judgement as to the nature of a cease-fire. The Irish Government said that all participants would have a concept of what kind of cease-fire declaration would be acceptable but considered that the words chosen to express it must come from the Republican Movement. Certainly the language must be unequivocal. The Irish Government was not an inviting party to the talks and the Irish Government would not be prescribing a form of words.

5. In response to the UUP's enquiry as to the Irish Government's interpretation of the word "unequivocal" in this context, the Irish Government said that it would wish to satisfy itself that the terms of any announcement of a cease-fire were unambiguous and unconditional, but that the language used to express the cease-fire must be formulated by the declarers. The UUP asked if the Irish Government was merely concerned with the terms and language of the prospective cease-fire or were there other physical considerations. The Irish Government said that it would judge the

cease-fire's unequivocality in the context of the language used and the situation at the time of its announcement. Physical considerations had never been stipulated by the Irish Government. It was up to Sinn Fein and the IRA to make a cease-fire announcement. The Irish Government would form a judgement about such an announcement but it was not a matter for the Irish Government to decide whether Sinn Fein should be admitted to the talks.

6. The UUP said that the Irish Government had indicated that progress could be made if a sub-committee of the plenary was created which could examine, for example, the draft legislation on decommissioning, and asked if the passage of that legislation was progressing. The Irish Government said that the legislation would go through in the present session of the Irish Parliament. The target for its passage was before Christmas. In response to the UUP the Irish Government affirmed that, however the decommissioning issue was handled, the legislation would go through.

7. The UUP asked if it was the intention to follow up the enabling legislation with regulations and when such regulations would be made. The Irish Government said that it had already been made clear that the legislation developed by both Governments would be enabling and that implementation of measures under the legislation would depend on progress at the talks. Under agenda item 5 the participants would have input to progression of the regulations. The International Body in its report, for example, in paragraph 35, envisaged progress on parallel tracks.

8. The UUP stated that the establishment of a sub-committee on decommissioning postulated the development of a process whereby

guns and semtex would be exchanged for political concessions and asked the Irish Government what it would do if its proposed sub-committee on decommissioning became bogged down. The Irish Government said that obviously the members of the sub-committee would be drawn from participants and the envisaged scenario was therefore unlikely to arise in that reports from the sub-committee would flow to plenary on a regular basis. The proposal for a sub-committee on decommissioning was in accord with the Report of the International Body).

9. The UUP stated that the proposed sub-committee arrangement was a clear definition of guns and semtex for political progress. The Irish Government disagreed with this point of view and reiterated that the sub-committee would be in accord with the recommendations of the International Body's Report. The UUP asked if the Irish Government regarded the Mitchell Report as a guide. The Irish Government said that it regarded the Report as containing good advice for actioning progress on both the political front and on decommissioning taking account of the reality of the situation. The UUP stated that the Irish Government was representing the Mitchell Report as addressing reality but that surely that reality related to nine months ago. Since then the August 1994 cease-fire had broken down. In the circumstances did the Irish Government still regard the Mitchell Report as being fully valid?

10. The Irish Government in attempting to answer this question, was interrupted by several of the participants. The Chairman emphasised the need for participants to extend courtesy to speakers. The Irish Government said that events had undoubtedly impacted seriously on the entire political situation but that the central tenor and thrust of the International Body's Report,

particularly the advice on a parallel track process, were still applicable. The UUP asked if events had not changed the Irish Government's view in any way. The Irish Government said that bombs and other violence of the last few months had certainly militated against the building of trust. The Mitchell Report had taken the opposing positions into account and, in the view of the Irish Government, remained a sound basis for progress.

11. The UUP suggested that enabling legislation without regulations would not be worth anything. The Irish Government said that it had had serious discussions with the UUP on the issue and was of the view that enabling legislation was worth a great deal. The UUP said that enabling legislation of itself cannot produce a result, to which the Irish Government responded that passage of the enabling legislation was necessary for further progress. The UUP accused the Irish Government as being vague on the matter of the proposed regulations. The Irish Government said that it was impossible to anticipate events. For example the Irish Government had had the expectation that substantive talks would have begun in a matter of weeks, whereas it had taken three months to reach agreement on procedures. The UUP said that the proposed Irish decommissioning regulations were quite different from the talks in that the regulations were solely a matter for the Republic of Ireland and not the participants to the talks. The Irish Government said that it was anxious to hear the views of participants on decommissioning.

12. The UUP then addressed the British Government, asking when the British Government enabling legislation would be completed. The British Government said that the matter was being progressed as quickly as possible. When asked by the UUP what role the British Government perceived the talks participants as having in

relation to decommissioning the British Government said that it regarded the proposed sub-committee on decommissioning as a means of enabling participants both to progress its main role of political discussion and to contribute, through the medium of the sub-committee, to the necessary preparatory work for the regulation of decommissioning.

13. The UUP asked if members of the proposed sub-committee would be approving the decommissioning measures. The British Government said that it was collectively for participants to decide how to handle decommissioning. There were four schemes for decommissioning and the British Government wanted to find the most practical method. The UUP asked if the British Government would implement any scheme without the approval of the sub-committee. The British Government said that the whole purpose of the proposed process was to enable the matter to be handled by agreement amongst the participants.

14. The UUP inquired as to how lack of consensus would be handled. The British Government said that it was hopeful of achieving consensus on this crucial issue. The UUP asked if the legislation would be applicable to all areas of the UK. The British Government said that it would be restricted to Northern Ireland for several reasons. These were speed of passage of the legislation, complexity, and the fact that the vast majority of terrorist arms were in Ireland, north and south. It was considered to be sensible in the circumstances to limit the effect of the UK legislation to Northern Ireland. Asked by the UUP to outline the complexities in more detail, the British Government emphasised the difficulty of obtaining parliamentary consent for a UK-wide measure; for example, there would have to be a much wider

and more complex consultative process. Full advice in this matter had to be taken from parliamentary counsel and others.

15. The UUP said that the British Government must acknowledge that there were terrorist weapons on the British mainland. The British Government said that separate measures would be taken to deal with terrorist arms in Great Britain. The UUP said that they had the impression that the two Governments appeared to lack the necessary degree of urgency in the matter of producing decommissioning legislation, that their commitment to decommissioning was not proven, and that reality was absent. Both Governments, each having responsibility to bring forward legislative proposals, had taken much longer to do so than the three months the Irish Government had criticised the participants for taking to draw up their procedures.

16. The UUP then again addressed the Irish Government asking whether in making a working assumption in 1994 that the IRA cease-fire was genuine it was on the basis of political expediency or was it their considered judgement that the cease-fire was permanent? The British Government interposed saying that the assumption had, in one sense, been expedient. The Irish Government agreed. The UUP said that the decision had been proven wrong by events and asked if ministers throughout the process had had access to intelligence reports from their respective police services. The British Government said that the decision itself was not wrong and that it was not the practice of the Government to discuss intelligence matters.

17. The Irish Government said that it was incumbent on Governments to make a decision in 1994. The Irish Government had judged that the cease-fire would last. That assumption had proved

not to be the reality. Nevertheless the Government believed that lives had been saved as a result of the decision. The UUP acknowledged that political expediency was necessary at times and stated that it was both aware that the Governments had had intelligence reports and of the general tenor of those reports. The threat to society from terrorists had not in fact diminished over the 17 months since the IRA cease-fire had been announced. The British Government had stated yesterday that it had believed in 1994 that the IRA cease-fire was permanent and the UUP was glad to note that expediency had now been acknowledged. At this point the British Government denied that it had stated that it had believed that the 1994 cease-fire was permanent. The position was that it had had to make a working assumption on the basis of presumed permanency. at the security forces had been active throughout the period in searching for terrorist armaments.

18. The UUP said that the British Government was prepared to make a compromise with the men of violence and was prepared to treat lightly the existence of IRA armaments in Great Britain, even in the aftermath of such atrocities as Canary Wharf and Manchester. It was important now for all to be clear on the decommissioning issue and to know where we were going. The British Government said that there was no lack on the part of Government of a sense of urgency, and that the Government would put in place measures to address the existence of terrorist arms in Great Britain. It was because of a sense of urgency that the Government was restricting the present legislation to Northern Ireland. The Government's decision in 1994 seemed then to be the best practical step available to it. A working assumption was made that the IRA cease-fire would be permanent. Nonetheless a validation process was set in train which led to the Report of the International Body. In Cranmer's sense there was an element of expediency in the Government's action. As to knowing where we are going with

these terrorists it was a matter for all participants to analyse the situation and use their best judgement.

19. The Irish Government said that sense of urgency by the two Governments was there, but that there also had to be a sense of reality. The two Governments had had to make a judgement in relation to both the IRA and Loyalists' cease-fires. The Irish Government considered that the two Governments had made the right decision in both cases and reiterated both the reality of the judgements and the view that the reduced violence of the past 17 months was worthwhile. The UUP said that the relative quietude of the past 17 months had enabled the IRA to regroup and plan atrocities. The Irish Government said that that viewpoint ignored the fact that the security forces had been active throughout the period in searching for terrorist armaments.

20. The UUP agreed to give way to the UKUP. The UKUP said that the British Government had drawn a distinction between the volumes of terrorist arsenals in Northern Ireland and the mainland. The enormous damage caused on the mainland since 9 February 1996 was emphasised. In its document of 28 August 1995 the British Government had mentioned the need for terrorists to hand over weapons before entering discussions. Comment was invited. The British Government said that the threat of violence was incompatible with democratic principles. The Government would clearly prefer the IRA to hand over its weapons for destruction now, but this was unattainable, and the Government judged that it was in the interest of the people of Northern Ireland for the Government to move from full purity to a workable arrangement.

21. The UKUP requested a response to the first part of its question and the British Government reiterated that it intended to

address fully the matter of terrorist weapons in Great Britain, but by a different method from the measures chosen for Northern Ireland. The UUP resumed questioning of the two Governments by stating that the Garda Siochana had never been coupled with criticism of Dublin politicians by the UUP which had the highest regard for the Garda, and asking the Irish Government if it did not consider that paragraph 25 of the Report of the International Body was absolutely vital. The party could, against the background discussed, accept paragraph 35, but was the Irish Government trying to say that what has happened subsequent to the publication of the Report has no bearing on the matter. The Irish Government said that the Canary Wharf and Lisburn atrocities had had considerable negative impact on trust in Northern Ireland. This was reality, but the Irish Government did not believe that decommissioning would be achieved separately from the political process. This was the central thrust of the International Body's Report. There had to be progress on both fronts. Decommissioning would not occur prior to the talks; it could take place during and as part of the talks process.

24. The British Government said that it simply didn't recognise

22. The UUP said that that seemed like guns in exchange for political progress. Sinn Fein seemed to have only one objective, the achievement of a 32 county socialist or Marxist state. Was the Irish Government saying that unless the participants moved to meet the objective of Sinn Fein, decommissioning could not be achieved? The Irish Government said that it was not a spokesman for Sinn Fein. The Basis of participation in the talks was the six Mitchell Principles. It was unfair for the UUP to conclude that the objective of the talks was to secure a united Ireland. The Irish Government said that it understood the present talks to be a search for a comprehensive political agreement that would

command the respect of all and that the Irish Government was not a participant at the talks for some other purpose.

23. The British Government said that it agreed very strongly with the Irish Government position on decommissioning. It believed that decommissioning would be achieved as progress was made on political issues. If Sinn Fein were to participate in the talks it could only be in accordance with the Rules for the talks, including those on decommissioning. The other participants were in a position to test Sinn Fein at any stage on their compliance with the Rules. The UUP asked the British Government whether it was in any doubt that it is the objective of the Irish Government to interfere in Northern Ireland affairs and asked if the British Government could see any difference between the objectives of Sinn Fein and those of the Irish Government. The purpose of the question was stated to be an attempt to gauge how the two Governments would respond to another cease-fire which might be announced by the IRA.

24. The British Government said that it simply didn't recognise the Irish Government as having the objective attributed to it by the UUP or indeed as sharing Sinn Fein's alleged objective. There was in any event no means whereby Northern Ireland's status as part of the UK could be practically changed by the talks. If Sinn Fein were to participate in the talks it would only be on the basis of acceptance of the Rules. The Irish Government said that its presence at the talks was to assist the process of political reconciliation and to add to the dialogue. Addressing the UUP, the Irish Government asked what greater constraint upon Sinn Fein could there be than compliance with the Rules including that relating to consensus. This latter requirement in effect ought to

alleviate the concerns of the UUP in the matter of the objective attributed by them to Sinn Fein. terms of such a cease-fire must

include the application of the cease-fire forever, the universal application

25. The UUP said that Sinn Fein's objective would not indeed be realised at this table. Referring to the British Government's suggestion that Sinn Fein could be tested, there was surely a limit to the amount of testing which could be conducted. The UUP asked for some indication from the Governments as to the limits of this testing process. The British Government said that one test was the electoral process whereby participants were chosen for the talks. Another test would be the acceptance by Sinn Fein of the Mitchell Principles. A further test might be a challenge to Sinn Fein of the sort that several participants had already faced. It might be argued that Sinn Fein/IRA had already failed the crucial test as a result of the breakdown of the cease-fire of 1994. However, the electorate's express wish for peaceful resolution of differences had to be considered. Rather than say at this stage that there was no point in proceeding with further tests, surely it would be more sensible to endeavour to persuade Sinn Fein to accept a peaceful resolution of differences. However, their participation in the talks would be subject to the possibility of further tests. The UUP said that it was content with the testing process provided the penalties for failing the test were explicit and fully open. attention to its discretionary wording. The Irish

Government said that participants should be prepared to be

26. In response to a question from the UUP as to whether an IRA cessation of violence only in Northern Ireland would be acceptable for its entry to the talks, the British Government said that any cease-fire must be applicable to Northern Ireland and Great Britain. The UUP said that it would like a reassurance that simple announcement of the restoration of the August 1994 cease-fire would, in the absence of further requirements, not in itself

be sufficient for Sinn Fein to be admitted to the talks. The British Government said that the terms of such a cease-fire must include the ending of violence forever, the universal application of the cease-fire, and the credibility of the cease-fire. The latter could not be defined in advance. Credibility would be judged on all of the circumstances surrounding the cease-fire proposal. The Irish Government said that it wanted an unequivocal cease-fire and acceptance of the 6 Mitchell Principles from Sinn Fein. The other participants themselves had the right to challenge Sinn Fein's participation in the talks.

27. The DUP was invited by the Chairman to present questions. At this point the DUP agreed to yield to the SDLP which suggested that the Mitchell Principles were sufficiently unambiguous as a test. The UUP warned of a willingness by Sinn Fein to sign such declarations of non-violence, for example at Dungannon Council, yet wilfully and cynically ignore that commitment.

28. The Chairman proposed that the discussions should adjourn from 12.40 to 13.45. The Irish Government stated that its ministerial representation had to leave by 16.00. These proposals were agreed and the Chairman invited the DUP to proceed with its questions. The DUP referred to paragraph 34 of the Mitchell Report drawing attention to its discretionary wording. The Irish Government said that participants should be prepared to be flexible. The enabling legislation allied with the proposed sub-committee on decommissioning met this requirement. The DUP said that whilst the Irish Government was committed to the Mitchell Report in its entirety the DUP was not and asked the Irish Government if under paragraph 34 of the Report it agreed that there was a requirement for agreement on when decommissioning would take place. The Irish Government said that progress was

necessary on both the political and decommissioning issues and that these matters were for the participants to decide collectively.

29. The DUP said that this seemed rather airy-fairy, a sort of invitation to come in and see how things go, and asked if the Irish Government perceived any staging points in the process. The Irish Government said that in the light of the history of the talks it would be a very unwise prophet who would set firm staging points. The basis for handling the decommissioning issue had, in its view, to be the 6 Mitchell Principles and no matter how many times it was pressed on this point the answer would be the same. The DUP said that it was not asking for dates and times but rather the elements of the process and requested just one example. The Irish Government said it was up to the participants to agree such elements and referred to paragraph 38: the parties had to determine the sequencing. The purpose of the exercise today was to tease out what the participants thought about decommissioning. It was the DUP's choice not to accept the recommendations of the Mitchell Report.

30. The DUP said it was not sure whether the Irish Government in fact subscribed to the Mitchell Principles. There was nothing in what the Irish Government had said to suggest that the terrorists would have to hand over any weapons at any stage. The Irish Government referred to paragraph 50 which related to the actual handing over of weapons but agreed that there could be no certainty at all that terrorists would voluntarily hand over weapons. The DUP said that the issue was whether or not terrorists were entitled to hold onto their guns and participate in these talks. The Irish Government said that participants would have to face the reality of the situation. The Irish Government

position was to rely upon the 6 principles and the actuality of a cease-fire.

31. The DUP said that participants were not in a position to secure full decommissioning but could put in place the requirement for this to happen. Unionists had been enticed to participate in the talks on the basis of decommissioning taking place. The Irish Government had made a judgement on the IRA cease-fire. That judgement had proved faulty. Why should unionists accept the Irish Government's judgement again and go further into the process? The Irish Government said that it was hoping for another cease-fire. It needed to see the terms of such a cease-fire. A further judgement would have to be made. There was no question of people being present at the talks who did not demonstrate commitment to the Mitchell Principles.

32. The DUP said that all participants make mistakes and sensible ones learn from them. One who had been suckered by the IRA in the past, would not want to fall for it again. The unionist community is unhappy about unionist participation in talks with Sinn Fein. It would in the circumstances be very difficult for unionist participants to convince the unionist community that their representatives should sit at a table with Sinn Fein in the absence of tangible evidence of sincerity. The Irish Government asked, if the IRA should announce a cease-fire should this simply be ignored? A judgement would have to be made. This was an unavoidable reality. The threat of death and injury dictated that all must always try to find a solution.

33. The Chairman asked if this was an appropriate point to adjourn. The DUP said that historically there was no evidence of sincerity on the part of Sinn Fein and asked the Irish Government

if it were in the unionist position, and invited to go into three strands of negotiations in the absence of the decommissioning which had been promised, what would be their position? The Irish Government said that thousands of people had marched for peace. The talks were a place to be for Sinn Fein. The opportunity should be taken to bring Sinn Fein into the talks under the necessary constraints. People wanted the participants to sort the conflict out by peaceful means.

34. The DUP now agreed to the Chairman's proposal and with the consent of all, the Chairman adjourned the discussions until 13.45.

Independent Chairmen Notetakers
14 November 1996

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