

Office of the Independent Chairmen

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SUMMARY RECORD OF STRAND TWO MEETING - MONDAY 10 NOVEMBER 1997 AT 1110

CHAIRMEN:

Senator Mitchell
Mr Holkeri

THOSE PRESENT:

British Government
Irish Government

Alliance
Labour
Northern Ireland Women's Coalition
Progressive Unionist Party
Sinn Féin
Social Democratic and Labour Party
Ulster Democratic Party
Ulster Unionist Party

1. The Chairman convened the meeting at 1110 and stated that the first item of business was the approval of the 28 October minutes. The UUP asked that an amendment be considered to line 7, page 10, with the word "west" being replaced by "east". This was agreed and the minutes were subsequently approved.
2. The Chairman stated that it had been agreed at the previous session that this meeting would complete the preliminary run through on the comprehensive agenda with a discussion of item 5 - Rights and Safeguards. He added that the following Monday, Tuesday and Wednesday (17, 18 and 19 November) would then be devoted to Strand Two consultations in a format which had yet to be decided. The Chairman said he now wished to open a discussion on this issue and invited views from participants. He said he hoped

this exercise might lead to agreement on the way forward. After this topic had been completed, the meeting would continue with a discussion of the final agenda item. The Chairman asked Alliance for its views.

3. Alliance said it shared the frustrations which others had articulated in recent meetings with regard to the amount of progress being made and recognised the necessity for a change of format. The party said it believed the mechanism outlined by the Chairman might help to break the logjam and it was therefore willing to give it a try. Alliance stated that it might also be helpful to build in the use of the Chairmen, during such consultations, in order to stimulate thoughts and drive the process forward. The party said it was essential that the current pattern of discussions was broken if any progress was to be made.

4. The Chairman asked Alliance whether it envisaged such a format as comprising bilaterals with the Chairmen involved. Alliance said the involvement of the Chairmen was absolutely necessary, whether the format be bilaterals, trilaterals or any other arrangement. Labour said it questioned the bilateral approach; could it exclude some of those around the table? The party said the bilateral format could also give rise to an excessive degree of informality and the party was unsure as to the value of this. It did, however, go along with the general proposal that a change in the format of discussions was needed. The NIWC said it didn't wish to be as negative as some in terms of the current state of progress. The party said that the participants had now surfed four of the five topics on the comprehensive agenda and this had been useful. There had, however, been a lack of time to prepare

papers and fully study the written contributions of others. The change of format suggested for next week was a good thing since the party had a number of questions which it wished to raise on other participants' documents and a three day session to accommodate such exchanges was a positive move.

5. The PUP said it was essential that proper negotiations commenced. Of course there had been some very useful exchanges, but no negotiations. The party said it hadn't viewed the production of submissions as being very valuable. This was simply a ritual dance around the subject matter. A change in format was therefore helpful and necessary given the lack of meaningful dialogue thus far. Sinn Féin said it was concerned about bilaterals occurring between the parties. It had thought the original proposal was for participants to have bilaterals with the Chairmen. The party said the obvious difficulty with the former approach was the prospects of it having a bilateral with the UUP. Going on current practice, such a meeting was unlikely, but there could be no real progress until it occurred. Sinn Féin said it was opposed to any developments which excluded it from the process. The party said the structure of the discussions was not the problem but rather the lack of will on the part of one major participant to engage with it and others in meaningful dialogue. Sinn Féin said until this obstacle was overcome, the process was going nowhere.

6. Sinn Féin said bilaterals couldn't guarantee an end to the type of behaviour it had witnessed over the past four/five weeks. The party believed it was time the two Governments and the Chairmen recognised that the process needed realism and a

dynamic injected into it if any success was to come out of it. With this in mind Sinn Féin stated that at the review Plenary, Strand One and Strand Two should be synthesised under an independent Chairman with periodic bilaterals between the Chairmen and participants. The party said it knew very well that the UUP wanted a process which excluded it (Sinn Féin) but this was a bad mistake on their part for it would mean the process would run into the sand. Furthermore the general public, which had initially looked upon the process optimistically, was becoming increasingly aware of the UUP's tactics and hopes were being dimmed. It was make your mind up time for the UUP. Sinn Féin said the only way of moving the process forward was to bring about a situation where all participants negotiated in good faith. The party emphasised its belief that the proposal for bilaterals envisaged parties talking with the Chairmen over the next two weeks. That was its preferred format for that period.

7. The SDLP asked how the process might best develop a centre of gravity on which real business could be transacted. Even with all the paper being produced the process was much too loose and amorphous and, with the mountain of paper, difficult to get a proper handle on it. There was a need to look at how mediation could be brought in. The party said this couldn't be done artificially; it required a synthesis to emerge of parties' core positions, developed through the mechanisms of the interlocking strands. Participants had to get to this position rather than avoid the serious consideration of business by putting issues on ice and saying that any movement was dependent in progress on other strands.

8. The party said there was also a crucially important need to consider the two vetoes (unionists and nationalists) and how these could be turned into one dynamic which could be used positively. Everyone could sit on their vetoes and get nowhere. There were those parties who seemed to want to keep their vetoes intact and use them in a negative way, but this negative approach had to be overcome. In respect of the two Governments, the SDLP asked whether both could contribute, add to or motivate some dynamic within what was going on. It had to be remembered that not all the participants were equal; there were two sovereign Governments present with wider and greater responsibilities who had to try and move the process forward to a successful conclusion.

9. The SDLP said it favoured the type of approach whereby a central role was created for the Chairman of Strand Two to try and evolve some degree of synthesis between the parties' core positions. The party said it realised that this was a difficult task for both participants and the Chairman but if the process was going to move into greater detail there was no alternative to this. The SDLP said this task needed to be carried out on an organised basis, through bilaterals, trilaterals or multi-laterals. The party said that, to date, bilaterals had been interesting but none had taken the quantum leap towards the type of understanding which was required if agreement was to be achieved. The party said it commended this approach to the Chairmen. If it didn't work, so what. Only two weeks were allocated for this and it seemed little would be lost if this approach was attempted rather than continue with the existing format. On this basis the party said it was worth doing. Such an approach would also confirm whether there was the will, on the part of some, to make it work.

10. The UDP said it supported the bilateral approach since it would assist in exploring the room for manoeuvre. With regard to the role of the Chairmen, the party said everyone should concentrate on developing better relations with each other rather than involving the Chairmen at this stage. There was also a need for parties to develop their responsibilities commensurate with their roles. The UDP said it supported bilaterals, interparty explorations carried out on the integrity of each participant and an evaluation of these exchanges before deciding the next steps on format.

11. The UUP welcomed the Chairman's introductory statement and said it looked forward to the positive negotiations beginning as soon as possible and stated the UUP would contribute positively. The party said it had listened to the remarks from the other participants and was interested in holding bilaterals and in the Chairmen's mediation when it was needed. The UUP reminded everyone that this was a Strand Two meeting and it was in its interest to hold bilaterals with the Irish Government since the issue of North/South relations needed addressing in this strand. The party said it would enter bilaterals with other participants when and where it saw fit.

12. The Chairman said there seemed to be a general consensus that the present format of discussions should not continue next week nor up until the review Plenary on 1 December. The Chairman added that, in order to incorporate as many of the participants' suggestions as possible, he would begin on Monday next with a private meeting with each party. In order to give participants as much time as possible for discussion, the Chairman

suggested that, commencing at 1100 on Monday 17 November, as full a day as possible should be used to permit both these discussions (and any such meetings which he encouraged the parties to set up on their own initiative with each other) to take place from Monday. The Chairman added that his private meetings might well run into Tuesday. He would, however, consider the potential for further developments when all private meetings had occurred.

13. Labour said the SDLP had made an important point about synthesis between Strand One and Strand Two. The party asked whether a joint meeting could be held between the participants and the Chairmen of all three strands to permit a comprehensive discussion of a range of interrelated issues. The Chairman said this was possible and he had spoken to the Chairman of Strand One on this point. The review Plenary also provided a mechanism for such comprehensive discussion. The Chairman added that he saw no reason why parallel discussions on Strand One issues could not be held, with the Chairman of Strand One being present and available, next week. The British Government confirmed it had no objections to the Chairman's proposal and said it would discuss the detail of how it might operate in practice during the afternoon Strand One session.

14. Sinn Féin again stressed its view that bilaterals should only occur between the Chairmen of both strands and the participants. If the parties wished to engage in bilaterals with others then that did not present a problem for it. The difficulty for the party was the exclusion factor. To test its view, Sinn Féin asked the UUP, UDP and PUP whether each saw any prospect of a meeting with it (Sinn Féin). In response to a query from the

Chairman, the UUP answered no. The UDP said it was up to each party to decide who it wished to talk to and to ask accordingly. No party could force another one to talk to it. The party said one had to look at how best the process could be moved forward and badgering people into particular positions was unlikely to gain much progress. The PUP said it also thought a meeting was not on. Any meeting at this stage between it and Sinn Féin would only be viewed as tokenism. It was better to wait and see how the next few weeks developed.

15. Sinn Féin said it agreed with the SDLP's earlier point that if this particular approach didn't work over the next two weeks, then it would have an answer to the question concerning the political will of certain participants. The party said, however, that listening to the most recent remarks, there didn't even appear to be the political will now. Sinn Féin said the key issue was not whether the UUP would or would not talk to it but whether there would be an inclusive settlement. The latter position was unlikely to be reached if the process itself was exclusive. The party said it would disregard the contributions from the UDP and PUP because they could not be on the coat-tails of the UUP all the time, but stated that the UUP was very honest in its one word rejection of the request for talks. In taking this response a stage further, Sinn Féin said everyone had to work out exactly where they all were in the process. In particular it was incumbent on the two Governments to move the process forward which meant that at some point the unionists, if they maintained their position, had to be told when enough was enough. Sinn Féin then asked both Governments what plans they had for a strategic view given the prospect that the stated positions of the UUP, UDP and PUP would remain unchanged.

Everyone could apportion blame and raise difficulties with other's unrealistic proposals but it was more important to get on with the process.

18. Sinn Féin said there was a clear difference between choosing to be present and locking someone out of the process. The fact of the matter was that the UUP had decided not to speak to it. If those around the table were asking it (Sinn Féin) to accept an alternative format for discussions then this was fine but it couldn't be a format which excluded one party. There were surely lessons to be learned from past examples of marginalisation and exclusion. Sinn Féin said it wished to put forward the view that the review Plenary be maintained; that a synthesised Strand One and Strand Two discussion format be introduced under an independent Chairman with a reduced level of delegate participation and that bilaterals between the Chairmen and parties as well as between parties themselves should take place. Sinn Féin said it hoped no one would expect it to agree to something which excluded both it and the people it represented. It was willing to go forward on the above basis and this would show, for the record, which parties were willing to talk to it and which ones were not.

19. Following a brief exchange between the UDP and Sinn Féin concerning the latter's question posed to the two Governments about their approach to continued unionist tactics, the UUP said it rejected the proposal to amalgamate the business of Strand One and Strand Two since the Irish Government would be excluded as it was not a participant in Strand One discussions. The UUP said the two main players in Strand One were the SDLP and itself. In Strand Two the two main players were the Irish Government and itself.

The party said if progress was made in either of the strands then it had no difficulty choosing to enter bilaterals with whom it wished. There were, however, problems holding bilaterals with some of the participants when an increased amount of semtex was now in Northern Ireland and splits were appearing in certain organisations.

20. The SDLP said the contents of the discussion so far seemed to suggest what was in store for the participants at the review Plenary. Throw in some decommissioning and the review Plenary would become a very negative session indeed. The party said the object of the impending discussions was to achieve a basis on which the review Plenary could plan further ahead and hopefully enable the process to come away from the present format. The SDLP said the participants should view the discussions over the next week as an addition, rather than an alternative to the present format, and as an impetus to the review Plenary which would not solve the insoluble but could build to give a fundamental basis from which to move forward. The SDLP said that as things stood, the script for the review Plenary did not look very imaginative, yet that forum was the opportunity to take the fruits of the next few weeks and move forward. Viewing the impending discussions as some alternative, which some appeared to be doing, would only take the process down a line which was not beneficial. The party said it was either a case of imagining this type of discussion, replicated over many hours at the review Plenary or getting some synthesis before the review Plenary and developing this further in early December.

21. The PUP said the discussion was simply taking everyone up a cul de sac. The party commented that it was unlikely that there would be bilaterals between the UUP and Sinn

Féin in any case. With regard to the change of format, the party said it had proposed nothing other than the use of a Business Committee configuration as a mediating mechanism when this was required. The party said it was also somewhat displeased by the UUP comments that Strand One was between it (the UUP) and the SDLP. Had the UUP forgotten that sufficient consensus could not be achieved by that party alone?

22. The UUP restated its earlier comments regarding the main players in Strand One. The party said bilaterals were also important and if progress was made it would invite other parties to hold bilaterals with it. The party's strategy was the same for Strand Two. There was, however, no point in having bilaterals if there was no progress between the key players.

23. Sinn Féin said it seemed the UUP still believed in a cloud cuckoo land. If the party's remarks were carried over into the following weeks then the process would still have the same problems. Sinn Féin drew participants' attention to rules of procedure 16 and 17 and quoted from the former. "All participants in the negotiations will negotiate in good faith, seriously address all aspects of the agreed agenda, and make every effort to reach a comprehensive agreement". Sinn Féin asked whether the unionist parties were making every effort? Sinn Féin quoted rule 17 in full and asked how was the process going to marry the attitudes of the UUP, UDP and PUP with this rule of procedure. The party said that, for it, the acid test was whether the unionists actually recognised the need to engage with it in a meaningful process, given that Sinn Féin represented 17% of the electorate and almost 45% of nationalists. Sinn Féin said it realised that many of the participants had

been present long before its arrival in the process. It felt some sympathy towards them because all it had heard from unionists so far was waffle. The party said the unionists were really saying to it that it should sit on its hands. But if they (the unionists) believed that an agreement could be achieved by excluding 45% of nationalists then they were living in a cloud cuckoo land.

24. Sinn Féin continued saying that there were people on the outside who were trying to destroy the process. Key protagonists in the British military establishment were militarists. The party said this agenda might suit the unionists since their message was the same as that from those who flooded areas of west Belfast and south Armagh with soldiers, from the RUC in its treatment of the Hamill family in Portadown and from those who arrested Tony Kelly. All this activity was supported by the unionists around the table. Sinn Féin said that one had to remember that some of its members had risked their lives to bring the process to its present position; other parties had to think about this. If the message was exclusion, this wouldn't work.

25. The party said it came to the process so that no one else would die, suffer injustice or inequality in the six counties. The party was taking risks to do this but the unionist position did not bode well for the process. Sinn Féin said it would wait and watch developments over the next two weeks and then see what the two Governments would do after this. The party said it was sincerely interested in negotiating a settlement, the question was were others similarly minded? Were unionists going to hold to their line until May 1998? Sinn Féin said if they (the unionists) were not going to talk, the process was

going nowhere and only negative reaction would accrue towards it. The party said it wanted nothing to do with a negative process. The unionists were simply serving the interests of their community very badly.

26. Alliance said this was all very depressing and questioned whether it had been a wise move to hold such a discussion at all. There had been no forward movement displayed. The discussion had all been about pointing up the differences. The process was meant to be about narrowing these but instead all that had been heard was charge and counter charge. Alliance said the process clearly needed help. That was why the Chairmen and both Governments had to be involved. But the real question in all of this was who was going to blink first? Were both Governments going to accept their responsibilities or leave it to others around the room, some of whom didn't appear to want to move forward? Alliance said the time was fast approaching where everyone needed to know what were the key compromises and this information needed to be outlined by the two Governments and the Chairmen. The party said it could think of a few which needed to be made but they had to be identified otherwise the process was going nowhere. Alliance said it was time to forget about lecturing one another. Everyone was present to do a job. The public wanted a compromise; they wanted representatives to change their former stances and find the key to agreement. Now the baton was being handed over to the Chairmen and others to help achieve this. If participants were prepared to play their part to this end then this was fine, otherwise no further sessions like this would be required.

27. Alliance said it was notable that the papers submitted by parties had in most cases contained less substance than previously published documents from the same parties. Parties seemed to be holding back from real substance because of uncertainty and concern about where the process was leading, which in turn came from a growing appreciation that, if a real effort was to be made to find an agreement, the result was likely to be a long way from the initial positions so far put forward. The party was generally agreeable to the view which others had expressed that the two Governments had to be the engine to move the process, but there was a risk that parties were using this as an excuse not to get involved. As regards bilaterals and the question of exclusion, the party said it was best to start with those parties who were prepared to engage with each other, and see what was there. There would certainly be a lot of heat and pain generated when substantive issues, especially constitutional issues, were reached, and parties were backing off from that. But these issues had to be fought out here or they would be fought out elsewhere.

28. NIWC said two different issues were being discussed - the conduct of the process and the content of the papers submitted. On process, while the party did not think the UUP had really meant that only two parties really mattered in Strand Two, there had nonetheless been problems in the past with many parties being presented with *faits accompli*, notably the Procedural Motion. The NIWC said that while it was willing to support any agreement that could gain sufficient consensus, the only way to reach such an agreement was by an inclusive process. The party said it was in favour of a round of bilaterals, which could give

parties a needed opportunity to talk to each other and test the positions they had put forward in their papers.

29. As regards the papers produced, the NIWC did not feel this had been wasted effort. Some parties were new to the process. Parties had made an effort to put their views down on paper. Some had shown more engagement than others in doing so in some detail. A synthesis paper at this stage would be very useful, and if the Governments were being asked to move the process forward this was what they could do. The party also felt that, although there would not be time to discuss them at any length today, justice issues were very important and could be a very good contribution to building confidence. The UUP said the NIWC had misrepresented its position. In Strand One it had merely pointed out that both it and the SDLP were the two largest parties. Other parties were in no way excluded. The UUP would engage with them as and when it chose. In Strand Two the UUP and the Irish Government were the two main parties. If progress could not be made with the Irish Government, the talks would collapse.

30. The SDLP felt there had been an absence of serious negotiation in recent weeks, and the Chairman's proposed course of action seemed the only way forward. Bilaterals could allow for the hard headed exchange of views which might allow the process to move forward. This was worth trying - if it failed everyone would be back at the present discussion at the Review Plenary. This round of bilaterals was not meant to exclude: it would be a chance to distil ideas and provide the Chairmen with some form of synthesis of what was possible. If that could not be done, the process would be at a serious crisis.

31. Sinn Féin accepted absolutely that the SDLP did not intend to be exclusionary.

There had to be some way of moving on, and the party's question to the Governments had been intended to try and highlight what that might be. The UUP party leader had said his party's involvement in the talks was tactical, and it was to be expected that the UUP would present the round of bilaterals as the Governments coming round to the UUP's position.

Sinn Féin saw merit in the Chairmen holding bilaterals with the parties and obviously had no problem with parties conducting bilaterals with others as they wished. The party would also see merit in round table talks in a reduced format, perhaps encompassing both Strand One and Strand Two together under an independent Chairman. Moving into the next phase, substantive issues needed to be addressed, and the Governments needed to move on their own ideas in the Framework Document; on issues of democratic rights; on confidence building measures; and on British confidence eroding measures.

32. The Chairman summed up by saying that the discussion had at least been useful in showing the magnitude of the task ahead. The Chairman said he would now proceed as discussed to set up bilaterals with each of the parties beginning on Monday 17 November. He encouraged parties to engage also in bilaterals amongst themselves, and noted that the Chairman of Strand One would also be available for bilaterals during that period. He hoped that all parties would carefully assess their positions and attempt to determine areas where progress could be made, as well as areas which will be more difficult. It was necessary now to start making this kind of assessment. The Chairman then moved on to the

discussion on the final agenda item, Item 5 "Rights and Safeguards", and gave the floor to the parties.

33. Sinn Féin said the paper they had submitted was basically a shopping list of equality issues. There was no element in it of taking rights from Unionists to give them to Nationalists. It was also important that the British Government viewed equality issues on their merits, and not on whether they might offend Unionists. The task was not to negotiate equality rights, which should need no agreement, but to decide how to safeguard those rights. There were numerous precedents available in international conventions and practices, and in other conflict resolution processes, and this area should not take very long to agree. The party also challenged the statement in the British Government's paper on this item which said that there were already strong safeguards against abuse of police and judicial powers in Northern Ireland. Sinn Féin said that Northern Ireland was a police state, which had been governed under emergency laws for seventy years, and in which normal democratic rights had been set aside. The British Government had been indicted on a number of occasions for human rights breaches, and currently had cases pending against it alleging complicity in the murder of its own citizens.

34. Alliance said justice and human rights issues were very important, and a key element in Strand Two was to try and adhere to the highest standards of justice. This needed to be dealt with consistently across the jurisdictions. The party welcomed the decision of the British Government to incorporate the European Convention on Human Rights into domestic law, and would welcome a similar decision in the Republic. Justice

and security issues also had a cross-border element, and justice agencies were restrained by the border. Cross border policing arrangements could be looked at. Alliance also welcomed the continued role of SACHR, and felt it would be helpful if there was a similar body in the Republic, allowing both to work together.

35. The SDLP said that justice and human rights issues were very important, and would also be looked at in Strand One that afternoon. There had been many abuses and infringements of human rights in Northern Ireland, and a failure to redress these would make it impossible to resolve the wider problem. It was important to recognise that protection of the rights of one section of society was not a threat to any other section. The means to protect those rights throughout Ireland needed to be agreed. The SDLP endorsed the suggestion of a Charter or Covenant of Rights. There was an extensive body of international instruments to be drawn on in drafting such a Charter. There had also been a useful report prepared by Astjorn Eide to the Forum for Peace and Reconciliation entitled "A review and analysis of instructive approaches to Group Accommodation and Minority Protection in Divided or Multicultural Societies". At a political level, the principle of consent could also be expressed in the Charter. It should also enshrine a solemn commitment to exclusively democratic and peaceful means. Too many people had already been denied their most basic human right, the right to life.

36. The NIWC noted that there seemed to be general agreement on the suggestion of a Bill of Rights, and it would be useful to extend this discussion out into the wider community, which would help people to feel a sense of ownership for the question of protection of

rights. Perhaps some form of Commission could run alongside the negotiations, involving the parties, other sectors of society and international expertise. The question of parallel protection of human rights in the Republic also arose, as did the right of people in Northern Ireland to opt for British or Irish citizenship. There were many international examples to draw on, such as the UNESCO Culture of Peace programmes. An impact assessment process would also be useful for a society coming out of conflict. The NIWC supported the idea of a human rights Covenant or Charter, and suggested this would also involve consideration of a Human Rights Court, to be a North/South body. Other important issues to be looked at in this area were the questions of prisoners, of communal rights and of the rights of women.

37. The UUP said that as early as the 1975 Constitutional Convention it had been the first to advocate bringing the ECHR into domestic legislation, and they were delighted that the British Government had now decided to do so. The party agreed with the principle of equality of opportunity for every citizen of Northern Ireland and the Republic. There were many international precedents to look at, such as the agreement between Hungary and Rumania in 1996. The principle of *primus inter pares* should also be a guiding light. The UUP welcomed the Irish Government's paper which recognised the need for equal protection of human rights throughout the island, and the commitment in paragraph 9 to discuss this with the other parties. The party would pursue in bilaterals with the Irish Government such questions as compulsory Gaelic, the right to British passports and the possibility of rejoining the Commonwealth. The UUP asked the two Governments what was the position on ratification of the Council of Europe Convention for the Protection of

Minorities, and asked if the Irish Government had ratified the two UN Covenants on human rights.

38. The Irish Government said its approach to the issue of Rights and Safeguards was set out in the Framework Document. The protection of human rights would underpin the arrangements agreed in the three strands, and the Government supported the idea of a Charter or Covenant to protect these rights throughout Ireland. The Government would be working in the negotiations to see how best to fulfil the commitments in the Framework Document. There was a good deal of consensus on this issue, and it hoped to reach an early agreement on it. The Irish Government suggested that a Committee of the Plenary might take this on, calling in outside advisors as necessary. The Irish Government confirmed that Ireland had ratified the UN Covenants referred to.

39. The British Government said that the two Governments envisaged legislation in both Northern Ireland and the Republic to enshrine the protection of human rights. There were some points in the paper presented by Sinn Fein which the Government could not agree with. The ECHR was a very important measure, and its incorporation into domestic law would offer real safeguards. The Government would check the position on the Council of Europe Convention and reply to the UUP's question in due course.

40. The Chairman said Strand Two would reconvene on Monday 17 November in the format previously discussed. Meetings would start at 1100 on Monday and at 1000 on

Tuesday and Wednesday, and parties should be ready for lengthy and intensive sessions of bilaterals. The Chairman adjourned the meeting at 1316.

**Independent Chairmen Notetakers
18 November 1997**