

DRAFT SUMMARY RECORD OF OPENING PLENARY SESSION -
TUESDAY 5 NOVEMBER 1996 (16.38)

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 convened the meeting at 16.38 and asked that the SDLP continue the debate. The SDLP said that its next comments were directed at the UUP and followed up on issues which had arisen from the morning exchanges between both parties. The SDLP said that there seemed to be some clarity emerging during the morning. The party recalled the fact that Alliance had been seeking some clarification as to the principles referred to by the UUP. The SDLP also enquired as to what was meant by this. The SDLP said that there were already principles laid down in the Mitchell Report as well as modalities which would allow the talks body to progress decommissioning. The question to the UUP was therefore to what extent did it (the UUP) see the Mitchell Report containing at least some of the principles and modalities which were acceptable to it, and what did this then leave to be considered?

2. The UUP said it thought that it had been reasonably clear in its earlier remarks as to the extent to which it accepted the International Body's Report. No one should have any difficulties with the six Mitchell Principles. The UUP said it did have difficulty with the assessments in the report such as those contained in paragraph 25. The UUP said it might have been more likely for those who were a little closer to the problem to come to a different conclusion than this but it believed it understood how the International Body arrived at the assessment in paragraph 25. The UUP stated that if this assessment was inaccurate, then some of the deductions deriving from it must also be dubious. Whether this was the case or not, the UUP had its own view of the IRA's intentions and it would be on this basis that the party would look at the assessments made by the International Body. The party said the International Body's Report was not a bible and could not go unquestioned for ever. It was, however, a useful reference point, containing useful principles which needed to be developed and carried forward to a tangible stage if the talks process was to establish a degree of unanimity on what was right and proper as viewed by those who had elected the participants in the first place.

3. The SDLP stated that surely the key issue here was trying to establish how the debate on decommissioning could be taken on from this point. It said that comments from the UUP the previous day seemed to suggest that some further documentation would need to be produced by it (the UUP) in order to give everyone else the chance to move the issue forward. The SDLP said the UUP had now given its view on the Mitchell Report - but what other principles needed to be highlighted? Was the UUP going to supply this information? The SDLP recalled that, in an earlier response to Alliance, the UUP had stated that it was not in a position to make additions?

4. The UUP said that on the previous evening it had been referring to item 4 on the DUP/UKUP proposals for the furtherance of the discussions on decommissioning. The proposal had referred to "a determination of each participants proposals on the applicable principles of decommissioning". The UUP asked whether the SDLP was now advocating that the UUP should be evaluating other parties' proposals. Perhaps, suggested the UUP, the Chairman would wish to review what had been said during the discussions and extract from the International Body's Report and from other contributions a more detailed set of principles to bring them before the plenary for further discussion. The UUP said it believed it to be significant that the SDLP had now arrived at the position of seeking to reach agreement on principles. If this could be achieved, the UUP said this could almost allow item 2(b) of the agenda to go through on the nod and hence move the debate into 2(c) more quickly. The UUP said that it seemed, however, that the SDLP had some difficulty with the concept of experts being brought in to assist in the handling of technical issues. The UKUP stated that the UUP's view of item 4 on the DUP/UKUP proposals did not equate with its interpretation.

5. The SDLP returned to the issue of what was meant by the UUP term "principles". If the essential principles were contained in the Mitchell Report then perhaps the discussion needed to focus on these. The UUP said that its use of the word was in a wide ranging, generic context. One of the areas on which the UUP sought clarification was the issue of entry requirements for Sinn Fein. It didn't really matter which terminology was used to describe this, but the UUP believed it needed to be addressed by all concerned. The UUP said it recognised that other parties had perhaps used the word "principles" in different ways but it was

issues or principles such as that highlighted which required addressing.

6. Alliance addressed a question to the British Government. It said that the requirements for the entry of Sinn Fein had been raised but this was a different issue to decommissioning. Could the British Government, however, set out its thinking as to how much the conditions of entry were set in stone by the appropriate legislation? The British Government said it wished to reply in general terms to this. The starting point is the joint position of the two Governments that those who wish to enter the talks must have secured a cease-fire, an unequivocal restoration of the 1994 cease-fire. Such a requirement was enshrined in an Act of Parliament. Additionally, the law requires that the Secretary of State refrain from issuing invitations to the talks unless and until he considers the terms of paragraphs 8 and 9 of the Ground Rules to be fulfilled. The British Government stated that, in a sense, paragraphs 8 and 9 were the lodestars and the Governments had to be guided by these. However, as had been indicated during remarks the previous day, the British Government had to look at all the circumstances and not just a declaration of a new cease-fire, when considering using the discretion contained in the statute.

7. Alliance asked whether the talks body had any option in setting requirements for entry of its own. The British Government stated that entry into the negotiations was governed by the statute, in particular section 2 of the Act. It was probably the case that each participant could think of a variety of factors on which to base requirements if the statutory obligation fell to others. The problem here was that the courts might have a field day if confronted by a variety of requirements from a range of

sources. It was for the British Government to shoulder this responsibility alone and to look at paragraphs 8 and 9 when considering action to be taken. Alliance said it was content with this position.

8. The UKUP said that the British Government had indicated that the Act required the Secretary of State to issue invitations if Sinn Fein provided an unequivocal restoration of the 1994 cease-fire. In this event, the UKUP asked what was the British Government's view of the previous cease-fire before it had ended in February 1996. Did it believe the cease-fire to be permanent? The British Government said it was required to refrain from permitting Sinn Fein to nominate delegates so long as it considered that paragraphs 8 and 9 of the Ground Rules had not been met. It was sub section 2 which determined whether and when a party should nominate delegates and the language here referred to it occurring "as soon as possible after the elections". The British Government's requirement here was that it should be a genuine cease-fire. The British Government said that it had often stated that it could not negotiate with people who couldn't clarify their position on the use of violence for political ends.

9. The British Government recalled the events in which it had sought a complete and permanent end to violence but had on subsequent advice moved from this position. This series of events was well documented and had been highlighted in previous discussions. The British Government said it had taken quite a bit of stick about the shift in position, but it had realised that if it wished to have a complete cessation of violence this had to be balanced by the reality of the situation at the time. The British Government said it had moved its position so as not to impose a requirement which in reality couldn't be achieved. This was the

British Government's position up to the end of the cease-fire. The UKUP said it had, in its possession, a whole series of public statements made by the British Government which had indicated that the first cease-fire had to be declared "permanent" or that it to be a permanent cease-fire. The UKUP asked whether the British Government had worked on the assumption that the cease-fire was a permanent one throughout its entire course. The British Government said that it had already answered this. It had made it clear that its position had moved from that which required prior decommissioning to that recommended by the International Body. The British Government said that it had proceeded on the working assumption that the August 1994 cease-fire was permanent.

10. The UKUP said the British Government appeared to be straddling two horses at this point. One was decommissioning, the other was the nature of the cease-fire declared. Leaving decommissioning aside for now, the UKUP asked whether, at any time, since the beginning of the August 1994 cease-fire until its end in February 1996, the British Government had worked on the basis that such a cease-fire was anything other than permanent. The British Government said it had already answered this. It had held this assumption up until 9 February and this assumption had been in place since the Prime Minister's address to the Institute of Directors in Belfast in October 1994, in which he had stated that although the IRA had not used the word permanent to describe its cease-fire, the British Government would make a working assumption that it was permanent. The UKUP said it wished to - progress this issue a little further. Could the British Government invite Sinn Fein into talks on the basis of a new cease-fire which it (Sinn F+ein) would not declare as being permanent? The UKUP said that the present position was exactly that which factually pertained when the previous cease-fire was

declared, yet the last one was a tactical cease-fire. The UKUP asked whether the two Governments were willing to publicly declare that their terms for a new cease-fire were of the temporary, transient kind which pertained prior to February 1996.

11. The British Government stated that it was perfectly plain that there had to be a public declaration of a cease-fire on which others could depend. It was also clear that no one could depend on the basis of the August 1994 cease-fire. There had to be more than this and the Prime Minister had alluded to such a position when he had stated publicly that there must be "more than a declaration of smooth words". A new cease-fire had to be dependable and by definition therefore unequivocal. The UKUP said that the language being used was an "unequivocal restoration", not an unequivocal cease-fire. The party continued saying that the British Government had indicated, in its previous remarks, that a new cease-fire had to be one on which others could rely. Did the British Government accept that the August 1994 cease-fire was one on which others couldn't rely and by definition did the British Government then accept that any new cease-fire must be different in nature to the previous one? If this was the view, what was the distinction which would make a new cease-fire more credible and genuine than the previous one?

12. The British Government said that it had to be different in nature. A new cease-fire had to be a permanent one in accordance with the reference in the Command Paper. The Taoiseach had also said that Sinn Fein must find the words to make that clear. The UKUP said, it was happy with the Government's position that any new or restored cease-fire had to be a permanent one. The British Government said everyone agreed that there had to be a dependable ending of violence for good. That was what was meant by

'unequivocal'. The UKUP referred to the statement by the British Government that the cease-fire had to be permanent and requested confirmation that that was the case.

13. The British Government said that it could not put the position any more clearly. Of course it had to be permanent and that would be judged by looking at all the circumstances. What it had to do was to make the best interpretation of the words used and the actions taken and judge it on that basis. The Irish Government, the British Government said, had confirmed to the UUP the previous day that any new cease-fire had to be credible and irrevocable. It was possible to dance around the head of a pin on the issue, the British Government said. What was clear was that it was not possible to negotiate under a threat of violence. That was why the British Government had stipulated that there had to be a restoration of the cease-fire and it had to be able to depend on it being a cease-fire for good. That was not a new position. It was held before in connection to the earlier cease-fire, perhaps unduly uncharitably so.

14. The UKUP said that the British Government and its officials had danced on the head of the same pin in their discussion of the duration of a cease-fire. The British Government had said that it would continue with the process on the assumption that it was permanent. The word 'permanent' referred to duration of an unending kind. The UKUP wondered why there was a great reluctance to use the word and fall back on others such as credible, reliable, irrevocable etc. The party had asked the Prime Minister why he would not ask for a complete and permanent cease-fire and was told that Sinn Fein/IRA would never ever accede to it or declare it to be such. This statement was supported by the argument that the process of signing up to the talks and the six

Mitchell Principles would somehow operate like the alchemist's stone and convert a cease-fire into a permanent one. The UKUP said it asked the Prime Minister to substitute certainty for doubt and make the cease-fire permanent. These remarks were made quite openly in the presence of witnesses, the party said.

15. The British Government said that the UKUP had produced the answer to its own question on the use of the word "permanent". The Prime Minister had said that the Government were given to understand that there were obstacles to use of the word by the IRA. But when faced with the difficulty, the Government did not simply fold its arms and say "on with the war" because of the lack of an assertion of permanence. Its approach was that if a cease-fire was to be brought about, it was necessary to see if there was a reasonably discernible intent of permanence, notwithstanding the absence of the word itself. It was necessary to rely on intention in other circumstances. The Government said that the UKUP would insist on inflexibility but the Government did not take that view. It had acted charitably in making the working assumption which was later proved to be unsustainable. Since then, each succeeding atrocity widened the credibility gap. It was still not unbridgeable, however, but any new cease-fire would have to be reliable and it would be necessary to look at all the circumstances and not just the language used. That was why the word permanent might not be used, but it was the intention that mattered.

16. The UKUP said that it now appeared we had entered the realms of Alice in Wonderland and the Humpty Dumpty view of what words meant. All words like "credible", "irrevocable" can be taken to mean "permanent" but the IRA nevertheless won't use it. Intent had to be looked at. The British Government, said the UKUP, wanted

some form of words to guarantee the intention by the IRA to cease its violence. But since 9 February, 1996, the bombs in Canary Wharf, Osnabruck, Manchester, Thiepval Barracks, Killyhevlin and the murder of a member of the Garda Siochana, all these events notwithstanding, the British Government was still pushing the Mitchell Report in dealing with the decommissioning issue. The UKUP wondered whether the Government accepted that the relevant paragraphs in the Report, which were based on an assumption of good intent by the IRA, were not well founded because at the time those assumptions were made, the police forces in both jurisdictions were confirming that the IRA were working away. One of the pillars of the conclusion in the Report in that regard was that the cease-fire had been in place for a year and that was evidence of IRA good intent. Against this background, was it not accepted that what was now required were more stringent assurances and that any new cease-fire declaration would be substantiated by appropriate actions such as a start to actual decommissioning? The UKUP said that the Washington 3 test should be reverted to and not abandoned.

17. The British Government said that the International Body were well aware of the fact that punishment beatings and other things were going on. They were not innocents at large. However, it was not the case that the central plank of the Mitchell Report - parallel decommissioning in stages with confidence-building measures - was invalidated by the abrogation of the 1994 cease-fire. The Body said that it accepted that people generally wanted decommissioning to take place, but the British Government said again, that as each succeeding atrocity takes place, the credibility gap for the IRA gets wider. The British Government said that it is for Sinn Fein to find means to persuade us that the gap can be bridged.

18. The UKUP said that the Body noted that one of the most significant factors was that the 1994 cease-fire had stayed in operation for 12 months. It was wrong in that, the UKUP said, irrespective of what verbal assurances were being given to it, because at the time those assurances were being given the IRA were in the process of preparing a bombing campaign. That was clear in relation to the 10 tonnes of explosives found in Hammersmith, where the premises were hired in the autumn of 1995. Similarly, the vehicles used in the Manchester and Canary Wharf bombs were purchased and moved to their locations when the discussions with the International Body were taking place. It was clear that there was little or no basis for discussing with the plenipotentiaries of terrorism how to bring about peace. The British Government said that on the question of not crediting the IRA with good faith, why was it that the UKUP did not require total decommissioning at the outset? The UKUP responded by saying that it believed that the test was one of reasonableness. The party wanted to ask the IRA to decommission even on a phased basis to test its intent and see whether it had a fundamental ideological objection even to that reasonable course of action.

19. The British Government said that as the UKUP had referred to these people as the plenipotentiaries of terrorism, how did the party know that the IRA would not second guess them on that strategy?

20. The UKUP said that if Sinn Fein/IRA were that clever they would continue a level of terrorist activity with less than 20% of their current supplies. So the organisation could hand in 5% or 10% of its arsenal without diminishing its strike capacity at all. But the organisation would not turn in any amount of weapons at

all, the party said, because it believed it was a legitimate combatant and that its weapons were as legally held as those which were under the control of the British Government. A further consideration, the UKUP said, was that the IRA, if it were to hand over weapons to the British Government, would be recognising it as the lawful authority of this State.

21. The SDLP said that the reason why the International Body was called in was because politicians had failed for 25 years to achieve decommissioning of weapons. With regard to the question of permanence of a cease-fire, the party was in agreement with the British Government that permanence would arise out of a voluntary decision by the paramilitary groups involved. Secondary pressures could also be brought to bear, perhaps, but if those groups had wanted to decommission, there would have been no problem to face. There were also political pressures as well as international pressures which were relevant factors in the context of a cease-fire taking place. With regard to decommissioning, it was the case, the party said, that irrespective of what principles, modalities or strictures were decided upon by the participants, the decision whether or not to decommission was still ultimately a voluntary one. The participants in the talks could have all the rules, timetables and sequencing they wished, but it was the power and weight of the political process that would bring about the substantive act of decommissioning.

22. The UUP said that it regarded the entry requirement to the talks process as being linked to decommissioning. Insofar as the SDLP were concerned, the UUP agreed with the point that decommissioning was voluntary, but what were the conditions under which people could gain entry to the talks? It seemed correct to assume from what the British Government had said that, if the

wording of the 1994 cease-fire were repeated, Sinn Fein would come into the negotiating process.

23. The British Government said that it would depend on other prevailing circumstances, but it was not prepared to say what those circumstances were. The UUP appreciated that it might not be possible to know what the circumstances were but the British Government should be able to indicate what criteria would be applied in making the decision. The British Government said that paragraphs 8 and 9 of the Ground Rules (Command Paper) were relevant and the Prime Minister had said that more than soft words were needed this time and that the IRA had a credibility problem since 9 February, 1996, and subsequent events. The UUP asked the British Government what other types of issues would be looked at. The Government said that it could not be more specific but it would have regard to paragraph 8 in the Ground Rules.

24. The UUP said that the two Governments, and especially the British Government, had left the participants with a vagueness after all the discussion. Yet, the Government wanted to tie the UUP down to specifics. The party would be particularly interested to receive a copy of the IRA constitution to support the contention that permanent was a word that could not be used by the organisation.

24. The British Government said it could give no commitment on that matter. But it agreed that there could be no guarantee of permanence in the use of the word alone. It was necessary to go further and take all the circumstances into account and then make a sensible judgement. So in addition to it being a matter of faith as the SDLP had said, the British Government would maintain that it was also a matter of reasoning. The UUP returned to its

point about the IRA constitution and said it would return to the matter the following day. The British Government said it had been informed by third parties about the supposed reasoning behind the avoidance of the word permanent by the IRA.

25. The Chairman then adjourned the meeting at 18.00 and said that

- a) there was much repetition in the debate with the same questions being asked by different people. An effort should be made to concentrate on new areas; and
- b) there should be an attempt to complete the business in hand on the following day.

Independent Chairmen Notetakers
14 November 1996

OIC/PS43