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From: Independent Chairmen Notetakers
5 July 1996

SUMMARY RECORD OF INFORMAL DISCUSSIONS ON PROCEDURAL GUIDELINES AND
AGENDA FOR PLENARY SESSION - MONDAY 1 JULY 1996 (17.02)

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. While waiting for everyone to return to their seats following the adjournment, Dr Paisley asked the Chairman which of the parties had provided comments on proposals for the summer break and for the business over the next several weeks. The Chairman indicated that he had received a couple and that the deadline was "close of play" that evening. He continued saying that when all had arrived he would be reviewing these and making a proposal to the participants over the next day or so. The Chairman, noting that everyone was now in their place, convened the meeting and invited Mr Casey to speak as he had indicated to do so earlier.

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2. Mr Casey commented that he hadn't said much to date and was operating on the basis of a closed mouth and open mind. He said he felt it was somewhat of a pity that the discussion before the adjournment had degenerated and he hoped that the break in the proceedings would help everyone to focus their mind on the real issues. He also believed that Dr Paisley was somewhat unhelpful to the NIWC before the break. He recognised that in this context he was a member of another small party, but the whole process was about constructive participation and the small parties should be given sufficient credit for this, irrespective of their voting strength. Mr Casey said that he believed the participants were losing sight of why they were present. They were meeting to try and make progress on a set of draft rules of procedure; therefore he couldn't quite understand why such discussions on the negotiation or otherwise of the union were being introduced. Mr Casey said that the reasons why everyone was present were clearly outlined in Ground Rule 1. He continued saying that the comments regarding the Unionist paranoia were, as far as he was concerned, somewhat of a reminder of "McCarthyism" in the USA and the "reds under the beds" scenario. He said everyone ought to be sensible about the issues and didn't see why there was a need to get into spurious argument because this didn't really matter at the end of the day. He stated that the participants ought to be encouraged to finish the job in hand and move on to the constructive and substantive issues. Mr Casey continued saying that he thought it was sterile to talk about the previous talks because they had failed. The participants around the table couldn't fail and the consequences of failure couldn't be contemplated. In concluding his remarks, he said that he believed that the Unionists should be more magnanimous because of their electoral strength and political position.

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3. Dr Paisley intervened saying that Mr Casey should not have insulted the unionist cause by identifying it with "McCarthyism" in the USA. Mr Casey returned to the point saying that he had only been making a comparison and he wasn't accusing anyone of "McCarthyism". He was simply saying that McCarthy himself had turned out to be a scare-monger and was only using this as an analogy in asking the Unionists to be magnanimous. Mr McCartney stated that he believed Mr Casey's comments to be personally offensive because he did not like the connotation of the McCarthy analogy with the beginning of his own surname. He continued saying that he was getting a little tired of people providing homilies of behaviour from that side of the Conference Room. He was also getting a little tired of personal remarks against himself. On the contrary, he stated, he had always tried to confine his remarks to logical points on issues of great seriousness. Perhaps, he stated, this series of attacks had more to do with his style of debate and the element of vigour in his delivery but he pleaded that the issues should not deteriorate into an exchange like this. It was much better to talk about the serious points on the table and try and move matters forward on this basis. Mr Casey said that he was sorry that his remarks had been taken as offensive as he did not mean them so. However, Mr McCartney had been giving lectures himself over the last few weeks and he believed some of these had diverged from the subject matter under discussion. The Chairman said that it was apparent that the issues being discussed here were those which affected all of Northern Ireland. He acknowledged that the participants had strongly held views on this and said that if success was to be achieved then this could mean that participants would have to spend a long period of time working together before these could be moved forward on the basis of trust and confidence. The Chairman commented that he hoped personal criticisms could be avoided during the discussions. He had some personal experience of

this in the US Senate and he believed that such criticism was simply a short term gain which was often wiped out by longer term implications.

4. Mr Curran raised a question with reference to the memorandum produced by the Chairman dated 27 June on the status of the Ground Rules. He then quoted paragraph 1 and the four sub-paragraphs in that memorandum (a), (b), (c), and (d). On reading this, Mr Curran continued saying that it appeared that the participants or some of them were at least attempting to import some of the Ground Rules into the draft rules and he believed that this discussion in its present form could therefore go on ad infinitum. He then referred to para 3 of the Ground Rules as a possible way of moving the issues forward. He asked whether or not there was already a basis for moving on beyond the procedural rules for he believed that the crunch was going to come at the Opening Statements by the party leaders when key issues, etc were delivered and the participants then began to get a flavour of what it was all about. Not only was this a key point, but so was the discussion of the comprehensive agenda which had still to be reached, for it was only then, he stated, that all the participants would know whether or not they were likely to have meaningful and constructive dialogue. He wondered whether the process at present was going the right way to achieve the above key stages. He also wondered whether the process could really agree with so much fundamental disagreement around. In concluding his remarks, Mr Curran said he had listened with a degree of frustration to last week's discussions. His party understood the Unionist position but, having said that, he believed that this sort of discussion couldn't go on much longer as more than three weeks had gone by already. He believed that it had to come to an end soon to enable the process to move on to substantive issues.

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5. The Chairman said it was his intention to try and complete the draft rules and then have a discussion about the status of the Ground Rules. The Chairman said that it seemed to him that common ground did exist between the participants to come up with a single document as referred to in paragraph 2 of his memorandum and he now wanted to proceed with the proposed additions. He continued saying that he believed several of the draft rules reflected the substance of the Ground Rules thereby reducing or eliminating any potential conflict between both sets of documents. The Chairman said that if it was possible to agree a single set of rules then the position of the Ground Rules and those who supported them (2 Governments and other parties) would be in the open for acceptance. The Chairman suggested that one question which the participants might wish to consider was whether a schedule of targets should be adopted, ie, when did they want to arrive at a decision on the draft rules, when should decisions be taken on Ground Rules, when should decisions be taken on the Agenda. He said he hoped that it would be possible for all to consider reasonable dates when these could be achieved. In the meantime he felt it was better to try and proceed on the proposed additions document. In doing this, he said he would like to try and get on with para 15A as soon as possible, albeit consistent with the views stated on this paragraph and therefore try and pull together a single set of rules of procedure. Then, he stated, it would at least be possible to know what paragraphs were left with objections against them. Mr Casey stated that he welcomed the Chairman's comments and believed them to be good news after four weeks of discussions. Mr Empey said that he feared that the reality of the situation was probably not that straightforward. There was, however, no alternative but to keep on going on the current path for it was only likely to be resolved by a slow grind. Mr Empey in referring to rule 15A and to the first sentence of that

paragraph, raised a query over the grammar of it, in particular the word "participants". He also stated that the Minister of State had made a proposal somewhat earlier in the discussion with regard to this but it hadn't really assisted. Mr Empey continued saying that perhaps another attempt in the morning might be the best idea with regard to this paragraph. He also wondered whether the second part of para 15A and the reference in 17A had a connection and he posed a question as to whether the participants needed to look at both.

6. The Chairman suggested in relation to the first sentence, if all were agreed, his staff would try and produce a statement which would hopefully take account of the comments in the discussion thus far. The participants agreed to this proposal. Mr Dodds, in reference to the first part of para 15A, said that it was not just a question of grammar, it was more to do with substance, and he believed that the Government proposal had not really helped the issue of strands and the question of participants vis a vis Strand 1. The Chairman said that hopefully his staff would be able to minimise the grammatical mistakes which in themselves might help to clarify the substantive issues. This particular point had, however, not addressed the issue of the Agenda. He wondered if it was possible to move on to 15A, even though he realised that, as ever, he was trying to balance two conflicting objectives between everyone having their say and minimising the amount of repetition.

7. The Chairman asked the participants for any comments on para 15A. Mr Mallon suggested that the words "take part" and the word "negotiate" should be inserted. Dr Paisley commented that this depended largely on what the "agreed" agenda comprised. He believed it wasn't really possible to handle 15A until all other matters in the wider sphere were agreed. He believed it was a bit like a blank cheque being held up. The Chairman indicated that no-one was being asked for a blank cheque and that no agreement at the

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moment was required. He then suggested that participants move on to para 17A and asked for comments. Mr Empey referred to the Ulster Unionist amendment on page 6 entitled UU1. He said it would be useful to have the first sentence of UU1 inserted after the word "advance" on the fourth line of 17A. He believed this reinforced the point regarding the ownership of substance for the participants and not just the negotiations and that the participants included everyone around the table. He felt this also clarified the position and that there was a commitment to ensure full ownership of the process for all. The Chairman asked whether there were any comments on this proposal. The Irish Government sought clarification as to whether it was all the words in UU1. Mr Empey responded by saying that they were not all required, but that the first sentence of UU1 would be put in after the first sentence of 17A. The Chairman asked whether there were any objections to this. Mr McCartney suggested that in 17A the text appeared to be very like that which was contained in para 5 of the original Ground Rules, except that it seemed to be an attempt to soften the Ground Rules language. He also stated, that it seemed to be an attempt by the two Governments to allow them to do what they were going to do in the context of para 5 as this was suggesting that only the Governments could structure the negotiations whereas he thought it was for the participants to do this. Mr McCartney continued saying that he still believed that this paragraph remained a statement of intent as a procedural rule affecting what the Governments intended to do. He therefore believed that this amendment was only a semantic ploy and a set of words in a more acceptable format from that of the original Ground Rules. Looking further into the language of the paragraph, he wondered what the context was of the phrase "by those involved". Was this the parties or both Governments or both?

8. The Chairman said that he believed Mr Empey had a little earlier referred to the fact that it was everyone. Mr Empey suggested that it might be better using the word "participants" at this point or even the words "relevant participants". He also commented, in referring to Mr McCartney's point regarding the original Ground Rules, that if one wanted to trace it back then it was really original Ground Rule 7 and not 5 where the wording had come from. He emphasised that his party were not trying to trace it back, they were trying to make the key point of ensuring that the participants owned the process. Mr McCartney then read the second sentence of UU1 and he asked whether this included getting items on the Agenda. He also wondered whether it was possible for both Governments in this context to say something along the lines of "sorry about your rules because under para 7 of the Ground Rules, we want to bring something different into the process". Mr Empey said that the discussion was focusing on the status of the Ground Rules, but at this stage it was tentative agreement that was being sought on the draft rules of procedure. He believed that actual agreement would probably best be determined by arriving at the total picture of draft rules, the status of the Ground Rules and the Agenda. He had therefore no immediate answer to the question posed by Mr McCartney a little earlier. He believed this had to wait until the debate was forthcoming on the status of the Ground Rules. Mr McCartney commented that surely the idea was to move to a single set of rules and that what was being attempted now was to try and dislodge the conflict between the composite rules and the original Ground Rules.

9. The Chairman said that what he believed was happening was an effort to try and advance the process and to try and aim to get a single document to guide the Chairman and the participants as well as trying to reduce conflict with the Ground Rules. He continued

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saying that obviously it was not going to be possible for all these things to be agreed one before the other but it did however seem sensible to go through the draft rules at this stage and listen to the comments/objections to try and narrow down the areas of disagreement on them. Mr McCartney intervened at this point saying that surely the more that was accepted at this stage the less that had to be dealt with later. The Chairman commented that this was a fair point. Mr Empey stated that in effect the rules did not have to come from anywhere. However whatever rules were agreed had to be comfortable for everyone, irrespective of their origin. He stated however that we hadn't yet had the debate on the status of the Ground Rules for that would determine the superiority of them against the current rules being drafted. Mr Empey said that it was only after this debate would everyone know the status of the draft rules. He continued saying that composite versions wouldn't solve the position of an over-arching set of Ground Rules. It was only when the debates and discussions took place on the Agenda and the original Ground Rules could the participants then sign up to all aspects of the position. That, he said, was the position of the UUP.

10. Mr Mallon commented that UU1 was not compatible with the SDLP amendment regarding paragraph 1 of the draft rules. The Chairman said he understood that and he hoped to be able to get to those amendments highlighted by Mr Mallon on page 5 shortly. Dr Paisley also stated that the debate on the Ground Rules hadn't taken place although he said we have had the papers and, to a certain degree, the discussion. He continued saying that the present debate would not be helpful in terms of the "status" issue because all he was hearing were conclusions rather than arguments and he believed that one had to face the crunch issues soon if progress was going to be made at all. Mr Dodds commented that the relationship between this

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paragraph and Ground Rule 14, was fundamental to the debate. If Ground Rule 14 had an over-arching format then there was no point worrying about draft rule 15. He also indicated that in his view, DU3 was relevant in relation to the paragraph currently under discussion. He also pointed out that the wording of 17A was ostensibly Ground Rule 3. Given this, Mr Dodds wondered why the words "peaceful" and "democratic means" had been omitted. Finally he stated that he believed the DU3 should be read alongside 17A.

11. Mr Thomas, for the British Government, said that if the DUP sought greater fidelity with Ground Rule 3 then that was fine. He had however understood that the UUP were not moving the second sentence of UU1 into para 15. Mr Dodds said that was correct. The Chairman clarified the point indicating that the words "the relevant participants" should be inserted at the end of the first sentence of UU2. Dr Paisley said that he wanted to back up the earlier comments of Mr Dodds regarding Ground Rule 3. He was quite prepared to enter a debate on this issue because he felt it was a vital area of discussion. The Chairman said that there was no need to be seeking final agreement at this stage until each participant had had his or her say. He believed that they should then take the amendments in the order they appeared. Dr Paisley signified his agreement with this and wondered about a "cart before the horse" scenario occurring. Whenever participants got the final document on these then the next issue appeared to be deciding the status of the Ground Rules. He wondered whether reversing this in terms of deciding on the status of the Ground Rules first might be a way forward. He then questioned the wisdom of moving forward with some people agreeing on the status of the Ground Rules and others not agreeing.

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12. The Chairman stated that he was keen to allow the discussion to follow the format that was agreed by all the previous week. He thought it might provide the best process of resolving the draft rules before moving on. He then asked participants to look at 20A where several amendments had now been produced. He asked for comments on this paragraph. Mr Dodds stated his objections to the word "Plenary" as opposed to "Opening Plenary" and this had been highlighted in earlier discussions. The Chairman asked for any other views. Dr Paisley asked who the representatives of the Governments would be in this context. Mr Thomas, for the British Government, believed that the reference was to the parties and that the Governments would choose who to put forward themselves. Dr Paisley commented that Strand 1 was in the midst of this so how was this amendment viewed by the Irish Government in relation to Strand 1. The Chairman indicated that this might have to be dealt with elsewhere. Mr Thomas, for the British Government, indicated that paragraph 2 of the "proposed additions" clarified this position. The Chairman then asked participants to move on to paragraph 28A and asked for any views on this. Dr Alderdice asked whether the word "consensus" had any meaning beyond its normal context or was it a reference to the "sufficient consensus" proposals contained elsewhere. He also said that the DUP were suggesting replacing this by the word "agreement". Mr Empey referred to "contingent agreement" and what this meant in the context of the paragraph. He wondered whether it might mean parking issues in one Strand before moving on to another. Mr Thomas indicated that that might well be an example. Mr McCartney wondered whether the context was not wider than that which had been described. The Chairman indicated that the debate should move on to paragraph 30 and stated that discussions should take the new amendment and the existing amendment together.

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13. Dr Paisley said that he still had concerns about the two Governments making decisions on the liaison arrangements. In his view it was a question of participants being present and when information was being passed from the Chair in Strand 1 and sent to the Irish Government. Mr Thomas suggested that the point that Dr Paisley raised was now explicit in the latest version, having been implied in the previous one, and he quoted the words "only participants agree about progress". He said he hoped that this might be viewed as an attempt to meet some of the concerns already expressed. Mr Empey commented that it simply was not about reporting progress. The progress had to be relevant because one had to determine what was necessary for the Irish Government to have. There was therefore a slight difference between using the word "progress" and "relevant progress". Mr Thomas indicated that this latest amendment would be acceptable. Mr Empey thanked Mr Thomas and concluded that the latest phraseology and its acceptance was helpful. The Irish Government also indicated their support for this latest phrasing. The Chairman asked whether there were any objections to adding the word "relevant". Mr Mallon asked who decided what was "relevant".

14. The Chairman indicated that he believed that that would be down to the Strand 1 participants. Mr McCartney, speaking on the amendment, referred to the words "arrangements and nature of information". He wondered whether there was any further definition of the word "arrangements" and how that might relate to "relevant progress". He also suggested that some clarification needed to be given to the definition of "relevant progress" as the participants needed to have some idea of the scope of "relevant". Mr Mallon commented that something might not be progress but could be relevant. He claimed that the wording was simply over burdening the possibility of agreement on this paragraph and at the same time

was introducing allusions which people, at a later stage, might reflect on as delivering a negative outcome. Mr Dodds asked about the mechanism that had been raised the previous week by Mr McCartney regarding the Business Committee. He wondered whether this sort of issue could be put through the Business Committee and suggested that the Business Committee take on this role. In terms of the language, Mr Dodds wondered about "progress" in relation to Strand 2 issues. Dr Alderdice said that being part of the negotiations was one thing but having information passed was quite another. He indicated that if the Strand 1 participants felt that it was not possible to go down this route with the Irish Government then the same situation would occur in Strand 3 with the political parties. He believed that the process should be moving to a stage of being more open in terms of the information passed and if this was the way to approach it then greater openness was required all round. He therefore wondered whether there was anything wrong with passing information around all the participants on a wider basis as he did not see the point in sealing information into each Strand. He believed there was a fundamental difference between the negotiations and their substance and information, as he felt that information was likely to be found on the outside of the process as much as anywhere.

15. Mr Empey commented that following Mr Mallon's point it might be worth considering a further proposal. The Chairman then offered a further suggestion and put forward the word "status". The Chairman indicated that he felt that this might alleviate Mr Mallon's concern and those of both Governments. Dr Paisley asked about the liaison arrangements themselves and what was contained in these. The Irish Government said that the liaison was based on consent and therefore one had to be careful about liaison in the Business Committee environment given the fact there was also

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a clear distinction for the role of the Business Committee and there was a clear distinction between Strand 1 and the other Strands. The Chairman returned to the point saying that one didn't know how it might work in practice but that it was not a question of where it happened but when. He believed that the amendment took care of this. Dr Paisley asked whether participants were going to control the two Governments. Ms Hinds stated that she was content with the amendment but did not believe that the Business Committee was the place for this to happen. She wondered whether the word "through" could be omitted. Mr Dodds asked what the meaning of the word "status" was in this context.

16. The Chairman recalled that this had come about through a number of descriptions, first of all relating to progress, then relevant progress, on issues where information rather than progress was the key (Mr Mallon's point) and then status, which seemed to him to be a neutral word. At the end of the day it was up to the Strand 1 participants to determine the eventual resolution of this issue. Mr Dodds returned to the point saying that this term needed further consideration. Dr Paisley said that he supported the NIWC proposal as outlined by Ms Hinds a moment earlier. The Chairman suggested that if there were no objections from the two Governments then it might be prudent to drop the word highlighted by the NIWC. Mr Durkan said that his party supported the NIWC proposal. The discussion then moved on to para 32 which dealt with liaison arrangements regarding Strand 3. The Chairman asked for any comments on this. Mr Thomas, for the British Government, said that there was a need to read both paras 32 and 33 together. The Chairman then suggested that comments should be directed at both paragraphs. Mr Empey said the UUP would still have some concerns until they saw the agenda for Strand 2. It was still unclear as to where a number of key issues fitted into the process. He also

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recalled Dr Paisley's comments of the previous week regarding Strand 2 issues and the fact that there needed to be some satisfaction on his side that issues of considerable significance could be raised in other strands before agreement on the Strand 3 arrangements was given. Mr Empey continued saying that in his view there were a number of east/west matters that were fundamental to the whole set of relationships under discussion. Mr Empey also stated that he was anxious that there was a negotiating role for the parties in Strand 3 and he didn't want to find at some later stage that any party could not raise an issue of importance if the definition was now made too narrow on the Strand 3 arrangements.

17. The Chairman in response to Mr Empey's point asked what Agenda he had been referring to, was this the agenda for the Opening Plenary or the Comprehensive Agenda? Mr Empey responded by saying that he was referring to any agenda on which negotiations were based. For example such issues as the discussions on a new Anglo-Irish Agreement and where such a discussion would come up for negotiation weighed heavily on his mind. Was it the case that a subject such as this fitted into one strand? Was this issue a Strand 2 or Strand 3 issue, or did it transcend both? Similarly proposals on new relationships might well fall into this category as well. Mr Empey, said that perhaps Strand 3 might be the best place for this but then again Strand 2 might also be appropriate. The main point in all of this was that the UUP needed to know that these issues could be brought up in other strands and he didn't therefore want the Strand 3 arrangements to be such as to block this option off now. Mr Thomas commented that Mr Empey had expressed a point of proper concern. However, the British Government was happy to speak to participants in Strand 2 without precluding for example a discussion on the Anglo-Irish Agreement in Strand 3. Mr Thomas commented that he hoped this provided some

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reassurance for the UUP on this point. Mr Mallon commented that there were two elements to this issue. He wondered how anyone could make acceptance of a procedural rule conditional on the input to either Strand 2 or Strand 3. Mr Empey responded to this saying that the status of the parties in Strand 3 was restricted under the current arrangements. The agenda, in his view, had to be determined by the participants. They couldn't do this in Strand 3 because at present this was simply down to the two Governments. That was why the procedural rule was being put in place, because they could not have input to Strand 3 at this stage. Mr Empey said that the Governments had a wider mandate than the political parties and he would not want the political parties marginalised to such a degree as was contained in the current liaison arrangements. Dr Alderdice sought an assurance from both Governments as to whether it would be possible for parties to make representations for a liaison meeting. He continued saying that past experience showed him that this was required. He wondered whether it was possible to reasonably interpret this particular rule as the parties asking for a meeting to enable matters to be put to the Governments and to receive a response.

18. Dr Paisley said that he thought the Irish Government weren't going to discuss Articles 2 and 3 in Strand 2 but he now had an assurance that this was satisfactory. He was therefore happy to run with this issue in Strand 2 and let the Governments get on with their own Strand 3 discussions. He continued saying that as long as his party got the matters they wanted discussed in Strand 2 and, it had received a strong assurance to this effect from both Governments a few moments earlier, then that was acceptable to the DUP. The Irish Government, commented that para 21 of the Ground Rules was specific on this point. Dr Alderdice intervened saying that these were the draft rules under discussion, not the Ground

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Rules. Mr McCartney asked whether this was one of the rules which was going to be transposed from the Ground Rules into the draft rules. Mr McCartney continued saying that in the background of the wider number people in Northern Ireland resenting such mechanisms as the Anglo-Irish Agreement which appeared to poke its nose into virtually anything from the appointments of the Judiciary to appointments made to the Horse Breeding fraternity, all of which was conducted in secret by the two Governments, this rule was of concern to him. He restated that the two Governments had of course nothing to do with Northern Ireland and had no democratic reference to Northern Ireland. On the other hand, the British Government didn't have any electoral mandate and it was therefore unsurprising that the Anglo-Irish Agreement represented, as far as the pro-union parties were concerned, a totally unaccountable form of government for this state.

19. Mr McCartney said he was still worried that the Governments could claim that a new Anglo-Irish Agreement had nothing to do with the political parties, therefore they may not wish to discuss it in Strand 2. He continued saying that Articles 2 and 3 could also be dealt with in this way. Mr McCartney said that it was obvious that the pro-union parties wanted to keep their options open and he was happy in this regard to go along with Dr Paisley's suggestion as to where issues like this were negotiated, so long as the pro-union parties could actually discuss these matters. The Irish Government commented that they thought both Governments had given a clear statement on this a little earlier. The Chairman then referred to

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para 33 and said that the words "in addition" should now also be removed. He then asked participants whether there were any other views/objections on paras 32 and 33. Hearing none, the Chairman adjourned the meeting at 18.55 and said that it would reconvene the following day at 10.00.

[Signed]

Independent Chairmen Notetakers
5 July 1996

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