

Office of the Independent Chairmen

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SUMMARY RECORD OF STRAND TWO MEETING - TUESDAY 3 MARCH 1998 AT 1040

CHAIRMEN: Senator Mitchell
Mr Holkeri

THOSE PRESENT: British Government
Irish Government

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

1. The Chairman convened the meeting at 10.40 and pointed out that by way of a memorandum to participants dated 26 February, a Strand Two meeting would occur today and in accordance with the recommendation of the Business Committee it would be scheduled in two sessions 10.30 - 13.30 and 14.30 -17.30.

2. The Chairman said that last week's Strand Two meeting began by considering the synthesised responses given by participants to the list of questions presented by both Governments in London on 27 January. That discussion had focused almost exclusively on response (a) so the Chairman said that today's session would begin with preliminary comments on response (b). Following these comments on a tour de table, uninterrupted basis, the Chairman said a general discussion could follow whereby questions could be presented by participants and responses sought. The Chairman said he would ask Alliance to begin the tour de table.

3. Alliance said it would briefly answer the composition and legal basis of a North/South Ministerial Council. The party said there should be formal meetings of the Council at Head of Government and Head of Department level or alternatively there could be more than one Minister present from each jurisdiction. It quoted the example of food safety as such an issue whereby Departments such as Agriculture, Health and Education might be involved. In terms of the frequency of meetings the party said there should be an undertaking to meet at least once a year. The party said it had given thought to the Council meeting perhaps more than this but given the fact that some members would be involved in other European meetings and lead a busy schedule, appreciating the pressures probably meant it was better to leave it at one annual meeting.

4. Alliance said it suspected that there would be ways found to meet when practical issues demanded such a gathering. As regards its legal basis, Alliance said the North/South Ministerial Council should be based on the new British Irish Agreement, thus giving it a good springboard. The party said the Council should be free standing since North/South relationships were an important bilateral conduit within the broad network of relationships. The party emphasised the free standing concept. As regards the functions of the Council, these depended on what powers and responsibilities were devolved to a Northern Ireland Assembly. Alliance said that the functions and responsibilities of the Council should be provided for in fundamental legislation. There was, however, extensive legislation in the UK and some in the Republic of Ireland which could serve as the legal embodiment for the Council.

5. Alliance said there was still a question in its mind about a duty of service. The party said it believed that there needed to be some sense of those who participated in Government committing themselves to a duty of

service elsewhere. There were other examples in the UK of an “oath of allegiance” being used to demonstrate such a commitment but this had certain connotations and was perhaps not suitable in a Northern Ireland context. A commitment was still required from those who would be serving in such structures and the party thought that while this commitment wouldn’t be the same as a duty of service it could be described more as an undertaking of service.

6. Labour said it believed a North/South Ministerial Council should be a stand alone, independent structure, implemented by legislation in both jurisdictions and recognised in international law. The main question for the party was that while it was clearly a responsible job for those who were members of the Council, where did it actually fit in in the whole scheme of things? Labour added that it believed pragmatism to be the key in terms of the frequency of meetings. It largely depended on the business to be transacted as well as the Council's range of functions and duties. Labour said it wished to stress the importance of the Council being a stand alone structure not subject or subservient to any Council of the Isles.

7. The NIWC said it agreed with Labour regarding the Council being a free standing structure. With regard to frequency of meetings, the party said there should at least be by-annual meetings at Council level, and meetings of Ministers and Heads of Departments as required. The party said the legal basis for the Council would be enshrined in the founding legislation on the Westminster side as well as that in the Oireachtas. The party said it still believed that some form of a duty of service should be incorporated in any final set of terms setting up the North/South Ministerial Council.

8. The PUP said it was not for a stand alone or an independent North/South Ministerial Council. In terms of its authority, the Council required

a dual remit to operate from each jurisdiction and this could only come from both the Northern Ireland Assembly and the Oireachtas. The party said structured meetings should take place on a quarterly basis. Such meetings would not preclude Heads of Departments of Ministers meeting at other times. The PUP said the legal basis for such a Council would be two fold. It would emanate from both the Oireachtas and the Northern Ireland Assembly and would be by agreement of both bodies. The party said it still had to be convinced about the stand alone and independent status proposed by others but it believed that what it was advocating was perfectly rational and perfectly practical.

9. The SDLP said it wished to refer to paragraphs one, two and four of response (h) of the synthesised paper. In terms of the composition of the Council this would be based on a membership comprising Heads of Departments and Ministers as well as those with executive responsibility in both North and South. As to the frequency of meetings the party said it would see these occurring on a regular basis with variable geometry permitting members to meet in either sectoral or plenary formats. The party said that, given the unlikelihood of one to one correspondence occurring between North and South, account would have to be taken as to who would be present at specific meetings. These would clearly have to be linked in some sort of way and it may be the case that one or more representatives would be meeting in a sectoral format. Thought would also have to be given to provisions for plenary meetings. As to the legal basis of a North/South Ministerial Council, this would come from a new British Irish Agreement and consequential legislation in both sovereign parliaments. The party said a distinction had to be made between the legal and political basis for such a Council since it believed there was confusion between both. The political authority was derived from the mandate delivered by the electorate. The legal basis was in

a new Agreement and it would have to be specific in terms of the nature and remit of the Council including the range of consultative and advisory powers.

10. The SDLP referred to paragraph three of response (b) of the synthesised paper and in particular the word “independent”. This was not the party’s word since it had often stressed the interlocking nature of institutions created from any settlement achieved from the process. That position, however, didn’t mean that those arrangements, such as a North/South Ministerial Council, would not be separate.

11. The UDP said relationships had to be voluntary and based on co-operation driven by mutual benefit. Furthermore co-operation had to be viewed in the wider context of relationships. The party said structures had to be accountable and transparent. Representatives in such structures such as Heads of Departments and Ministers could explore aspects of co-operation in areas of mutual interest and then work up projects provided these were agreed between the Oireachtas and the Northern Ireland Assembly before passing them on to implementation bodies to carry out.

12. The UDP said more concentration was needed on the position of North/South bodies and the Council of the Isles when dealing with issues of co-operation on a comprehensive basis. It acknowledged North/South relationships as distinct, but there was a commonality with other regions in the British Isles. The party said there was therefore a common need for an exploration of such issues in a wider context. At present it was concerned about the narrowness of focus on North/South relationships.

13. The UUP said that the UDP’s position was both sensible and realistic. The party said there could only be agreement for arrangements which were voluntary and consultative in nature and it was important to keep this context

in mind when considering the composition of North/South structures. The UUP said there was a tendency to over bureaucratise when consideration was being given to structures expressing the scope of relationships. The party said that any arrangements on a North/South basis had to be lean, flexible and responsive to the needs of participants. It was, however, a fundamental aspect for the party that any North/South structures were part of a wider series of structures. The SDLP description of variable geometry was entirely appropriate in these circumstances.

14. The UUP said that any agreement would be in the form of a Treaty and arrangements for structures would flow from this. A number of Treaties already existed such as the Council of Europe and NATO and none had required primary legislation in the UK. They were only embodied in limited legislation. The party said it therefore didn't consider that any new Treaty between Britain and Ireland would require legislation in the UK. It didn't know about the legislative position in the Republic of Ireland. Once again the UUP said that any arrangements had to be consultative and voluntary in nature. Terms such as "remit" and "functions" were inappropriate in this context. So too was the term "duty of service". The UUP said it also wished to enter a caveat with regard to the term - North/South Ministerial Council. The terminology here was extremely sensitive. The party again referred to any arrangements having to be kept in context. They should only be consultative; there could be no overruling of anybody else in such North/South arrangements. If the opposite was being considered there was then a misconception on the nature of the arrangements.

15. The British Government said that the issues under discussion were between the parties and the Irish Government. It did however believe that a North/South Ministerial Council should form part of an overall settlement.

16. The Irish Government said that a North/South Ministerial Council had real meaning for the nationalist community in Northern Ireland. It wished to see a North/South Ministerial Council with executive powers with arrangements involving Ministers/Heads of Departments from both sides. The Irish Government said it was also open to the idea that the Taoiseach and the Chief Minister from Northern Ireland could meet on a frequent basis. That was its basis for a North/South Ministerial Council.

17. The Irish Government said that as regards the composition of the Council one possibility would be the appointment to the Council of all members of the Irish Government and all those with executive responsibilities within Northern Ireland. Another option might be that, along the lines of the European Union model, the Council would be, in institutional terms, a single entity, but would bring together separately individual Ministers/Heads of Departments (eg of agriculture or economic development). The Council could meet in each particular sectoral format on a regular and frequent basis. Turning to the legal basis of the Council, the Irish Government said that provision for the establishment of the Council, and functionally-related implementation bodies, could be included in a new British Irish Agreement incorporating a range of matters agreed as part of an overall political settlement, and approved by referenda, North and South. The necessary legislation could then subsequently be enacted in the Oireachtas and the Westminster Parliament. The remit and powers of the Council could also be defined in the Agreement and in follow-up legislation, including the designation of those functions which would, from the outset, be discharged or overseen by the Council.

18. The Irish Government said it would seem desirable that in relevant posts in each of the two Administrations, participation in the work of the

Council would be a duty of service. This was, however, for the Northern Ireland parties to agree in Strand One.

19. The UUP said it had failed to mention earlier the issue of meetings at Head of Department level. It had made the suggestion of two summit meetings per year but this might, on reflection, not be practicable. However such summit meetings could provide for looking at the context of the operation of the Council within the context of the wider set of relationships. Labour said it wished to provide clarification on what it had meant by stand alone. The North/South Ministerial Council wouldn't meet within any other body established as part of the under set of relationships.

20. The UUP said that words such as functions and responsibilities were inappropriate for a consultative process. It added that the question of the format of meetings of such a body depended on the issues to be discussed. This was a question for the parties to consider when making the arrangements themselves but above all flexibility was the key.

21. The SDLP said the debate wasn't attempting at this point to resolve the significant differences which had emerged thus far. It had noted the UUP's comments in respect of the terms "functions" and "responsibilities" being inappropriate for its model. It had to be remembered that they were perhaps very appropriate for the SDLP model. The party said the UUP had talked about any North/South body being part of a wider network of relationships based on a Council of the Isles concept. The SDLP asked what had the UUP meant by this remark?

22. The UUP said it believed there was no need for different structures to support the various bodies. There was no reason why any new arrangements couldn't be operated on the basis of a single admin unit to set up meetings

and so on. The party referred to arrangements supporting the Nordic Council. No arrangements set up between two separate countries took orders from the wider set of relationships encompassed by the Council.

23. Alliance said the Nordic Council had some similarities with the sets of relationships being dealt with by this political process but also some differences. For example the Nordic Council dealt with a mix of sovereign states, some in and some outside the EC. The party said it felt people were running away from political reality if they felt that the political requirements for nationalists could be dealt with by a Council of the Isles. Alliance said it didn't think this was on. It also had to be remembered that problems over sovereignty in the Nordic region were sorted out in advance of the Nordic Council arrangements coming into force. That was not the position here.

24. The Chairman said that the discussion so far had inevitably included some of the responses to later items. He stated, however, that he wished to take participants through each response in any event. Moving on to response (c), which had already been addressed by some of the participants, the Chairman asked for any additional comments.

25. Alliance stated, in reference to the point about there being agreement in advance on the range of matters to be considered by the Council, that either agreement in advance or subsequently wasn't the key issue. The critical point was that the Council was accountable to the elected bodies in the North and South. Such issues which the Council addressed would be cleared by colleagues in both jurisdictions and then ratified at Council level. But accountability was the key to the operation.

26. Labour agreed with earlier UUP comments and said titles could be emotive. The process was, in essence, debating North/South economic co-

operation. The party said it had previously advocated no maximum or minimum activity for such a Council but that its remit had to come directly from the Northern Ireland Assembly and the Oireachtas. The party said it saw advantage in reaching agreement on the range of functions for the Council before a political settlement was reached.

27. The PUP said the proposal to try to agree in advance the remit of the Council was simply creating a cross for everyone's back. The party said that was one of the reasons why it wanted a formal series of meetings was that Ministers could embark on a toing and froing exercise in the search for agreement on its remit rather than having a prepared remit going before the Council. The latter position was simply unrealistic in political terms.

28. The NIWC said if it was a Chief Executive of a organisation it was not sure that it would always want to be waiting for the Management Committee to make decisions. However, the party understood that in such a scenario, the Management Committee would have to meet to process the business. On the role of the North/South Ministerial Council, the NIWC said it noted the UUP's vision that this should be purely consultative and that terms like functions and responsibilities were "inappropriate". The NIWC said some of its members sat on many consultative bodies and these bodies still had functions and responsibilities. There was also a need for those bodies to look at strategic objectives, goals and targets and so on. Whether in doing this such activity was consultative or harmonising was however a point for further debate. In relation to functions, the party said this issue had already been covered. The key point was that everyone needed to develop a synergy of approach to problems North and South. Any decision making needed to be taken on this basis, otherwise problems and difficulties would occur in much the same way as had happened with the Tourist Board in 1997. The party

said caution also needed to be aired when the setting up of other bodies at a subsidiary level was being considered.

29. The NIWC said it also had queries over who set the budgets for tackling such North/South issues. Was this not a function of the Council? Another issue focused on who was responsible for developing frameworks for action and strategic plans. Surely this was another function of the Council as was the evaluation of these and the production of impact assessment statements. The party said it had already outlined how it saw these functions being taken forward in a wider sense. Developing a common package of needs and considerations for presentation to the EC was another role for the North/South Ministerial Council. There were already precedents for such activity. The Foyle Fisheries Commission was one example. Another was the need to improve infrastructure in roads and transport. All this pointed the way for a strategic role for the North/South Ministerial Council and such a role would benefit not just the people on either side of the border who could see employment opportunities increase but also those living further away from that region.

30. The NIWC said there was then the issue of a harmonising role for the Council - in areas such as education and training and industrial development. The party pointed out that curriculum bodies in the educational sector North and South were already meeting to work out common strategies etc. This was what the party meant by harmonising - bringing together issues of benefit to people North and South. Much had already been said in recent meetings about developing a culture of rights on the same basis and building trust in both communities. The strategic development of this was surely another area of responsibility for the North/South Ministerial Council. The party said it believed that everyone was going to have to move a bit faster and work a bit harder since such significant differences had appeared at this stage. There

was quite clearly, in the party's view, a need to think strategically. People on the ground had all different types of views on the need for North/South structures but not all were against the proposal. The party had given a speech recently to a Chamber of Commerce and had been anxious in advance that such a forum might have presented a harsh reaction. However the contrary had been true. That group had had no fear of a separate North/South Ministerial Council. At the end of the day, the NIWC said if the process didn't agree to go down this route, then the Governments would.

31. The SDLP said with regard to response (c) there were a number of critical issues here therefore it wished to give the meeting a full response. The party said the role of the Council would be to consult, co-operate and take decisions on all issues of mutual concern flowing from its legislative basis. In determining matters to be remitted, account should be taken of (i) the common interest in a given matter in both parts of the island; (ii) the mutual advantage of addressing a matter together; (iii) the mutual benefit which may derive from it being administered by the North/South body; (iv) the achievement of economies of scale and avoidance of unnecessary duplication of effort. The matters delegated to the Council might be conveniently categorised in the following way:

- (a) those matters over which the Council would exercise responsibility for decisions, determining policy, and arranging for their implementation, including through bodies functioning on an all-island basis;
- (b) in other areas the Council might try to reach agreement which would result in common action and/or common policy and in doing so be determined to overcome disagreements and resolve disputes between them;

- (c) with respect to all other matters the Council would act as a body in which information would be exchanged, consultation would take place and co-operation planned.

Among actual matters to be remitted could be aspects of the following: agriculture and fisheries, economic development, consumer affairs, education and cultural matters, health, transport, environment, European and other international relations affecting the whole island. The party said it was important, in its view, to put this on the record so that when the process got round to resolving differences, there was a clear understanding of the role of the Council and the remit of matters for it.

32. The UUP referred to Alliance's earlier comments regarding the political considerations which were driving the establishment of a North/South Ministerial Council. The party said the process wouldn't be looking at the issue at all if the pragmatic considerations were thought out. In other words, there was already plenty of co-operation in place between North and South. So why create North/South structures on this basis? With regard to electricity generation there was already a good example of such co-operation with a subsidiary of NIE constructing a power station in the Republic. This proved there was no bar to business co-operating across the border. However there was no way that a quasi-government structure such as a North/South Council could help in such an issue. Therefore the conclusion which had to be drawn was that establishing a Council was being done for purely political reasons.

33. The UUP referred to the NIWC's remarks about the Foyle Fisheries Commission being an established example of co-operation between North and South. The party said it might be useful to look at the actual practical experience which this Commission had given in its life-span to date as opposed to its apparent structural merits. It was also worth remembering that

the Belfast/Dublin railway, a commercial failure until 1953, was administered by a joint Government body for a number of years until state companies emerged in each jurisdiction, and quickly dumped the joint Government body at this point because it was no longer required. The party said that this proved civil servants were not very good at running businesses.

34. With regard to response (c), the UUP said it was content with the synthesised summary but taking decisions needed to occur within the mandate of those bodies to which the North/South structure was accountable. There was no scope for taking decisions outside of this. The UUP said that the issue of there being a prior mandate or subsequent mandate in terms of the issues which a North/South structure could deal with was largely a false argument. No body would grant a prior mandate. There was also no question of the North/South structure operating independently of the two parliamentary bodies which provided its basis; otherwise this would mean that a third body had been established. This was not on. The UUP added that it believed no matters could be delegated to such a Council. It could only handle matters by discussion but there could be no limit on the issues to be discussed. Such discussion could perhaps lead to a scheme of co-operation which would then be approved by a Northern Ireland Assembly and the Oireachtas and if there were any administrative consequences of such a scheme being adopted then this would have to be dealt with as a separate issue. There could, however, be no executive or delegated powers for such a Council.

35. The PUP said it believed there was great benefit in having a body set up to deal with common interests. It had listened carefully and recognised what the NIWC had said on topics like fisheries but people had to realise that both parts of the island were competitors. There would be no coming together economically. People in Northern Ireland were, like their

counterparts in the Republic, fighting very hard to get jobs. There would be no coming together in terms of creating employment opportunities. The PUP said the North/South Ministerial Council might be able to do lots of things but at the end of the day both jurisdictions were competitors fighting for EC funds etc.

36. On the question of whether there should be agreement in advance as to what issues should be handled by the Council, the party said some consideration might be given to the Committees of the Northern Ireland Assembly having full "Assembly" powers much as a couple of Committees of Belfast City Council presently had to take decisions on issues on behalf of the full Council. Given that, those Committees would have proportionate representation by all the parties. "Assembly powers" could permit decisions to be passed to the relevant Minister who would then go to the North/South Council on this basis. The PUP said it didn't, perhaps unlike others, believe that participants were all that far apart on these issues. It hoped it would be possible to reach agreement on them since time was short.

37. The SDLP said it was somewhat concerned that some participants now appeared to be suggesting all but a blank sheet for Strand Two while wanting an all singing all dancing Strand One. The party said it was unlikely that an agreement could be struck on this basis. It had accepted a term such as an Assembly, despite what this conjured up for some but now it was time to ask other people to bear that in mind as they approached Strand Two issues. Were people now saying that a North/South Council had no particular remit other than a calendar commitment? If everyone was going to be serious on these issues then they needed to face up to the fact that each had imperatives and objectives. The party said Alliance had been correct in pointing up the political factors. The UUP had taken a different stance. The important point was that everyone had to take account of the political

circumstances, factors, imperatives and requirements of each other and develop a level of credibility in advance of public scrutiny before a referendum.

38. The SDLP said the North/South Council had to be given some sort of scope if it was going to mean anything. There simply couldn't be a settlement based on Strand One with a few knobs attached. The party had consistently said this. The SDLP said it approached Strand One with an eye on Strand Two and it wanted arrangements whereby democratic people could be involved in policy development, thereby removing the democratic deficit. There were those who wanted this requirement in Strand One. It wanted that also in Strand Two but one couldn't have it both ways. That position wouldn't stand up if everyone was going to be consistent. There had to be recognition of generic requirements in both Strands One and Two.

39. The SDLP referred to the Foyle Fisheries Commission and said this was an awful body and not a model of co-operation. It had no transparency and no accountability. In terms of being a policy developer it had precious little esteem and information on its activities was hard to obtain. Such an example underlined the reason why the party didn't want North/South arrangements to be privy to a few civil servants and a couple of Ministers with no other aspect of accountability. The UUP intervened to say that most of its criticism towards the Foyle Fisheries Commission was related to performance on conservancy.

40. The SDLP said the Commission was given a specific remit. People expected it to develop an environmental protection role but it didn't have this. In licensing terms there were question marks over how this was handled from a conservancy aspect but nobody could find out what determined the licensing policy. Had the Commission been accountable to North/South

arrangements this might have helped but the present position was such that proposals to amend the legislation in North and South to change the Commission's remit in terms of the licensing of shell fish had been forgotten. This was the sort of issue which the party was getting at in terms of a better model for North/South Co-operation. The UUP inquired as to whether the absence of amended legislation had anything to do with the Republic's inability to agree its territorial limits in the north west area. The Irish Government said that, with regard to the licensing of shell fish in the Foyle Fisheries Basin, there was presently a Bill on the stocks.

41. The SDLP said the big problem was that different regulations were in force on either side of the Inishowen Peninsula. The party observed that, under existing legislation, Northern Ireland power companies were not allowed to expand the capacity of electricity generation in Northern Ireland, whereas they were free to do so in the Republic. It said the Department of Economic Development was unhappy at the prospect of a Northern Ireland company acquiring a power station near the border on the southern side lest it establish a means of supplying consumers on the northern side, which would be contrary to existing regulations. There would have to be some co-operation in the field of energy regulation, otherwise jobs would be lost from parts of Northern Ireland. It was clearly unsatisfactory to leave the matter to market forces as this would remove all control from the political arena. Strand One institutions could not deal with these issues. They would have to be dealt with in a North/South, East/West and even EU format. Conceding that there was no potential for new democratic arrangements was the root of failure. The SDLP put neither cap nor limit on any of the Strands.

42. Alliance described a hypothetical North/South implementation body which would deal with issues of animal health, such as BSE, on a North/South basis. Initially it would address limited aspects of this field, such

as BSE, and would be answerable to Ministers and Heads of Department North and South and to the respective elective bodies. At the start of each year it would set out certain objectives, and at the end of the year issue an annual report which would be sent to Ministers and Heads of Department, and then to all members of Dail Eireann and the Northern Ireland Assembly. In subsequent years other problems could be dealt with but the body would have no carte blanche from the start. The extension of its remit would be a matter for debate as necessary. Alliance asked if this sort of model would be acceptable to the SDLP or the UUP.

43. The SDLP said it would, as far as animal health was concerned, but it would depend on the issue in question. The UUP said that this was not the best example. There was already extensive co-operation between the two Departments of Agriculture North and South. The party paid tribute to the work of the Minister for Agriculture in the Republic on behalf of Northern Ireland on BSE. The UUP was in favour of co-operation and consultation but did not see the need for political structures to deliver practical considerations. Alliance accepted that there was practical co-operation, but said there was also a political dimension. It asked the UUP if it would have an objection in principle to the establishment of a body such as it had just described. The UUP replied that its primary objection was that the greater number of people in Northern Ireland did not accept the need for North/South structures. The Northern Ireland Assembly should be responsible for Northern Ireland affairs and co-operation should be a matter for the relevant Departments.

44. Alliance said that generalities could be interpreted to mean anything, which was the cause of many fears on this subject. Here they were dealing with a practical issue. The question of animal health in Northern Ireland was a difficult one because of the land border. However, the island as a whole constituted a natural quarantine zone. If it were suggested to establish a

body to take on, initially, a relatively small area of competence in the field of animal health, and if it were accountable in advance and by reporting back to Heads of Department and the respective Parliaments, did the UUP have an objection in principle? The UUP replied that, on a practical level, they had no problem, but on a political level, they did have a problem with the Alliance proposition.

45. The Irish Government said there was a danger that they were going over ground covered last week whereas it was important that they move forward. The previous week they had taken on board the political rationale for North/South structures which was essential in validating the sense of allegiance of Northern nationalists. They should not overlook the interlocking nature of the three Strands which was necessary if everyone was to arrive at an acceptable settlement. The Irish Government accepted that there were elements in Strand Two which were uncomfortable for Unionists just as there were elements in Strand One that were uncomfortable for Nationalists. They were not talking about a minimalist consultative body but a meaningful North/South body with the capacity to implement its decisions. The UUP leader had not been present at the previous week's meeting when the party had been represented by one of its Honorary Secretaries. Now it appeared that the UUP had revised its stance downwards towards a minimalist position. There would be no settlement if all the process did was institutionalise the status quo, as this could not be delivered in a referendum. The North/South body should implement its own decisions, which would be accountable to Dail Eireann and the Northern Ireland Assembly. However, the Irish Government did not envisage that it would be necessary for every decision to be ratified afterwards in this manner. From the beginning designated areas of competency would be agreed, with provision for this to evolve by agreement as both the body and relations developed.

46. The PUP said that it had hoped to continue where they had left off previously. However, it was evident that the UUP position had changed. The party said that it had recognised the political dimension to North/South structures in its paper. For the protection of its own constituency it likewise recognised the political dimension behind a strong Northern Ireland Parliament which could take decisions that would be to the benefit of people in both jurisdictions. The UDP said that they were going over old ground. The issue was not just what was practical or desirable, but also what was politically necessary. However, the political dimension must be incorporated into the wider aspect of relations. Taking the example of animal health, it asked why it was necessary to establish an implementation body if there was already co-operation in this field. This was the kind of question its constituents would ask. It said the British Isles context was vital for practical and political reasons. If there was need for North/South bodies but no East/West bodies this would accentuate the fears of those who were sceptical of the reasons advanced for the creation of North/South bodies. The UDP said it wished to explore with the Irish Government how it saw a North/South body fitting into a Council of the British Isles.

47. The Irish Government said it had no problem with the architecture of a Council of the Isles, but North/South structures should not be subservient to it. It accepted there was a political dimension behind an East/West body which was important in addressing the Unionists sense of the totality of relations. The UDP noted that implementation bodies would be created on a North/South basis, and asked the Irish Government how issues involving other areas of the British Isles would be addressed by such arrangements. The party argued for geographical flexibility on an issue by issue basis involving Scotland, Wales and England as appropriate. The Irish Government said the East/West dimension had not yet been fully fleshed out and was

clearly a matter for negotiation. The North/South relationship was very important for the Irish Government.

48. The SDLP said there was no reason why the Northern Ireland Assembly should not establish co-operative relationships with, for example, Scotland. However, until the establishment of elective bodies in Scotland and Wales occurred, it would be difficult to do more than speculate what lines such relationships might take. The party said it was not ruling anything out, instancing as an example the environmental management of the Irish Sea, which would of necessity involve Scotland, Wales and England as well as Ireland. The SDLP said that nowhere had it been stated that North/South relationships would put a limit on the East/West relationships, and this issue needed to be discussed in the negotiations.

49. Alliance said there was no reason why bilateral bodies should not be established between, for example, Northern Ireland and Scotland. The Irish Sea was a good example and consideration might be given to including the Isle of Man. The party accepted that discussion had focused on the North/South relationship, and observed that the lack of urgency attaching to the East/West relationship was due not only to the fact that legislative institutions had yet to be established in Scotland and Wales, but also because the Westminster Parliament was responsible for this area. Northern Ireland was not an independent entity, and its relations with Westminster should accommodate this fact. The UDP said it disagreed with this. It said the policy of regionalisation implied an increasing involvement of regional authorities, and these relationships were not dealt with properly by Westminster. It gave as an example the growth in freight entering the Republic via Larne and the need for Northern Ireland to co-operate with the Scottish Parliament in improving infrastructure at Stranraer. This was one example of a problem affecting three regions. Alliance observed that until the Scottish Parliament

was established Westminster was responsible for these matters. The UDP said they were being told that there needed to be implementation bodies for political reasons but this did not necessarily mean that relations would be dealt with any better than before. The party said it did not regard a Northern Ireland Assembly as a trade-off for North/South structures, as it was proposing an Assembly based on practical concerns alone whereas it was being asked to agree to a tier of unnecessary North/South structures.

50. Alliance said it did not accept that North/South structures were unnecessary. However, it did accept there was a political rationale for them. Its example of animal health was but one instance where there was a strong case for real co-operation on an island-wide basis. In this instance harmonisation North and South was clearly more important in medical terms than harmonisation between Northern Ireland and Britain, and it urged participants not to dismiss the practical aspect of such structures. The UDP countered that North/South relations went beyond grounds of practical necessity. This was clear from the Framework Document. It was difficult to argue that North/South links were necessary whereas similar links were not required elsewhere. It was unacceptable for Unionism to deal exclusively in a North/South focus. There was no trade-off between a Northern Ireland Assembly and North/South structures; the totality of relationships was central, hence the need for co-operation in a British Isles context. Alliance referred to UDP policy which it said had developed from the "Common Sense" document which had argued for autonomy for Northern Ireland. However, it said such arguments would be unacceptable to what Alliance described as the old integrationist wing of the UUP to whom East/West bodies were a distancing mechanism. It was for this reason that the party had referred to the role of Westminster in this area.

51. The SDLP noted that co-operation was going on without the need for political arrangements. This was equally true in the sphere of Strand One. It reminded participants that arguments that co-operation did not require political structures cut both ways and observed that the UKUP leader argued that there was no need for new political institutions within Northern Ireland. The UDP asked whether the proposed bodies would enhance co-operation. The SDLP recalled that farmers from North and South had told the Forum for Peace and Reconciliation that co-operation in the field of agriculture was to be welcomed as long as it did not result in duplication of effort. If the case for North/South co-operation were accepted by the policy community, participants should not permit their own political inhibitions to stand in the way. The SDLP said it had adopted this approach in Strand One where it did not allow its own reservations about a Northern Ireland Assembly to override the obvious practical considerations. The party said there was no exclusively North/South focus in the negotiations, and contended that the UDP did not really believe there was, just as Sinn Féin did not really believe that there was going to be a purely internal settlement.

52. The SDLP said it had repeatedly made clear that there were no limits on the East/West relationship and had invited proposals and models from those interested. However, now they had seen that the biggest advocate of East/West relationship wanting only a 'lean' North/South Council. The East/West axis was an important frame of reference. The party gave as an example an approach it had received in 1996 from an East Belfast company providing radio communication services to the private and public sectors. The company had wanted to extend its business south of the border but was prevented from doing so by the lack of appropriate licensing mechanisms in the Republic. However, when the party had looked into the question it had realised that, rather than being a North/South issue, it was actually an East/West one as radio licensing were correlated by the Radio

Communications Agency in London. Because there was no agreed procedure for allocating radio wavelengths between the two jurisdictions, applications were made on an individual basis, which took time. This was one area where there was clear advantage in co-operating on an East/West basis. Such co-operation would be to the advantage of all concerned and would enhance best practice and good government in each jurisdiction, with each being able to learn from the other. The SDLP said it accepted the political symbolism of the East/West frame of reference for Unionists but there was also a clear practical rationale behind such links.

53. The PUP said that Unionists feared that with all the talk of North/South bodies with executive powers there was a possibility that the Northern Ireland Assembly could become meaningless. The party observed that the SDLP had withdrawn from the Northern Ireland Forum because it had perceived that the real business was being carried out in the talks. The SDLP said it was not advocating this, nor was it arguing for a runaway Strand Two train. Membership of a North/South body would be derived as a result of holding office under arrangements in Strand One. They would reach decisions on the same basis as in Strand One, which was why it had argued for collective responsibility which would serve as a check in Strand Two. The SDLP stated that a vestigial Strand Two with all business conducted through a Northern Ireland Assembly was unacceptable to nationalists. Similarly, it was unacceptable for all safeguards to be in the Northern Ireland Assembly. Participants needed to move from engagement to mutual adjustment as some had resiled from positions adopted last week.

54. The UDP said the Unionist interpretation of the Framework Document was that it had an exclusively North/South focus. The party said it had gone far in outlining its willingness to deal with political realities on a North/South basis. It said there was nothing on paper to put East/West relations into

context. The British Government, which was responsible for implementing the Scottish Parliament and the Welsh Assembly, was present and could deal with this element of the discussions. The party said that it was dealing with different issues by putting into context the UDP's constituency. The Chairman noted that they had progressed beyond response (c), and moved onto response (d). He said it was his intention to complete the run through of the document that day, giving each participant an opportunity to comment. The NIWC said it was surprised at the differences in the UUP. It said the Foyle Fisheries Commission remained a useful precedent for North/South co-operation, and also an example of the necessity for co-operative bodies to have a capacity to adapt over time. The Irish Government said it understood dynamic to mean a capacity to evolve by agreement.

55. The Chairman introduced response (e), and asked for comments. The PUP said they had discussed this last week. It was for public representatives in the future to determine any change to the remit of any bodies established as a result of an agreement, and there was no need for a proviso to that effect. The party said that in accepting the case for co-operation across a wide range of areas it had precluded nothing. The Chairman introduced response (f), explaining that by this was meant whether there was need for a specific mechanism to resolve disagreement. The UDP said that this would depend largely on procedures in the Northern Ireland Assembly. The process should reach agreement on these procedures first, and then deal with this question. The PUP said that the only mechanism needed was continued debate. If there was an overarching mechanism to resolve this agreement there would be no incentive to reach agreement in the first place. Agreement would have to be reached among the participants themselves. The party understood nationalist fears that Unionists might dig their heels in and refuse to make institutions work. However, this was not a rational fear, and much

would depend on attitudes in the Northern Ireland Parliament. It there was no agreement there was no agreement.

56. The UUP said they would have difficulty accepting a mechanism to resolve disagreement as it would override the principle of consent. The British Government said that if there was no agreement there would be no decision. If it were left to the two Governments the purpose of the negotiations evaporated. The SDLP said they should look at this question in relation to how it was addressed in other strands. There was a risk that on occasion there would not be agreement if institutions worked on the basis of consensus. They should build in a commitment by participants to try in good faith to reach agreement. A fall-back mechanism was an issue of strong concern to Unionists as were sensitivities surrounding the question of a dynamic remit for North/South structures. This was also an issue that effected other strands as if there was no agreement in Strand Two it would become a matter for discussion in Strand One. There needed to be assurances in both Strands One and Two that participants would not adopt a work to rule approach. This was a problem that should be addressed when arrangements were in place. Alliance noted that the Irish Government would be part of a North/South body and said it would not be conducive to reaching agreement if it also had recourse to resolve, with the British Government, any failure to agree. The PUP agreed they should wait until institutions were established. This was about taking responsibility themselves, otherwise they would have solutions imposed on them. The party said, for its part, it intended to make any new arrangements function; if they were unable to reach agreement on any given issue they should honourably commit themselves to try.

57. The Chairman said that reaching agreement on a settlement would do much to boost confidence in the good faith of participants. This would make

reaching agreement in the future easier. The PUP agreed. The Irish Government said that if they were negotiating in good faith none of the participants would wish to see an ineffective North/South Council. If there was no agreement there would be no agreement. But if this became a persistent occurrence they would have a serious problem. The North/South Council was an essential part of an interlocking settlement. Participants should anticipate that it would work and would not be a quango. The Chairman said any new institutions would be the product not only of agreement in the negotiations but also of a referendum which would provide tremendous persuasive encouragement. The NIWC said that if there was disagreement at a subsidiary level it should be referred to the Council, and if there was disagreement at Council level it should be referred to Dail Eireann and the Northern Ireland Assembly. The UUP feared, that despite the good will of the participants in the negotiations, once established the Northern Ireland Assembly would become a different creature as it would inevitably contain a number of wreckers. The Chairman said this was a good point. Labour said it too had reservations and safeguards would be needed. Trust had been built up in the negotiations but, as had occurred in the Northern Ireland Forum, there were plenty of wreckers who, having gained election, would seek to destroy the Assembly.

58. The Chairman introduced response (g), and response (h). The NIWC said the North/South Council should have the power to establish subsidiary bodies and implementation agencies as required. The Irish Government said that, in regard to certain meaningful designated matters, a number of functionally related bodies might be established to implement policies on an all-island basis. There could also be cross-border bodies with a specific regional remit. In other areas, decisions and policies might be implemented by the two Administrations. The Irish Government said it would seem appropriate for the Council to appoint members of the bodies board and/or

their senior officers, and to allocate funds to them. The Council would have set the policy directions for the bodies, which would be accountable to it. Labour agreed with the NIWC. The North/South Council, which would be free standing, and should have the power to change.

59. The UDP said that if, for example, 20 areas for co-operation were identified, it would not be necessary to establish 20 implementation bodies. Rather, consideration of this should be guided by political expediency and practical considerations. If implementation bodies were established which went beyond the necessary, or which failed to perform adequately, there would then be the problem of removing them. The SDLP said that the implementation of decisions in certain designated areas could be through bodies established specifically for the purpose. Existing bodies within the public service of both administrations could also be used for this purpose. Bodies directly responsible for the Council would be appointed by it and be accountable to it. This could take account of existing bodies at central and local Government level, and new dedicated bodies directly responsible to the Council. The North/South Council would be accountable to Dail Eireann and political institutions in Northern Ireland. The SDLP noted that the question of a joint consultative body had been raised. The party saw accountability being exercised in some respects on a consultative basis. There was a need for variable geometry and a clear and immediate line of accountability.

60. The PUP noted that Governments around the world were attempting to cut their administrative costs. It feared there was a danger of becoming top heavy. It asked the SDLP to clarify what it meant by dedicated bodies and the implication of existing bodies acting as implementation bodies. The party also said there would need to be continuity. The UUP said there was no need for implementation bodies per se, but they might be considered for specific issues if existing arrangements proved unsatisfactory. Their aim

should be to reduce duplication. The SDLP said two types of bodies had been illustrated - the Alliance example and the Foyle Fisheries Commission. Both kinds needed to be democratically accountable and controlled. The PUP said their negotiating paper had accepted the need for a body to service the Council. They were not saying there was no need for dedicated bodies, only that there needed to be fuller scrutiny.

61. The Irish Government said there was no need to create unnecessary bodies, and no Government would seek to propagate subsidiary bodies without a clear practical need for them, and for them to be accountable directly to the Council and also to Dail Eireann and the Northern Ireland Assembly. Alliance suggested that, from a Unionist perspective, it might be more helpful in dispelling fears to have the areas designated to the North/South Council form part of an agreement. The UUP said this was a matter for the Northern Ireland Assembly. The Chairman adjourned the meeting at 13.30 for lunch, to reconvene at 14.30 when they would start with response (I) and continue until they completed the paper.

Independent Chairmen Notetakers
9 March 1998