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(9 March 1998)

STRAND ONE: PAPER FOR FURTHER DISCUSSION

Paper by the Secretariat

This paper seeks to identify the main emerging areas of divergence and convergence between the parties. The paper will be discussed in part or whole on 9 March, and could also be the subject of inter-party and party/Government meetings over the next two weeks or provide a basis for further papers from the parties.

2. The discussion on 4 March is taken into account along with papers submitted by the Parties. In some areas, not reached on 4 March, areas of general (but not universal) consensus have been briefly included to give a more complete picture.

3. The paper is not intended to be definitive, but is designed to aid further discussion and agreement by highlighting the key remaining issues. Proposals which are not widely supported no longer appear as of right. The paper remains at a high level of generality, and much detail would need to be worked up to support any agreement.

Powers: What should be devolved?

4. It is agreed that responsibility for the administration of the six NI Departments should be devolved. It is widely, but not universally, agreed that

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legislative powers for all these areas should also be devolved.

5. Ultimately, responsibility for Home Department matters is also envisaged as transferring to devolved institutions. There was support for the view that in the interim the new institutions should have some role or influence in relation to such matters. Logically, legislative powers should follow if they are devolved for the work of the six Northern Ireland Departments. (In that event it is for consideration whether all legislation in the Home Department field, should require cross community support as a matter of course.)

6. Devolved institutions would also need to develop and operate institutional links with Westminster, with the EU and with the Republic of Ireland through the Strand Two arrangements. All these arrangements would need to be subject to specific agreements.

7. There is no emerging consensus on whether devolved institutions should have tax-varying or raising powers. Most parties accept that, initially at least, any such powers should be modest. One option would be to take such powers but, for example, agree they would not be exercised in the first term and/or cross community support and the approval of the Westminster Government.

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Exercise of executive responsibility

8. It is in this area that at least two models exist.

These are:

Committee Model

Committee chairs appointed proportionally on basis of elected strength.
Committee chairs are Heads of Department.
Committees have executive powers but chairs have some delegated authority.
No cabinet government.
Co-ordination achieved by reference to the Assembly as a whole.

Cabinet Model

Members of executive are appointed proportionally on basis of elected strength.
Executive members form a 'cabinet' or executive council operating under collective responsibility.
Executive held to account by powerful scrutiny committees but are not members of them.

9. A third alternative option here would be similar to the proposed Welsh model in which committee chairmen are positions of influence and appointed on the basis of electoral strength, but executive positions are filled by committee 'secretaries' or 'leaders'. This arrangement would mean that not all parties with elected representatives would necessarily hold positions of executive authority as of right.

10. The key questions are:

- how should the role of political Head of each Department be discharged?
- how are executive decisions (day to day and more strategic) to be taken?

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- what should be the role of Assembly Committees?
- what should be the relationship between Assembly Committees and those taking executive decisions?
- what mechanisms are needed to enable the effective co-ordination of business, the settling of relative priorities and an equitable allocation of resources?
- how might representational functions be discharged on behalf of the Assembly?

Safeguards

11. The exercise of executive powers could be subject to a number of safeguards. The most widely accepted include

- i. incorporation of ECHR with administrative acts and legal measures of the Assembly to be justiciable under the ECHR. Introduction of an additional Bill of Rights for Northern Ireland;
- ii. appointment of speaker/presiding officer by weighted majority (and of executive depending on model chosen);
- iii. approval for contentious legislation (or decisions) to require weighted majority of Assembly (or committee); or to be passed with the support of a majority of representatives of each community;
- iv. right of petition involving, say, 30% of Assembly members sufficient to require cross community support to be demonstrated for any administrative act or legal measure;

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- v. duty of service for those exercising executive authority.

Other measures could include:

- vi. capacity for votes of confidence/dissolution for new elections

Arrangements for an 'Assembly'

12. Initial soundings indicate considerable support (but no unanimity) in favour of a single chamber of 90 members elected for four years by 18 5-seater constituencies under the STV system. The suggestion of 20 additional seats to secure a wider representation of parties has some support. There seemed to be general support for casual vacancies to be filled by nomination or co-option.

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