

IN CONFIDENCE

TO: STRAND ONE PARTICIPANTS

FROM: THE STRAND ONE SECRETARIAT

INFORMATION PAPER: COORDINATION WITH THE UK GOVERNMENT

Please find attached to this note a paper for information on the way in which it is anticipated the devolved regional governments in Wales and Scotland would manage their relationship with the machinery of Government in London.

CO-ORDINATION WITH THE UK GOVERNMENT

At the seminar held on 23 March 1998 addressed by the Rt Hon Ron Davies MP, Secretary of State for Wales, a number of speakers raised questions about how the devolved regional governments in Wales and Scotland would manage their relationship with the machinery of Government in London.

2. This paper sets out the current thinking on these issues, but is not at this stage a final statement of position. It is circulated to talks delegates for information. The Strand One Secretariat will try to answer any questions which might arise.

3. The main issues are:

(i) what role a devolved institution could have in helping to formulate the UK negotiating stance on European Union matters and to represent the UK position in the EU; and

(ii) how do devolved institutions come to make an input into policy making in reserved matters which impact on devolved areas, how UK departments keep track of developments in devolved areas which might affect their interests and what arrangements need to be put in place between central Government and the devolved entities to allow proper co-

ordination, policy development and suitable working arrangements (such as access to papers).

4. The Welsh and Scottish devolution proposals have produced much activity on this led by the Cabinet Office. The agreements between central and regional government will take the form of concordats, which will not create legal obligations on any party, but rather set the groundrules for administrative co-operation and the exchange of information. A set of principles to guide the drafting of concordats has been agreed and work on drafting concordats for Scotland and Wales is under way, although the process will take some months. Both Scotland and Wales are likely to have a concordat governing overall relations on EU matters with the UK Government.

European Union

5. The devolved entities will often have substantial interests in EU matters, and on occasions may approach issues from a different angle from that of the Westminster Government. In devolved areas, it will therefore be necessary for the devolved entities to be closely involved in the formulation of the UK's negotiating position before meetings of the Council of Ministers. Much of this co-ordination is carried out at official level, but contacts at Ministerial and equivalent levels will also be necessary. Participation in delegations would be allowed, where appropriate and subject to the agreement of the lead UK Minister, and it

is entirely possible that regional spokesmen will be in a position to lead the discussion in the Council of Ministers or in other forums where that region clearly has the lead interest.

6. In law, the United Kingdom is the member state of the EU, and therefore ultimate responsibility for formulating EU policy, and for ensuring that EU obligations are met lies in London. All of this will operate in the context of a single UK negotiating position with the UK lead Minister retaining overall responsibility.

7. The devolved entities will have the opportunity to scrutinise relevant proposals coming before the Council of Ministers as well as other important documents. That will mean the implications for the region can be taken into account. Devolved institutions will also be responsible for implementing EU obligations in their area. The UK Parliament will still be able to legislate to give effect to EU obligations in Northern Ireland, for example, if the devolved entity defaults on its obligations. Issues such as representation on the Committee of the Regions and the Economic and Social Committee and an office in Brussels will fall to the devolved institution.

8. As with all matters of international relations, the guiding principle is that the UK should be able to speak with one voice in the international arena and to advance policies which take proper account of the interests of all parts of the UK.

9. The arrangements set out above do nothing to preclude any regional government from maintaining, establishing or promoting its own links with EU institutions on matters of interest to it, subject to the arrangements finally established complementing rather than cutting across the work of the UK representation which will remain responsible for representing the views of the UK to the European institutions and on the handling of formal representative and negotiating machinery for the Government as a whole.

Central/Regional Government Links

10. In terms of handling concerns or disputes between regional and central government, the White Paper "Scotland's Parliament" notes that the vast majority of matters will be handled routinely among officials. If unresolved, further discussion will take place between the Cabinet Office and its Scottish executive counterpart with Ministers becoming involved as a final resort. Disputes between regional Government and the UK Government about vires will be resolved by a fast-track route to the Judicial Committee of the Privy Council. Similar arrangements will operate in Wales.

11. No concordats have yet been concluded. The Welsh Office envisage one concordat with each Whitehall Department, whereas the Scottish Office expect each concordat might normally cover a wide range of related policy issues. This might mean one or more concordats with particular Whitehall Departments, but probably not a

concordat for every area of business. Freedom of information proposals mean the concordats will become public ultimately - except in most unusual circumstances.

12. A number of topics are likely to be common to many concordats. These include:

- consultation arrangements in relation to proposals for legislation and executive action, including advance notification. The aim on both sides should so far as possible be "no surprises". There should also be arrangements for the voice of the Assembly to be heard on cross-cutting subjects such as a women's issues and social exclusion;
- exchange of information, including policy papers, analysis and statistics;
- joint working including participation in working groups, official committees and so on;
- confidentiality within these arrangements;
- arrangements for liaison on EU and international matters;
- any financial arrangements;
- access to research, research budgets and specialist advice;
- liaison between chief professional officers;
- consultation about appointments including those to UK public bodies; the exercise of Ministerial functions relating to such bodies, such as giving directions or approving corporate plans; and the relevant mechanisms of accountability and financial arrangements. It may be necessary to have a separate memorandum of understanding for each body;

- operation of agency arrangements whereby matters are administered by the UK Government on behalf of the Assembly on an agency basis or vice versa.
- arrangements for resolving disagreements about any matters related to the concordat;
- arrangements for renewal and review of the agreement. In some cases an official committee might be set up, perhaps with a rotating chairmanship, to report on the operation of the concordat; but in many others this ought not to be necessary.

13. There is no template currently upon which to base these concordats. The Welsh and Scottish examples are likely to show different ways of meeting the same objective, but their experiences and Whitehall Departments awareness should prove a valuable assistance.

14. The concordats will be matters requiring Assembly approval for them to have effect. In the interim attempts will be made to establish areas where concordats would potentially assist and to develop drafts for consideration by an Assembly in due course.