

ANNEX D

WESTMINSTER LINKS

1 The statement of 26 March 1991 envisaged that discussion of relationships within Northern Ireland in Strand I would include the relationship between any new institutions there and the Westminster Parliament. The sub-Committee has therefore considered this issue; the conclusions are set out below. References to "institutions" in Northern Ireland should be interpreted by reference to the other work of the Sub-Committee.

2 The ultimate power of the Westminster Parliament to make laws for Northern Ireland would remain unaffected by the establishment of Northern Ireland institutions, but Parliament would not normally legislate on transferred matters. The Secretary of State for Northern Ireland would remain accountable to Parliament for matters which are not transferred to Northern Ireland institutions. He would not have powers to intervene in the day to day workings of Northern Ireland institutions, but would retain overall accountability to Parliament for the fair and efficient functioning of those institutions.

3 The appointment of junior ministers would be a matter for the Prime Minister. But the sub-group noted that the Secretary of State might continue to be supported by junior ministers, one of whom would be in the House of Lords.

4 The distinction between "expected" and "reserved" categories would remain. Excepted matters would remain the responsibility of the UK Government; reserved matters would initially be the responsibility of the UK Government, but could be moved into the transferred category at some future date.

5 Reserved matters could be moved into the transferred category, subject to Parliamentary approval. Northern Ireland institutions could also have the right to request the Secretary of State (or Parliament) that matters move into the transferred category.

6 Legislation on excepted matters would be by Bill at Westminster, although Measures passed in new institutions on transferred (or reserved) matters could make "ancillary" provisions on excepted matters subject to the consent of the Secretary of State. An Order-in-Council making power could be retained to allow legislation in designated areas of electoral law.

7 Legislation on reserved matters could be by Measure with the Secretary of State's consent and approval (by negative resolution) at Westminster or by Bill at Westminster. The power to make Orders-in-Council at Westminster on reserved matters could be retained for use in exceptional circumstances; but the use of such powers should be kept to the absolute minimum.

8 Where legislation on either reserved or excepted matters solely or particularly affecting Northern Ireland was to be made at Westminster, the Secretary of State would normally consult Northern Ireland institutions either by means of a White Paper or some other statement of the Government's intentions, or a proposal for a draft Order-in-Council. The Secretary of State would keep the Northern Ireland institutions informed of the progress of the legislation.

9 The Secretary of State and Northern Ireland institutions should maintain close links with each other. The Secretary of State might, for example, accept invitations to attend meetings of the Assembly and its committees. Links on security matters will need further consideration.

10 European Community and financial issues lay outside the remit of this report. However, it was noted that the Secretary of State would have a central role in arguing in the Cabinet the case for Northern Ireland financial resources, and promoting the Northern Ireland interest when the UK line on Community matters was under consideration. The closest possible collaboration between the Secretary of State and Northern Ireland institutions would be required.

11 The Northern Ireland institutions could maintain contact with other UK Secretaries of State on matters of concern to Northern Ireland. It was expected that there would be a convention that representatives of the Northern Ireland institutions would be received by other UK Secretaries of State.

12 It was noted that the establishment of a Northern Ireland Select Committee, which could look at those matters which would be the responsibility of the Secretary of State, is a matter for the House of Commons.

13 The Secretary of State might meet requests for information from Members of Parliament on the activities of devolved institutions (with the assistance of those institutions); but he would not normally expect to defend or justify particular actions or decisions on the part of those institutions.

14 It would be for decision by the Northern Ireland Assembly and Parliament whether to set up any joint liaison body.

15 It was noted that the existing Northern Ireland Constitution Act provided that both Measures and administrative actions which might be discriminatory could be challenged by individuals through the courts. Measures could be voided in this way. The Secretary of State could also refer a Measure to the Judicial Committee of the Privy Council to establish whether it was void. This sort of mechanism falls to be considered in the context of further entrenchment of individual and community rights.