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*for John Holnes, from D Tumble**Top JEH
✓ PB
AC*

Memorandum
2 February 1998

We are prepared to accept the Propositions on Heads of Agreement as a basis for negotiation. We do not necessarily agree with the all of the Propositions or the interpretations that others have put upon them, but we can see ways that they could be developed that we would agree and, more importantly see as a basis for a broadly acceptable settlement.

There are, however, ways the Propositions could be developed that would be unacceptable to us. These we summarise as the "Frameworks" proposals. It will make our position clearer if we state our essential objections to the Framework concepts.

The frameworks were said to be "dynamic", ie bringing about or leading to further change. For us any agreement must be intended to be a settlement. It must be stable, workable and durable.

The overall thrust of "Frameworks" is to ensure that the representatives of the people of Northern Ireland are rendered powerless and incapable of acting except as Irish Nationalists, north and south, may direct.

With regard to the Assembly this objective is achieved by weighing down the Assembly with so many checks and balances that

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nationalists have in effect a veto and the Assembly must do their will or collapse. We think the latter is the intention of the drafters of "Frameworks".

With regard to the north/south body the apparent Unionist veto is negated by,

- (a) giving the body a legal status and a role independent of the Assembly – the ambiguity of "mandate" and the varied meaning given recently in the House to "accountability" being particularly relevant here,
- (b) imposing a "duty of service" – the consequence being fines and imprisonment for those who do not do their duty – note: no equivalent is proposed for the Assembly, and
- (c) providing for default and intervention powers.

Unionists will scrutinise any proposals for any of the above features. If they are present then we will reject the same.

On an Assembly we will provide for fair participation for all – that is secured by the principle of proportionality and the absence of an executive – the two being incompatible. We acknowledge the need for safeguards. A prohibition on acting contrary to the Bill of Rights, like the equivalent in the Welsh and Scottish Bills, will mean that any person and group who feel that they have been subject to discriminatory action can apply to the courts to quash the action in question.

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With regard to a north/south body we consider that it is important that this is located within the Umbrella of the British Isles body. Also essential is that lines of authority and accountability flow through the Assembly. Implementation of any agreed co-operation scheme should depend on the practicalities. It could be done through existing administrative channels, or by the creation of matching Quangos. Exceptionally a cross-border Quango might be created, but only if genuinely required by the exigencies of the situation and after careful consideration by the Assembly.

I append three papers on (i) constitutional change, (ii) strand 1 proposals, and (iii) strands 2 and 3.