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**Ulster Unionist Party - Talks**

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FAXEDto Washington.
6/2.**Fax Message**For: JOHN HOLMES.Fax No: 839 9044From: DAVID TRIMBLEDate: 6 Feb. 1998 Time: 5pm.

Message: _____

Revised and expanded Unionist
position paper.

We will be tabling this on
Monday or Tuesday.

9 pages follow

Ulster Unionist Party

Strand One

- Northern Ireland does require a new institution dedicated to the governance of the province. That institution must have political efficacy and be "boycott proof" with no incentive to nationalists to make it fail.
- Devolution to that institution and revamped local authorities should be limited to the areas currently controlled by the Northern Ireland Departments. The institution should only exercise administrative/executive powers akin to the proposals for the Welsh Assembly although there could be a limited legislative role. We would expect a positive case to be made for each proposed legislative power.
- Before devolution there should be a review of the existing distribution of functions within and between the Northern Ireland departments. The DoE might be split up to separate the "developmental functions" such as planning and housing from the "environmental" ones such as heritage, pollution control and wildlife. Similarly at DANI the interests of the consumer and those of the producer are all under one roof. The political efficacy test may require that even more departments be created to be controlled by local elected politicians.
- The new institution will in effect be The Northern Ireland Assembly. Elections to the Assembly will use the existing parliamentary constituencies as the basic electoral unit with each such constituency returning five members using STV - a total of 90.
- Unlike Wales, we do not envisage an Executive Committee of the Assembly acting as a cabinet. Rather the executive would be the Assembly in total with administrative functions carried out by committees whose chair and composition would be allocated on a proportional basis as in some local authorities. Broadly there should be a committee for each NI department, but this should not exclude others e.g. EU matters¹. Each committee would have a chair and deputy chair on a proportional basis (taking suitable account of those who may not be committed to exclusively peaceful means). The D'hont system would be appropriate in this area.
- In effect, each chairperson would become 'Head of Department' which would be the equivalent of 'Minister'. It would be the function of the relevant

¹ See enclosed paper "The Northern Ireland Assembly and Europe"

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committee to determine the policy to be followed by each Department, subject as it would be to ratification by the whole Assembly. The chairperson would have day to day charge of the Department and a specified range of powers to enable him/her to carry out the functions of the office effectively. These powers would not be incompatible with a chairpersons' duty to report directly to his committee nor would they enable a chairperson to operate outside the policy decisions of the relevant committee.

- The Assembly as a whole would adjudicate on policy disputes which affect different Departments, such as budget allocation. However, Heads of Departments would be expected to make determined efforts to resolve their differences informally before a budget was presented to the whole Assembly. The Head of Finance and Personnel would be expected to play a leading role here.
- Decision should be taken on a simple majority basis. The Scottish and Welsh proposals aim to ensure that potential problems in the decision making process are identified at the earliest possible point by utilising pre-legislative checks. This is an aspect of devolution which could be employed in Northern Ireland. There shall be a prohibition in the legislation creating the Assembly, similar to that in the Scotland and Wales Bills, on any act contrary to the European Convention on Human Rights. This could mean that any citizen of Northern Ireland who believed that the Assembly had in acting legislatively or administratively been in breach of any of the articles of the Convention by, for example, acting in a discriminatory manner contrary to Article 2, could apply to the courts for an order quashing that act. Consequently, a cumbersome structure of checks and balances would be unnecessary. Importing "sufficient consensus" into Assembly decision making would focus on the two tribal blocks at the expense of others and, more importantly, ensure administrative gridlock. Similarly we do not see the need for a second or complimentary chamber for the regional governance of 1.5 million people.
- The Secretary of State would be the main means of liaison between the Assembly and the government of the day in London. At Westminster the NI Select Committee and the NI Grand Committee would continue to function in relation to Northern Ireland matters. As for relationships with the Irish Republic and the rest of the UK, these are matters for Strands 2 and 3.
- The Assembly would not have any revenue raising powers and would operate within the block grant system. The basis on which the block grant is formed, including the so-called Burnett Formula, would need to be settled in a form

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that would ensure that the Assembly would have some flexibility in decision making and some scope for determining its' own policies and priorities. Full participation in Parliament and liaison with government, however, would be crucial to ensure NI's needs are articulated in the spending rounds. Law will still be made at Westminster - albeit not by Orders in Council. This all means that a partnership between the Assembly, Parliament and government should evolve. That partnership could take several forms but at the very least the Assembly should be able to influence legislation before Parliament. Again using the Welsh proposals, the Secretary of State should be obliged to consult with the Assembly about the NI legislative programme. The Assembly could debate the programme and present responses. In addition the assembly could debate matters of interest/concern to NI and let Parliament know its' views.

- A rights framework is an-essential part of the Strand One component of the Talks². We welcome the incorporation of ECHR into UK domestic law and can envisage protocols relating specifically to Northern Ireland. It is in the interests of the Unionist community to have a rights culture and protection regime in NI second to none.

² See Strand One Team paper "Human Rights"

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The Northern Ireland Assembly and Europe

- There are European issues that impact at a regional level and should therefore be within the competence of our new regional tier of government; the experiences of other member states with strong regional government would be useful to draw upon. This, of course, would in no way be in conflict with Westminster's control over foreign policy and UK departments would have the lead role in EU matters.
- Assembly committee chairpersons and officials would be fully involved in discussions within HMG about the formulation of UK policy position on all matters which touch on Assembly responsibility. It would be proper for the Assembly to scrutinise all EU proposals and documents affecting Northern Ireland. In addition the Assembly would have the responsibility of implementing and enforcing relevant EU obligations.
- In areas which touch upon Northern Ireland the Assembly should have input into any UK delegation on terms agreed in advance between the Assembly and the Secretary of State analogous to the participation of German Lander in German delegations to the EU.
- The United Kingdom operates in the EU via the offices of UKREP which promotes agreed government policies in Europe. Against this background it should be free for the Assembly to determine its own presence in Brussels to complement the work of UKREP. In addition, as in Wales, provision should be made for members of the assembly to be appointed to the Committee of the Regions.

Strand One Team
06/02/98

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Strands Two & Three

Introduction

The process of European integration, begun by the Council of Europe and continued by the European Community - later Union - has brought with it a rise in the phenomenon of regionalism. Among the factors contributing to this rise were, on the one hand, rejection of the cultural uniformity of states and belief in the continent's regional diversity, and on the other, the demand for more local participation in decision-making and rejection of decisions being made in distant capitals by "faceless" bureaucrats. Since the 1970's regionalism has developed in two ways. At national level many member states of the European Union, particularly Belgium, Italy, Spain, and the United Kingdom, have been decentralising, giving or proposing to give, various degrees of legislative, administrative and financial powers to their regions. They have joined the only two states in the European Union with a formal federal constitution, Austria and Germany. At sub-national level those regions of Europe with legislative, executive and financial powers themselves became active in promoting cross-border co-operation, and this development came to involve regions in states not members of the European Community such as Switzerland and the former Yugoslavia, most notably in seven Arbeitsgemeinschaften, involving a total today of some 40 regions, provinces and cantons in Europe, east and west, some, indeed, involved in more than one organisation. To this must be added the vast array of cross-border arrangements promoted by the European Community's INTERREG scheme to help particularly the poorer regions, provinces, departments on the internal borders of the Union.

For its part the Council of Europe adopted in May 1980 the Madrid Outline Convention on Transfrontier co-operation between Territorial Communities or Authorities in which the participating states agreed to promote cross-border co-operation, including the right of local and regional authorities to make agreements with their neighbouring foreign opposite numbers in the fields of their competences as laid down by domestic laws.

In very few of these cross-border arrangements mentioned above are there agreements between states, on the one hand and regions in neighbouring states on the other. For example, in Yugoslavia, Slovenia and Croatia were members of the Arbeitsgemeinschaft Adria before independence, but remained in the organisation afterwards, and the Netherlands and Flanders (Belgium) signed a Language Union in 1980.

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The Ulster Unionist Party is not opposed to the idea of cross-border co-operation between Northern Ireland and the Irish Republic. Indeed in the earlier years of Northern Ireland's existence the government proposed on many occasions that formal links be established with its southern neighbour, only to be rebuffed.

The Ulster Unionist Party welcomes the principles underlying the aims and methods by which cross-border co-operation has developed in Europe, namely:

- in response to the practical and specific demonstrable economic, social and cultural needs of the parties involved;
- under rules of the democratic accountability of those institutions involved in cross-border co-operation to the people most directly concerned;
- the diminution of nationalism rather than its exacerbation;
- that such cross-border co-operation by one region be not limited to only one partner;
- that there exists in Northern Ireland an Assembly with powers sufficient to enable it to play a responsible role in cross-border co-operation, not only with the Irish Republic and other British regions but with regions on the continental mainland of Europe;
- to avoid any unnecessary layers of bureaucracy.

In view of the already massive co-operation between the United Kingdom and the Irish Republic covering many fields, and stemming from their geographical proximity and shared history, the Ulster Unionist Party makes the following proposals:

- There shall be a body established, called the Council of the British Isles (hereinafter called 'The Council') to deal with the Totality of Relationships within these islands.
- The Council shall enable and facilitate discussion, consultation, and co-operation on matters of mutual interest between the constituent elements of the British Isles.
- The Council shall be composed of representatives of the British and Irish Governments, and of the Regional Elected Administrations of Scotland, Wales

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and Northern Ireland. Representatives from the Administrations of the Isle of Man and the Channel Islands may be invited to participate, as will representatives of any English Regional Administration established.

- Summit Level Meetings of the Council, involving all Administrations shall be convened at least twice a year. However, meetings of the Council may also be convened between two or more Administrations (i.e. between the British and Irish Governments, between Elected Regional Administrations, and between the Irish Government and Regional Administrations of the United Kingdom). All meetings between Ministers/Heads of Committee of the Republic of Ireland and the Northern Ireland Assembly will take place in such meetings of the Council.
- Where any such a meeting is convened, discussions will be restricted to matters within the jurisdiction of the Administrations represented in the meeting.
- Council Meetings may be held at a General or Sectoral Level with Representatives of the appropriate Departments/Committees present. The Council will thus operate on the basis of variable geometry and subject matter.
- Governments Elected Regional Administrations will be represented at Council Meetings by their Ministers/Heads of Committee, each of which shall be a delegate to the Council. All decisions are to be taken by unanimous votes of Delegates present.
- Council Meetings may take decisions on Agreed Policies/Actions to be taken by the Respective Administrations. Such decisions are however, only recommendary and have no Legal Basis, until ratified by the respective Assemblies/Parliaments.
- Agreed Policies/Actions shall be implemented by appropriate agreed mechanisms. Such mechanisms must also be subsequently ratified by the respective Assemblies/Parliaments.
- The Council shall be serviced by a single small Administrative Unit.
- A Council Meeting will only be properly constituted if any participating administration is represented by at least two Ministers/Heads of Committee. The Northern Ireland Assembly's representation at a Council Meeting must

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contain at least one Head of Committee drawn from each of the two main traditions.

- Where meetings between the British and Irish Government are held which discuss Non Devolved Issues for Northern Ireland, representatives of the Northern Ireland Assembly from each of the main traditions shall be invited to participate.

These Proposals are prepared on the basis of Acceptable Constitutional Change and on the understanding that they form part of a wider agreement which replaces the Anglo-Irish Agreement.

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Constitutional Change

- There must be a clear and unequivocal withdrawal of the territorial claim by the Irish Republic over Northern Ireland to enable its government to recognise and respect Northern Ireland's place within the United Kingdom. This will require the deletion from article 2 of the definition of the "national territory". This could be replaced by a definition of the "nation" which is capable of including those in Northern Ireland who regard themselves as part of that nation. This would entitle them to Irish passports and to the exercise of the other privileges of citizenship if domiciled in the Irish Republic.
- A revised new article 3 should repeat the limitation of the effect of Dail legislation to the 26 counties so as to exclude any possibility of an exercise of jurisdiction over Northern Ireland.
- It is essential that there is nothing that could be construed as a "constitutional imperative" to seek a united Ireland constraining in any way the policy of a future Irish government with regard to Northern Ireland. Relations must be based on respect and it is quite dishonest to seek to co-operate with a neighbour while at the same time intending to destroy or absorb that neighbour. The Irish government and people must decide which is their true intention and bring their constitution into accord therewith.
- We understand that the "balance" sought by the Irish government is that the consent principle be reflected in British legislation. Section 1 of the Northern Ireland Constitution Act 1973 does that. We understand that the Irish Government, however, regards that as being merely a negative statement, as there is no obligation on HMG to hold a referendum for the purposes of the 1973 Act, and they want a more positive expression. The most that could be done in that regard is to incorporate in the Agreement an undertaking by HMG that, if the people of Northern Ireland, in some formal way, indicate that they want constitutional change, then HMG would in hold a referendum and, if the change was approved by a sufficient majority, implement that change.
- There should be an equivalent definition in British legislation of an entitlement to be part of the British nation for all people on the island to accommodate the British minority in the Republic, together with an acknowledgement by the Irish Government of their right to be British, without loss of any entitlement while in the Republic.

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