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TOP: JET  
cc: PB  
JPO

ULSTER UNIONIST PARTY  
1 APRIL 1998

Memo to John Holmes  
From D Trimble

1. Irish constitutional amendments

We find the new text offered this morning still unsatisfactory. It is verbose. The repeated entitlements and rights in Art 2 should be replaced by a single entitlement!

At no point does it mention the existence of Northern Ireland. The nearest it gets is the term "jurisdictions" in Art 3.1. This might be de facto recognition. It falls short of the acknowledgement of "legitimacy" promised in "Frameworks".

The reference to the island of Ireland as including its islands and seas harks back to the old concept of one nation whose territory is the whole island. This should be scrapped and replaced by a simple clause in which the state recognises that there are people outside its boundaries (unstated) who regard themselves as members of the Irish nation (undefined).

Entitlement to passports is covered in an untidy manner in ordinary legislation and the rationalisation of the law and practice in NI and RoI should be an early job for the North/South forum.

The aspiration is overstated - "the firm will of the Irish nation" (what nation its not our will) - it may preserve the "constitutional imperative". We suggest they stick to our suggestion viz,

The Irish nation's realisation in statehood remains the hope of those of Irish nationality in both parts of Ireland. The people accept that Ireland may be united only by the consent of the people of Eire, and of the people of Northern Ireland voting separately, and through peaceful means.



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## 2. Democratic Institutions in Northern Ireland

In earlier responses we indicated agreement with a 90 seat Assembly.- We are concerned that Ministers here are indicating that they will move to a 108 seat Assembly (18x6) in order to placate certain small parties. We would strongly oppose this. It would make worse the problems noted in discussion of "weighted majorities". We need a system that encourages larger parties and discourages the proliferation of small parties.

We maintain our reservations about your paras 3(iv) and (v), which are repeated at various points throughout your paper. We see two different, incompatible ways of discharging executive functions, through executive committees or through a cabinet. For the former the safeguard is proportionality, for the latter some additional mechanism is needed to bring nationalists into the cabinet, such as a weighed majority on its formation. To add weighted majorities to proportionality is to over-egg the pudding and carries the danger of deadlock and collapse.

Your latest draft omits the need to exclude paramilitary related parties from the benefit of the proportionality principle.

We require assurances that the wrecking by nationalists of the Assembly will not leave the north/south body bereft of Unionists with our positions replaced by government nominees and proceeding apace.

## 3. North/South forum

We have received a fresh memo from the Irish, which we are studying. First reactions follow.

The paper clearly indicates that they see functions being transferred from London and Dublin. These functions include policy making. It is envisaged that the body's area of competence and any subsidiary bodies would be agreed by the two governments and contained in the Agreement itself. It further indicates that "the north/south body and subsidiary bodies" would have powers "to make schemes by-laws and regulations such as would normally be made by a minister or semi-state body or statutory corporation".



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Fall back mechanisms in event of deadlock or failure are referred to. Clearly the Irish see The Body as being a source of power in and of itself and effectively the government of Ireland in respect of matters transferred to it.

This is at odds with what they said to us in December and opposed to the model in Propositions on Heads of Agreement. It is clearly undo-able.

I will communicate in more detail later today (I hope!)

You may, if you wish show all or any of this to Ahern.