

THE PLAY-2W TALKS STRAND 1

10 June 1992

SUB-COMMITTEE REPORT

From: Strand One Secretariat

To: Strand One Participants

Date: 3 February 1998

The sub-Committee operated, as mandated by section 10 of the 1992 report of the sub-Committee established on 26 May, to work towards the greatest possible degree of common ground on new political structures for Northern Ireland. What clarity did on that occasion was as follows:

1. Authorise the sub-Committee, working on the Common Themes and Common Principles documents and the provisions of article 2 of the 1992 report, to work towards the greatest possible degree of common ground on new political structures for Northern Ireland by addressing issues including those listed in paragraph 2 of the 1992 report, recognising that each party may wish to reserve its position on particular issues.

1992 TALKS

Attached, as requested in the Strand One meeting this afternoon, are papers about the work of Strand One of the 1992 talks extracted from the web-site of the Cadogan Group (<http://www.cadogan.org>).

2. Further acknowledge that the course of discussions during Strands II and III may make it appropriate in the view of one party or another to propose that relevant matters in Strand 1 should be revisited.

3. It may be convenient at this point that the sub-Committee which reported on 10 May should be clear as to what, although there was general agreement in principle (as reflected in the Common Themes paper), further detailed consideration would be required once the broad shape of the key institutional arrangements was clear. These include:

3a. An acknowledgement, consistent with paragraph 2 of the Common Themes paper, that the United Kingdom Government and Parliament would continue to have sovereignty and responsibility for all matters for which responsibility was not transferred to any new institution in Northern Ireland.

Strand One Secretariat

3 February 1998

3b. An acknowledgement that the Secretary of State would continue to be wholly accountable to Parliament or Westminster for the exercise of any powers and responsibilities which he would retain, coupled with a general concern (expressed in paragraph 2 of the 1992 report) to ensure that the arrangements for the exercise of the Secretary of State of those powers and responsibilities

THE MAYHEW TALKS STRAND I

(10 June 1992)

SUB-COMMITTEE REPORT

1 The sub-Committee met on 5 June and adjourned as a mark of respect to the victims of the accident near Carrickfergus the evening before.

2 It met again on 8, 9 and 10 June.

3 The sub-Committee continued, as mandated by plenary on foot of the 1 June report of the sub-Committee established on 26 May, to work towards the greatest possible degree of common ground on new political institutions for Northern Ireland. What plenary did on that occasion was to:

- "authorise the sub-Committee, building on the Common Themes and Common Principles documents and the provisional report of the Structures sub-Committee (dated 13 May), to work towards the greatest possible degree of common ground on new political institutions for Northern Ireland, by addressing issues including those listed in paragraph 5 of that report, recognising that each party may wish to reserve its position on particular points;

- acknowledge that in order to secure a generally acceptable outcome from the Talks process it will be necessary to ensure that the outcome, taken as a whole, gives expression to the identities of both main parts of the Northern Ireland community and would attract the widest possible degree of allegiance and support; and

- further acknowledge that the course of discussions during Strands II and III may make it appropriate in the view of one party or another to propose that relevant matters in Strand I should be reviewed."

4 It may be convenient to recall at this point that the sub-Committee which reported on 13 May had noted certain areas where, although there was broad agreement in principle (some reflected in the Common Themes paper), further detailed consideration would be necessary once the broad shape of the key institutional arrangements was clear. These include:

- (a) "an acknowledgement, consistent with paragraph 2 of the Common Themes paper, that the United Kingdom Government and Parliament would continue to have sovereign responsibility for all matters for which responsibility was not transferred to any new political institutions in Northern Ireland;

- (b) an acknowledgement that the Secretary of State would continue to be wholly accountable to Parliament at Westminster for the exercise of any powers and responsibilities which he would retain, coupled with a general concern (expressed in particular by the UUP and DUP) to ensure appropriate parliamentary scrutiny of and accountability for the exercise by the Secretary of State of those powers and responsibilities;

- (c) the need to make arrangements to secure a local political input to the exercise of those powers and responsibilities, especially in respect of security matters (if they continued to be the responsibility of HMG);
- (d) the need to define a clear relationship between any new political institutions in Northern Ireland and EC institutions;
- (e) what should be the precise nature and role of the Assembly and any Committees thereof, including in respect of legislation;
- (f) a requirement for arrangements for determining expenditure levels in Northern Ireland, allocating resources and ensuring a strong role for the Assembly in the scrutiny of budgetary proposals, together with a consideration of the extent, if any, to which any new political institutions might have revenue-raising powers; and
- (g) machinery to deal with the correct grievances and to entrench individual and community rights, including the possibility of a Bill of Rights."

5 The sub-Committee sought to confirm and expand the areas of common ground identified in the Possible Outline Framework for new political institutions in Northern Ireland produced at 0045 on 3 June. It was able to expand in a number of minor respects the area of common ground it represented. A revised version is attached as Annex A. The UDUP, UUP and Alliance Party agreed that executive and legislative responsibilities in respect of transferred matters should be exercised through an elected Assembly, though they were prepared to contemplate a role for a separately-elected Panel in certain circumstances. The SDLP reserved its position on the source of the authority of Heads of Departments and their relationship with Departmental Committees; and on the arrangements for legislation in the transferred field.

6 The sub-Committee also agreed a paper (Annex B), subject to certain reservations, describing the elements of a Code of Practice setting out roles and responsibilities for Departments, Assembly Committees and the Assembly as a whole. In doing so it took account of two papers from the Government on the machinery of government in Northern Ireland and public appointments procedures. It also noted a paper from the Government Team (Annex C) on possible measures for ensuring an appropriate, fair and significant role for all main political traditions in Northern Ireland. Related papers on one aspect of this topic tabled by each of the four parties are at Annexes C1-C4.

7 The sub-Committee achieved a considerable measure of agreement in respect of the relationship between any new political institutions in Northern Ireland and the Westminster Parliament, and the UK Government system more generally; and the relationship with EC institutions. Reports on these subjects are at Annexes D and E.

8 The Parties represented on the sub-Committee also received, but did not collectively consider, discussion papers on finance, human rights, a Bill of Rights and cultural expression and diversity.

9 In submitting their report to plenary the members of the sub-Committee wish to express their thanks to Mr Hanley, Mr Chilcot and Mr Fell for their chairmanship of the sub-Committee's deliberations, to the officials and other staff who supported the sub-Committee and to the delegates and the party delegations more widely for the hard work they put in.

10 JUNE 1992

NEW POLITICAL INSTITUTIONS IN NORTHERN IRELAND

Possible Outline Framework (to assist discussion)

1. There would be a single, unicameral Assembly of 85 members elected by proportional representation and a separate election from a single Northern Ireland constituency to a panel of three people with significant consultative, monitoring, referral and representational functions.
2. The institutions would have executive and legislative responsibilities over at least as wide a range of subjects as in 1973 with scope for further transfers if the arrangements proved stable and durable and there was agreement as to how to exercise such powers. Executive responsibilities would be discharged through Northern Ireland Government Departments, the Heads of which would be drawn from the Assembly.
3. The Secretary of State would remain accountable to Westminster for matters which were not transferred.

The Assembly

4. The Assembly would be presided over by a Speaker elected by a weighted majority, of say 70% of the Assembly. The Assembly would exercise its powers through a system of Departmental Committees, with Chairmanships, Deputy Chairmanships and membership allocated broadly in proportion to party strengths in the Assembly. The Chairmen of the Departmental Committees could be Heads of Departments. Non-departmental Committees would include a Business Committee and a General Purposes Committee with co-ordinating functions.
5. A "code of practice" would specify the respective roles, responsibilities and decision taking powers of Departments, Assembly Committees and the Assembly at large.
6. Legislative procedures would be prescribed by constitutional legislation. All legislation could require the support of (at least) a majority of both the relevant Committee and the full Assembly. Certain important legislation (eg a financial measure, one with constitutional implications, or significant implications for community relations) could require weighted majority approval (of say 70%). Other measures might be dealt with on the basis of majority decision unless, for example, the Business Committee determined they were contentious or a petition to that effect required a certain threshold of say 30% support in the Assembly.
7. The constitutional legislation for establishing new institutions would provide for machinery to deal with and correct grievances and would provide for the further advancement of individual and community rights, including through a Bill of Rights, which the Assembly could not amend.
8. The allocation of Chairmanships between Committees would be made in accordance with party strengths, perhaps in accordance with the D'Hondt Rule. Any acceptable system for allocation must however ensure that the system of government provides an appropriate, fair and significant role for representatives of all major traditions in Northern Ireland.

ANNEX A

NEW POLITICAL INSTITUTIONS IN NORTHERN IRELAND

Possible Outline Framework (to assist discussion)

- 1 There would be a single, unicameral Assembly of 85 members elected by proportional representation and a separate election from a single Northern Ireland constituency to a panel of three people with significant consultative, monitoring, referral and representational functions.
- 2 The institutions would have executive and legislative responsibilities over at least as wide a range of subjects as in 1973 with scope for further transfers if the arrangements proved stable and durable and there was agreement on how to exercise such powers. Executive responsibilities would be discharged through Northern Ireland Government Departments, the Heads of which would be drawn from the Assembly.
- 3 The Secretary of State would remain accountable to Westminster for matters which were not transferred.

The Assembly

- 4 The Assembly would be presided over by a Speaker; election would be by a weighted majority, of say 70%, of the Assembly. The Assembly would exercise its powers through a system of Departmental Committees, with Chairmanships, Deputy Chairmanships and memberships allocated broadly in proportion to party strengths in the Assembly. The Chairmen of the Departmental Committees could be Heads of Departments. Non-departmental Committees would include a Business Committee and a General Purposes Committee with co-ordinating functions.
- 5 A "code of practice" would specify the respective roles, responsibilities and decision taking powers of Departments, Assembly Committees and the Assembly at large.
- 6 Legislative procedures would be prescribed by constitutional legislation. All legislation could require the support of (at least) a majority of both the relevant Committee and the full Assembly. Certain important legislation (eg a financial measure, one with constitutional implications, or significant implications for community relations), could require weighted majority approval (of say 70%). Other measures might be dealt with on the basis of majority decision unless, for example, the Business Committee determined they were contentious or a petition to that effect secured a certain threshold of say 30% support in the Assembly.
- 7 The constitutional legislation for establishing new institutions would provide for machinery to deal with and correct grievances and would provide for the further entrenchment of individual and community rights, including through a Bill of Rights, which the Assembly could not amend.
- 8 The allocation of chairmanships between Committees would be made in accordance with party strengths, perhaps in accordance with the D'Hondt Rule. Any acceptable option for allocation must however ensure that the system of government provides an appropriate, fair and significant role for representatives of all main traditions in Northern Ireland.

9 Committee Chairmanships would normally last for the whole term of the Assembly. Chairmen of the Departmental Committees might be included as members of the General Purposes Committee. Further consideration will be given to means to prevent Chairmen becoming captives of their Committees. Chairmen, whose appointment would be formally ratified by the Assembly, would be accountable to the Assembly, including through answering questions.

10 Departmental Estimates, policies and actions would be subject to scrutiny by the relevant Committee, which would have the power to compel attendance, call for papers etc. The Assembly would debate reports from, and the minutes of, each Committee.

11 Further consideration will be given to whether a mechanism is necessary to exclude from any share of executive power, or more generally, any individuals or representatives of parties who condone the use of violence for political ends.

The Panel

12 The panel might have a general duty, acting by consensus to consult, formally and informally, with the Assembly and with the Secretary of State and to give advice.

13 The panel's rights/powers and responsibilities (including statutory duties) and procedures would need to be carefully defined. For example, it could have powers in respect of proposed legislation, to determine (ie to accept, reject, give an opinion on or propose amendments to) any proposed legislation referred to it under procedures to be agreed. It might, by consensus, refer any proposed legislation for some form of judicial consideration.

14 It could have a supportive role in the public expenditure cycle, liaising with the Secretary of State over the setting of total Northern Ireland public expenditure. It could also be an arbiter in settling public expenditure allocation disputes between Departments, having regard to the views of Heads of Departments and the Finance Committee.

15 The panel might have power, by consensus, to approve designated public appointments made in respect of transferred matters. It could also advise the Secretary of State in respect of any appointments within his responsibility.

16 It could also have powers in relation to administrative actions or proposed actions, perhaps on the basis of a referral by a threshold vote within the Assembly.

17 The panel could have a duty to prepare for the Assembly and for the Secretary of State regular (annual) reports on their own activities and their view of the operation of the new political institutions.

18 The panel could also have an important representational and promotional role. It could have a special commitment to the economic development of Northern Ireland, through participation in joint promotional activities in collaboration with the appropriate agencies.

19 The panel might secure its share of resources from the Secretary of State independently from the rest of the "transferred" block in order to ensure both its financial independence, and that its resources were sufficient to carry out the full range of its statutory functions.

ANNEX B

"CODE OF PRACTICE"

Introduction

1 The Possible Outline Framework for new political institutions in Northern Ireland (Annex A) says that a "Code of Practice" would specify the respective roles, responsibilities and decision-taking powers of Departments, Assembly Committees and the Assembly at large. This paper draws on existing practice and precedent to suggest a possible specification.

2 It was proposed by the UDUP and agreed by the UUP and the Alliance Party that the paper should also suggest a possible basis for distinguishing the relative roles and responsibilities of Committee Chairmen and Committees in circumstances where executive responsibilities rested with Departmental Committees of the Assembly and/or their Chairmen. The SDLP reserved its position on the source of the authority of Heads of Departments and their relationship with the Departmental Committees; and on the arrangements for legislation in the transferred field.

Departments

3 Under any new political arrangements, each Department would have the following roles and responsibilities:

- (a) to administer programmes fairly and efficiently;
- (b) to administer programmes in a way conducive to promoting good community relations and equality of treatment;
- (c) to implement agreed policy and to support the Head of the Department and/or the relevant Departmental Committee in seeking to develop and secure support for proposed policies;
- (d) to advise the Head of the Department and/or the relevant Departmental Committee on proposed policy changes, on new initiatives or on the handling of particular issues with a degree of political significance;
- (e) to liaise with other Departments on matters where there are overlapping interests so that co-ordinated or at least complementary advice can be put to the respective Heads of Departments and/or the relevant Departmental Committees;
- (f) to maintain official-level contact with relevant organisations and interest groups within Northern Ireland and with relevant bodies elsewhere with a view to promoting the policy objectives set for the Department and ensuring that it is in a position to advise the Head of Department and/or the relevant Departmental Committee on developments, and to respond to those developments;
- (g) to participate in the public expenditure survey cycle, led by DFP, and to advise the Head of Department and/or the relevant Departmental Committee ensuring the process of determining the Department's budget and in determining allocations between programmes;

- (h) to have due regard to the requirements of public accountability;
- (i) to keep its internal structures, management systems and resources under review to ensure they are adequate to meet requirements;
- (j) to make certain public appointments and, in consultation with the Central Secretariat, to advise the Head of Department and/or the relevant Departmental Committee on other public appointments within the Department's sphere of responsibility;
- (k) to assist the Head of the Department and/or the relevant Departmental Committee to respond to representations, whether from elected representatives or other interest groups;
- (l) to advise the Head of Department and/or the relevant Departmental Committee on measures to promote awareness of and to attract public support for current or proposed policies.

Assembly Committees

4 A Business Committee would be established to co-ordinate Assembly business.

5 A General Purposes Committee, the members of which could include the Chairmen of Departmental Committees, would be established to assist in co-ordinating the interests of the relevant Committees in respect of issues which cross Departmental boundaries.

6 Other non-Departmental Committees might be established to act as a focus for the Assembly interest in particular areas, such as non-transferred matters, cultural expression and diversity and relationships with bodies or institutions outside Northern Ireland.

7 Annex B1 suggests a basis for distinguishing the relative roles and responsibilities of Departmental Committee Chairmen and Committees. As noted in paragraph 2 above, the SDLP reserved its position on this point.

8 Departmental Committees might have the following roles and responsibilities:

- (a) to participate in the arrangements for determining the Department's budgetary allocations, possible on the lines set out in Annex B2;
- (b) to scrutinise the work of the relevant Department and non-Departmental public bodies;
- (c) to hold hearings, whether public or private, for which purpose it would have powers to compel the attendance of relevant persons and call for papers;
- (d) to prepare reports, with recommendations including proposals for legislation, on major policy issues. These might involve liaison with other Departmental Committees, including the Finance Committee
- (e) to consider legislation in the transferred field, including considering proposals for new legislation and taking at least the Committee stage of relevant primary legislation unless the

Assembly, on the recommendation of the Business Committee or the General Purpose Committee, decides otherwise. Committees might also debate secondary legislation;

(f) to act as a forum for the expression of local political views on the area of responsibility of the relevant Department.

9 In drawing up reports, making recommendations and debating legislation Departmental Committees would operate on the basis of majority decision-making in respect of routine non-contentious matters. There could, however, be provision for weighted voting in certain circumstances especially in respect of contentious matters; or for dissenting reports; or for a significant minority on any Committee to have power to defer the consideration of proposed legislation or administrative actions or to refer such issues for consideration by the Assembly at large.

The Assembly at Large

10 The Assembly at large might be expected to have at least the following main roles and responsibilities:

(a) to elect a Speaker (by a weighted majority vote of say 70%);

(b) to appoint the Chairmen, Deputy Chairmen and members of Departmental and other Committees. The Chairmanships and Deputy Chairmanships (at least) of the Departmental Committees might be allocated by a formula, perhaps the D'Hondt procedure calculated on the basis of political party strengths in the Assembly following the elections. Other arrangements might be made to determine the allocation of individual members of Committees though each party should have a share of the total Committee places broadly proportional to its strength in the Assembly;

(c) to hold Heads of Departments and/or the relevant Departmental Committee accountable for the work of their Department through

- Questions
- adjournment debates
- debates on Statements
- emergency debates
- consideration of reports from Departments
- consideration of minutes and reports from Departmental Committees
- consideration of reports from

- * Comptroller and Auditor General
- * Examiner of Statutory Rules?
- * Ombudsman
- * FEC

- * EOC
- * other statutory bodies

(possibly on the basis of further reports from the relevant Committee);

(d) (subject to the SDLP's reservation on arrangements for legislation in the transferred field) to legislate in the transferred field (and in the excepted or reserved field where ancillary to Westminster legislation or with the consent of the Secretary of State). The precise distribution of the legislative process as between Committees and the full Assembly may require further consideration. Different arrangements might apply in respect of primary and secondary legislation (whether subject to affirmative resolution or negative resolution).

Legislation would require the support of at least a majority of the full Assembly. Certain important legislation (eg a financial measure, one with constitutional implications or significant implications for community relations) could require weighted majority approval, of say 70%. Other legislation could require weighted majority approval if it was deemed to be contentious by the Business Committee or a petition to that effect secured a certain threshold of say 30% support in the Assembly;

(e) where requested, to make recommendations to the Secretary of State on certain legislation in the reserved field to be made at Westminster;

(f) to consider minutes and reports from the Business Committee and any other non-Departmental Committees which might be established;

(g) to refer certain issues (on the basis of a threshold level of say 30% support in the Assembly) for consideration by the Panel. Those issues might include proposed legislation and administrative actions;

(h) to act as a forum for the expression of political views within Northern Ireland.

ANNEX B I

THE RELATIVE ROLES AND RESPONSIBILITIES OF COMMITTEE CHAIRMEN AND COMMITTEES

1 In circumstances where executive responsibilities rested with Departmental Committees of the Assembly the efficient conduct of business and the need to ensure an appropriate, fair and significant role for all main traditions in Northern Ireland would require clear guidance to be drawn up on the respective roles of Committee Chairmen and the Committees as a whole.

2 Administratively, it would be appropriate for Chairmen alone (and perhaps Deputy Chairmen in certain circumstances) to have full access to Departmental officials and papers in the same way as Ministers do at present. It could also be appropriate for the Committee as a whole to be serviced by Assembly staff, rather than Departmental staff. The Committee's power to call for persons and papers would enable it to have access to Departmental officials and papers but conventions would need to be established to preserve the distinct role of the Chairmen and protect certain information which requires to be kept confidential (eg relating to inward investment decisions).

3 The Committee would have a significant role in determining policy directions, eg through being required to authorise the Departmental Estimates going before the Assembly, to approve the Department's bid to the Business Committee for a legislative programme for the year and to approve capital expenditure decisions above a certain level. It could also establish broad lines of policy in particular areas on foot of reports it might make following detailed consideration of a particular issue.

4 The Chairman, supported by the Department, could be expected to have a major influence on all such decisions but would then be expected to act in conformity with them.

5 At the level of day-to-day administration, decisions could be categorised in a number of ways. One possibility would be to distinguish:

- (a) those which Departments would make on their own initiative;
- (b) those which in the judgement of the Committee Chairman would not require prior Committee approval and which the Committee Chairman would make on his or her own initiative, within the general policy framework established by the Committee (see paragraph 3). All or some of these would be notified to the Committee as a whole, giving the Committee an opportunity to indicate its satisfaction or otherwise and to determine whether similar decisions should in future be handled in a different way or brought to the Committee for consideration;
- (c) those which in the judgement of the Committee Chairman would require the prior approval of the Committee as a whole. Some guidance would be drawn up in advance to illustrate which types of decision would be likely to fall into this category. The circumstances of the individual Northern Ireland Departments vary and it is unlikely that a standard formula could apply equally to all; but the types of decision which would be politically sensitive or crucial to the Department in policy terms, are likely to be reasonably clear in each case.

Arrangements on these lines could result in a committee Chairman being held accountable (see paragraph 10(c) of Annex B) in the Assembly for policies which he or she did not personally support. In those circumstances arrangements analogous to those which apply when an Accounting Officer is overruled by his or her political Head might come into play and enable the Chairman to discharge the accountability requirement by pointing to a formal record of his or her views being overridden by the Committee.

2. ... (c) ... (d) ... (e) ... (f) ... (g) ... (h) ... (i) ... (j) ... (k) ... (l) ... (m) ... (n) ... (o) ... (p) ... (q) ... (r) ... (s) ... (t) ... (u) ... (v) ... (w) ... (x) ... (y) ... (z) ...

2. ... Each Department would build up its bid for resources through participation in the normal Public Expenditure Survey mechanism. The relevant Departmental Committee would be invited to endorse the Department's bid before it was finalised. The Finance Committee would then consider all the bids and seek to produce an agreed allocation between Departments of the available resources. If it failed the matter might be referred to the Panel for arbitration.

3. ... Once each Department's allocation was agreed the Chairman would produce Departmental Estimates for the coming year to the Committee and seek its approval, line by line, to the detailed breakdown of that allocation to individual Departmental programmes.

4. ... The approved Departmental Estimates would then be put formally to the full Assembly whose role would be to authorise expenditure on the basis of those Estimates.

Expenditure

This is very much a brief outline of how the arrangements might work. The Public Expenditure Survey procedures are complex and iterative and many detailed adjustments would need to be made to bring them fully into line with the principles set out above.

ANNEX B2

DEPARTMENTAL BUDGETARY ALLOCATION PROCESS

- 1 This note sets out arrangements for determining Departments' budgetary allocations in the circumstances where executive responsibilities rested with Departmental Committees of the Assembly. The SDLP reserved its position on these arrangements.
- 2 Each Department would build up its bid for resources through participation in the normal Public Expenditure Survey mechanisms. The relevant Departmental Committee would be invited to endorse the Department's bid before it was finalised. The Finance Committee would then consider all the bids and seek to produce an agreed allocation between Departments of the available resources. If it failed the matter might be referred to the Panel for arbitration.
- 3 Once each Department's allocation was settled the Chairman would propose Departmental Estimates for the coming year to the Committee and seek its approval, line by line, to the detailed distribution of that allocation to individual Departmental programmes.
- 4 The approved Departmental Estimates would then be put formally to the full Assembly whose role would be to authorise expenditure on the basis of those Estimates.

Footnote

This is very much a broad outline of how the arrangements might work. The Public Expenditure Survey procedures are complex and iterative and many detailed adjustments would need to be made to bring them fully into line with the principles set out above.

ANNEX C

ENSURING AN APPROPRIATE, FAIR AND SIGNIFICANT ROLE FOR REPRESENTATIVES OF ALL MAIN TRADITIONS

(A paper by the Government Team)

1 The possible outline framework for new political institutions (Annex A) notes that any acceptable option for allocating Chairmanships between Committees of the Assembly " must ensure that the system of Government provides an appropriate, fair and significant role for representatives of all main traditions in Northern Ireland". It also confirms that "further consideration will be given to means to prevent Chairmen becoming captives of their Committees.

2 The Possible Outline Framework also indicates several circumstances in which it might be appropriate for decisions of the Assembly or of Committees to be taken by weighted majority vote (of say 70%); or in which matters might be treated in a different way from normal if a proposal to that effect secured a certain threshold (of say 30%) support in the Assembly.

3 The purpose of this paper is to suggest possible ways in which new political institutions could be structured to ensure an appropriate, fair and significant role for representatives of all main traditions in Northern Ireland.

Assembly Committees

4 As regards the powers of Committee Chairmen vis a vis their Committees, if the Chairmen of the Departmental Committees were Heads of Departments they would necessarily have significant powers and resources which would put them in a relatively strong position. If the Chairmanships were allocated in accordance with Party strengths, perhaps in accordance with the D'Hondt Rule, that would tend to give each main Party an appropriate, fair and significant role. A possible development of this line of argument would be to require that decisions of Departmental Chairmen could only be overturned by a weighted majority vote within the relevant Committee, or in the Assembly.

If executive responsibilities rested with the Committee more generally it would be necessary to define the types of decision which could be made by the Chairman alone, acting effectively as a Head of Department, and those which would require either the endorsement or the prior approval of the committee as a whole. Annex B1 suggests a basis for distinguishing the roles of Departmental Committee Chairmen and Committees.

5 Further devices might be proposed to ensure that minorities on Committees (possibly including the Chairmen) could not be "steamrolled" by a majority. Paragraph 9 of Annex B suggests that there could be provision for:

- (a) weighted majority voting in certain circumstances;
- (b) dissenting reports (to ensure that the full range of views within any Committee is exposed to the full Assembly);

(c) the consideration of proposed legislation or administrative actions to be deferred on a motion from a significant minority on any Committee, or referred for consideration by the Assembly as a whole.

6 Paragraph 10(b) of Annex B also hints at the possibility of allocating majorities on a particular Committee or Committees to particular Parties, subject to proportionality across the Committees as a whole.

The Assembly

7 The possible outline framework (Annex A) indicates a number of areas in which the interests of minorities might be protected either by a requirement to apply a weighted majority vote or by enabling a significant minority to require a matter to be settled by weighted majority vote or possible refer it for consideration by the Panel. The Alliance Party and Ulster Unionist Party have suggested that such a significant minority could require matters to be referred to the Secretary of State or the Westminster Parliament.

8 It is envisaged, for example, that a weighted majority;

(a) would be required for the election of the Speaker. It may be that the ratification of the appointment of the panel of Chairmen would also require weighted majority support in the Assembly;

(b) could be required in respect of certain important legislation (eg a financial measure, one with constitutional implications or significant implications for community relations);

(c) might be applied in respect of measures which the Business Committee determined were contentious or where a petition to this effect secured a certain threshold of support in the Assembly.

9 It is also relevant to the question of ensuring an appropriate, fair and significant role for all main traditions in Northern Ireland that the proposed Panel could have powers in respect of proposed legislation, to determine (ie to accept, reject, give an opinion on or propose amendments to) any proposed legislation referred to it under procedures to be agreed and could also have powers in relation to administrative actions or proposed actions, perhaps on the basis of a referral by a threshold vote within the Assembly.

An Issue for Further Consideration

10 It has not proved possible, as yet, to reach agreement on;

(a) what percentage support from members elected to the Assembly (or appointed to a Committee) would be appropriate in circumstances where a weighted majority vote was called;

(b) what percentage support from members elected to the Assembly (or appointed to a Committee) would be appropriate to achieve the "threshold" in the circumstances identified above.

11 The UUP and the Alliance Party have proposed that the figures should be 70% and 30% respectively; the SDLP has proposed 75% and 25%; and the UDUP has proposed 65% and 35%.

ANNEX C I

WEIGHTED MAJORITIES AND THRESHOLDS - AN ALLIANCE VIEW

We would see the use of weighted majority voting for contentious issues and the use of threshold votes as a trigger mechanism for the activation of appeal procedures as an essential means of ensuring that the Assembly functioned on a give and take basis.

We would envisage a majority of 70% of members of the Assembly being required for the appointment of Speaker, for the ratification of the panel of Chairmen, and for contentious legislation.

That requirement might be invoked by statute by the Business Committee, or by a petition of 30% of the members of the Assembly. When legislation had passed through the Assembly it could be referred by a petition of 30% of the members of the Assembly either to the proposed panel or to the Westminster Parliament. Votes on departmental estimates would also be by weighted majority.

Similar procedures might be applied in respect of decision making within committees, though we are aware that there could be practical difficulties in implementing such procedures. In any event committee decisions reported to the Assembly would be subject to the same weighted majority and threshold mechanisms.

ANNEX C2

A POSSIBLE FORM OF WEIGHTED VOTING (A paper from the SDLP)

1 Weighted majority for particular kinds of decisions can provide a degree of safeguard against the possibility of large parties *forcing* their wishes on an Assembly. Such safeguards are generally invoked for major decisions and, or for those decisions which can be regarded as potentially contentious. Along with the possible need for a weighted majority consideration should be given to the possible threshold requirement for appeals/petitions being entered on behalf of Assembly members against, or in favour of certain decisions.

2 Agreeing the precise formula for a weighted majority/threshold requirement is difficult. However, it is clear that such procedures must be of a kind that meet the basic test of providing *cross-community* support for decisions on important/ contentious issues, so demonstrating *fairness*, while at the same time being *workable*.

3 A requirement for a weighted majority of 75% of those elected to an Assembly for Northern Ireland is the best figure that we feel would ensure that representatives from both sides of the community would be giving their support to such decisions. In turn, this should ensure significant levels of cross-community support.

4 If this weighted majority was to be based on the number of members present and voting, a very different situation would arise. Important decisions could be made which would not command cross-community support of a significant kind. It is for this reason that we would not favour the adoption of such a mechanism.

5 It follows from the recommendation in 3, that a threshold of xx% would be required for the admission of any appeal, or petition against a decision.

**ANNEX C3
DUP SUBMISSION
WEIGHTED MAJORITIES AND THRESHOLDS**

8th June 1992

This brief paper considers some of the areas for which the referral mechanism could be triggered and it also looks at the options for setting off override procedures.

In facing this subject we much remember that constitutionally any Assembly or Panel would be ultimately subject to the UK Parliament. This has always been the position as Section 75 of the 1920 Act emphatically maintained the supreme authority of the UK parliament over Northern Ireland notwithstanding the existence of Stormont.

So by virtue of the very nature of devolving powers within the UK Westminster has constitutional override powers which can never be diminished.

Nonetheless, if other mechanisms are employed with the agreement of Westminster then parliament need not intervene.

We feel most strongly that to bestow upon a Panel or the Secretary of State unrestricted powers particularly of review and direction would be a recipe for the one thing which above all else must be avoided in any new structure in Northern Ireland, namely instability. Such would undermine the system and good and efficient government would be severely jeopardised.

In relation to a referral from the Assembly which could be to the Panel we are assuming that this would be a replacement for the principle enshrined in Section 18(2) of the 1973 Act which gives this power to the Secretary of State in respect of proposed legislation.

We would prefer that if 35% of those who are elected to the Assembly sign a petition seeking a referral of a legislative or executive decision the mechanism would be activated and the Panel could consider the merits underlying the petition. We do enter a concern that we must be careful that we do not open the flood-gates to frivolous referrals and an exploitation of the process for obstructionist purposes.

Likewise when weighted majorities are necessary for purposes which shall be specified ie election of Speaker and highly contentious measures this should be by 65% of those elected to the Assembly.

ANNEX C4

POSSIBLE SAFEGUARD MECHANISMS UUP SUBMISSION

6 June 1992

1 In our submissions to the present Talks, we have indicated a desire to consider and negotiate upon any reasonable mechanism consistent with the 'Common Themes' and 'Common Principles' documents, which would protect individuals and groups, within the proposed Assembly.

2 At present the main mechanism put forward has been a weighted majority of say 70% being required under certain circumstances. This could also mean that if 30% of the Assembly indicated dissatisfaction, under certain circumstances, the proposal may be referred outside the Assembly, or delayed.

3 Another suggestion has been made, ie that the SOS could have administrative or legislative decisions referred to him for examination, perhaps with an appropriate trigger mechanism to bring this about.

4 We have already indicated that the proposed 'Panel' may have a role to play in determining the outcome of some matters which are referred to it.

5 On top of these issues is the question of the Legislation already in place, together with any additional provisions which may be included in a new or amended Act.

6 It is already clear, that as well as any of the above, access to the courts will always be a safeguard mechanism. There is a risk that we will have such a wide variety of well intentioned measures that a virtual 'veto' is created which will work against the ideas of workability and durability already agreed.

7 We have to find the right balance between all of the possible means of protection.

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.

ANNEX E

RELATIONS BETWEEN NEW INSTITUTIONS AND THE EUROPEAN COMMUNITY

1 The sub-Committee considered possible relationships between new political institutions in Northern Ireland and the European Community (EC). The considerations set out below emerged. References to "institutions" in Northern Ireland should be interpreted by reference to the other work of the sub-Committee.

2 The Party Delegations expressed dissatisfaction both with the level of financial support from the European Community for Northern Ireland since the United Kingdom joined the Community; and with the development and application of particular Community policies to Northern Ireland. They also pointed to the fact that within the United Kingdom specific Northern Ireland regional interests may on occasions be overridden by wider interests. Their first objective for new arrangements was that they should enable Northern Ireland interests to be better promoted.

3 It was recognised that Northern Ireland institutions will work within European Community institutions as they exist at any given time. However, the Maastricht treaty would introduce new arrangements for regional representatives (see para 4 vii below); and it would be open for new institutions in Northern Ireland to promote the case for further innovation in the representation of regions in Community institutions and the recognition of regional interests in Community policies. The SDLP believe that the possibility of a more direct relationship between new Northern Ireland institutions and the institutions of the EC is a matter which should be explored. The sub-Committee also recognised that there would be scope for co-operation with the Republic of Ireland where the Republic and Northern Ireland had common interests but that any institutional expression of this relationship would be a matter for Strand II.

4 The sub-Committee noted that:

- (i) new Northern Ireland institutions would have direct contacts with the European Commission on matters of importance to Northern Ireland; the UK Government would wish to see agreed guidelines on such contacts;
- (ii) new Northern Ireland institutions would seek to ensure that Northern Ireland's interests were taken into account in the Council of Ministers; to this end they would seek representation at Council meetings and at the margins of Council meetings, at both political and official level;
- (iii) the Secretary of State would keep the new institutions informed of UK Government thinking on EC issues, and reflect the Northern Ireland interest in Cabinet discussions; it is expected that representatives of the new institutions would be able to make representations directly to other UK Ministers on EC matters;
- (iv) new institutions in Northern Ireland might well decide to set up a permanent office in Brussels to represent their interests; it would work with the UK Permanent Representation and could co-operate with other regional interests;
- (v) new institutions in Northern Ireland might well wish to seek to continue the policy of seconding Northern Ireland Civil Servants to posts within the European Community and in the UK Permanent Representation; their status would be a matter for discussion with the UK Government;

(vi) the Northern Ireland MEP's would remain an important means of promoting Northern Ireland interests, and would no doubt be briefed by the new institutions;

(vii) Northern Ireland should seek a substantial presence on the Committee of the Regions proposed in the Maastricht treaty; the UK Government, in nominating representatives, should take account of the views of the new institutions and the need to ensure significant representation of the main traditions in Northern Ireland; the UK would have 24 members and 24 alternates;

(viii) it would be the responsibility of the new institutions to implement EC policies in respect of Northern Ireland transferred matters; because the obligation in terms of EC law would nevertheless remain with the UK Government it would be necessary for the UK Government to retain powers to remedy any default. There would need to be a close co-operative relationship in this area.

5 The discussion necessarily took place against a background of uncertainty regarding the next phase of EC development. But it was recognised that there were growing calls in some quarters for the development of the Community, especially its regional dimension, and that this would have particular relevance for Northern Ireland.

SUB-COMMITTEE REPORT (16 June 1992)

1 In the light of the Secretary of State's proposal to plenary on 12 June that the Strand 1 sub-Committee should be invited to continue its work, concentrating in particular on the points listed in paragraph 8 of the sub-Committee's report of 10 June, the sub-Committee met on 15 and 16 June.

2 The sub-Committee considered finance, human rights, a Bill of Rights and cultural expression and diversity. As a result of this consideration two papers were agreed, which should be read in conjunction with the sub-Committee report of 10 June.

16 JUNE 1992

FINANCIAL ARRANGEMENTS FOR NEW INSTITUTIONS

1 The sub-Committee considered possible financial arrangements for the new political institutions. (References to "institutions" in Northern Ireland should be interpreted by reference to the other work of the sub-Committee). The following considerations emerged.

Levels of Public Expenditure

2 The sub-Committee noted that the existing financial arrangements were designed to ensure that, against a background of parity of taxation, the people of Northern Ireland received levels of public services broadly comparable with those in Great Britain. Levels of local expenditure are determined as part of the UK public expenditure annual survey and are not constrained by the revenue generating capacity of the region. The difference between expenditure and revenue is then made up by a subvention from the UK Exchequer (currently about £2.5 billion, or more than £1 in every £3 of public expenditure in Northern Ireland).

3 In the view of the sub-Committee, it is important that this expenditure based (rather than a revenue based) arrangement for the determination of the quantum of spending should be preserved. Moreover, new NI political institutions should seek to preserve as far as possible the present comparability mechanism which has provided useful stability in effecting annual adjustments to the NI PE Block ("the Block") total while leaving maximum local flexibility in determining how resources should be allocated. Maintaining the integrity of the Block in this way should also mean that NI could expect to benefit from future savings in operational programmes whether through achieving greater economy or, for example, as a result of a reduction in security-related expenditure.

4 In view of the sub-Committee the sources of funding should remain on broadly the same basis as at present ie: attributed taxation, grant-in-aid, rates, charges and EC receipts. The local administration would be free to vary the level of the regional rate. However, it would be essential that the exercise of this power should genuinely increase regional resources rather than simply offsetting other sources of funding such as the grant-in-aid. A local administration with legislative powers would be able to change the rating system and could consider raising revenue [for local authority type services] in other ways. It would be able to determine the level of charges for a wide range of public services (eg: parking, vehicle testing, planning applications). The local administration would also intend to give higher priority to the earning of EC receipts. In each of these cases, the intention would be that the resources should be used to fund additional local expenditure.

Role of Secretary of State

5 Under the new arrangements, the Secretary of State would retain responsibility for expenditure on particular functions and the local political institutions will assume responsibility for a range of services which might represent a large proportion of the NI Block. It was recognised that local institutions will operate within the UK public expenditure framework and the annual Public Expenditure Survey will be the main determinant of the overall level of resources.

6 In view of the UK dimension to expenditure decisions, it would be the Secretary of State's responsibility to secure resources in the Survey for the Block as a whole out of which

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6 In view of the UK dimension to expenditure decisions, it would be the Secretary of State's responsibility to secure resources in the Survey for the Block as a whole out of which

those services within his own responsibility and those administered by local institutions would be funded through an allocation mechanism yet to be agreed.

7 It would be particularly important to ensure that a strong bid was made, as an integral element of a political settlement, to provide the new administration with extra resources to tackle the major problems which NI continues to face.

8 Under the new arrangements there would be a supporting role for the local administration, which would give the Secretary of State a detailed annual assessment of its financial requirements to inform his handling of the Survey. (This was considered at Annexes A and B to the Report of 10 June). The local administration would wish to be represented at negotiations between the Secretary of State and the Chief Secretary on the level of resources. This would be particularly important where the pressures on the Block were such that bids were being pressed over and above the normal workings of the comparability mechanism.

The Discretion of the Local Administration

9 Within its own area of responsibility the local administration would have a very wide measure of discretion (equivalent to that currently exercised by the Secretary of State) to allocate its resources in line with its view of Northern Ireland's needs. It would, however, be necessary to take account of the following:

- (a) the local administration would be constrained by UK commitments to the European Community;
- (b) the Treasury would, as a condition of financial support, wish to continue to be assured that the local administration used its resources with due regard for value for money. This, of course, is an interest which any local administration would share, provided that efficiency savings are retained within the Block;
- (c) transfers of resources could not be made from an agreed parity such as Social Security to other areas; but additional funding for Social Security would not be a call on the Block.

Authority to Spend and Accountability

10 At present Northern Ireland operates a structure through which Parliament authorises expenditure out of the Northern Ireland Consolidated Fund. The local political institutions would provide this authority under the new arrangements for expenditure on devolved services. The mechanism for this would be through the approval of a detailed annual budget which would give Departments both the authority to spend and would set the framework within which they would have to account for the expenditure. (This was considered in Annexes A and B to the Report of 10 June).

11 The Northern Ireland Audit Office, which is independent of the Executive, would continue to examine the propriety and regularity of expenditure, and the economy, efficiency and effectiveness with which policy is carried out. It should report to a special committee (a local equivalent of the Public Account Committee) set up by the new local institutions with power to summon Accounting Officers to give evidence, and to make reports.

A LOCAL ADMINISTRATION AND FINANCE

Introduction

1 Whatever for a local administration may take one of its central functions will be to decide how best to allocate its available resources to meet its objectives in those areas for which it is responsible. It will also probably have to decide how much to raise locally through rates or their equivalent; to negotiate the size of its grant from Whitehall; and to ensure that resources are spent in a way which achieves value for money.

2 This paper describes how the existing financial system for the Northern Ireland (NI) Departments and the Northern Ireland Office (NIO) works. Some features of the present system are set down in legislation (eg the Grant-in-Aid); others are internal arrangements within Government for the conduct of business (eg the Northern Ireland Block). But for the purposes of this paper we shall discuss the present arrangements as a complete system. Under the NI Constitution Act the NI Departments are responsible for "transferred" matters (eg agriculture, industry, health) and the NIO for some "reserved" and "excepted" matters (eg security, police, elections, prisons). Other "reserved" and "excepted" matters are dealt with by other UK Departments (eg tax, immigration). NI Departments and NIO expenditure is referred to collectively as the "NI Block". This reflects the fact that for some purposes they are managed together. The "Block" is the main subject of this paper.

2 Total Block expenditure of approximately £6.4 billion in 1991/92 can be broken down broadly as follows:

	£M
Agriculture	213
Industry, Energy, Trade and Employment	389
Transport	163
Housing	258
Other Environmental Services	170
Protective Services (Fire)	35
Education	1,122
Health and Personal Social Services	1,162
Social Security	2,107
Other Public Services	66
Law and Order (NIO)	<u>776</u>
Total	6,449

Note: This includes expenditure by Government Departments, public corporations, statutory bodies and grants to local authorities.

3 NIO and NI Departments expenditure does not represent the totality of Government expenditure in or for Northern Ireland. The Ministry of Defence and the NI Court Service also spent considerable sums in 1991/92. In addition, the revenue - raising departments (Customs and Excise and Inland Revenue) spend resources on their activities in Northern Ireland; and the Home Office runs immigration facilities and the Passport Office. Other departments also spend small amounts of resources either in or on behalf of Northern Ireland.

Funding

4 NI Block expenditure is at present financed from six sources:

- the proceeds of central taxation eg VAT, Income Tax (Called "attributed taxation") raised in Northern Ireland (S.15 NI Constitution Act);
- a grant-in-aid paid by the Secretary of State for Northern Ireland to the Northern Ireland Consolidated Fund (S.16 NI Constitution Act);
- issues from the NI National Insurance Fund (including some resources transferred from the GB Fund);
- the regional rate, excluding that portion raised by district councils;
- miscellaneous receipts eg water charges, sales of land and buildings (but not proceeds from privatisation).
- NIO expenditure voted from the UK Consolidated Fund.

5 The relative importance of these different sources can be shown by looking at 1991/92 Block expenditure, which was funded as follows:

	£M
(a) -attributed taxation	2,950
(b) -grant-in-aid	1,500
(c) -national insurance fund and other non-voted expenditure eg external financing or public corporations	950
(d) -regional rate	200
(e) -miscellaneous receipts	100
(f) -NIO expenditure	<u>750</u>
Total	6,450

NIO expenditure (£750m) relates to those services administered by the NIO which under the NI Constitution Act 1973 are "reserved" or "excepted" matters and is therefore paid for out of Estimates Voted by Parliament from the UK Consolidated Fund (the grant-in-aid is voted in the same way). The remainder (£5700m) is for "transferred" services, which are financed from the NI Consolidated Fund, which receives attributed taxation, the grant-in-aid, and the product of the regional rate. Money is voted from the NI Consolidated Fund by separate Northern Ireland Government Estimates which are currently, in the absence of a NI Assembly, voted at Westminster. In all cases "miscellaneous receipts" are taken into account in individual Votes. For example, the Vote for Water Services, which covers current and capital elements, is reduced by the amount of expected receipts for water charges.

The Level of Expenditure

6 The level of Government expenditure, including that for Northern Ireland, is set through the annual Public Expenditure Survey (PES). The level of expenditure for (eg) 1993/94 and the two subsequent years is decided this calendar year (1992), and the level of expenditure for each area of Government is announced in the Autumn Statement. The level of expenditure for Northern Ireland covering both Northern Ireland Departments and the Northern Ireland Office is currently determined within that system.

7 The overall level of Block expenditure provision for Northern Ireland is set primarily by means of a "comparability formula". This ensures that public expenditure levels in NI are adjusted in line with developments in the rest of the UK in so far as they are comparable to those activities which are the responsibility of the Secretary of State for Northern Ireland. This arrangement relies on a calculation on a proportional basis to ensure that we receive 2.75% of the changes in programmes in the rest of the UK since this reflects our proportion of the UK population. This is different from the mechanism for Departments like (eg) the Home Office, who must justify increases in expenditure to the Treasury on a detailed basis. (Scotland and Wales, however, enjoy Block systems similar to those in Northern Ireland).

8 This system is not immutable; it is open to the Treasury to abrogate the operation of the formula by seeking to reduce NO expenditure; it is also open to the Secretary of State to bid for additional resources beyond those available under the comparability formula if he feels that NI needs will be seriously under funded, and he has chosen to do so on several occasions in recent years. Any such bid is taken to suspend the operation of the comparability formula, and leave all NI expenditure open to detailed Treasury scrutiny. The comparability formula has, in technical terms, served Northern Ireland well, by providing a reactively stable basis for the annual adjustment of public expenditure plans in Northern Ireland.

9 Those funds which are made available for Northern Ireland through the PES system, and subsequently through Estimates/grant-in-aid are referred to collectively as the "Northern Ireland Block". Within this Block the Secretary of State has substantial discretion to allocate funds to meet his assessment of public expenditure needs and priorities. (There are some exceptions; social security is funded on a basis which maintains parity with GB and unspent resources cannot be allocated to other programmes).

The Allocative Process Within Northern Ireland

10 Within the Northern Ireland Block DFP operates its own annual Public Expenditure Survey. NI Departments and the NIO submit expenditure proposals for the next three years, including bids for any additional resources which they consider necessary. In the Autumn, when the overall level of resources available for NI programmes becomes known, DFP makes recommendations to the Secretary of State on which bids should be met.

11 The present NI Block includes both "transferred" matters which are the responsibility of the NI Departments, and those "reserved/excepted" matters which are the NIO's responsibility. In making allocations, the Secretary of State has to decide the relative merits of priorities. In practice, security has had to be the highest priority. Strengthening the economy has been the second priority and "targeting social need" third. But not every bid within these categories can be met and other priorities (eg health, social services, environment) must also be met. A successful public expenditure strategy must address the whole range of the Province's needs.

Approval by Parliament

12 The allocations decided by the Secretary of State are announced to Parliament in a statement in late Autumn after the Chancellor's Autumn Statement. These expenditure plans for the year ahead are then incorporated into Northern Ireland Main Estimates which are presented to Parliament at the beginning of the Financial Year, although minor changes may be introduced between the announcement of public expenditure plans and the drawing up of Estimates to take account of changing circumstances. Each NI Department is responsible for drawing up its own Estimates, but these must be approved by DFP. In the case of the NIO, Estimates must be approved by HM Treasury in consultation with DFP. There are usually two or three Parliamentary opportunities to discuss NI public expenditure in the transferred field:

- (a) Main Estimates (usually May/June)
- (b) Autumn Supplementary (December) - taken only if necessary
- (c) Spring Supplementary (February/March)

(Of course, the Main Estimates are too late to provide resources for the beginning of the financial year on 1 April. Therefore, at Spring Supplementaries money is also voted "on account" for the next Financial year, to enable Government expenditure to continue until the Main Estimates. There are rules restricting the scope of votes on account so as not to pre-empt Parliament's eventual decision at Main Estimates). Estimates are formally adopted by orders known as "Appropriation Orders". The debates are an opportunity for Members to raise any matter of public concern in the transferred field, and they avail themselves of this opportunity.

13 During the Financial Year it remains open to the Secretary of State to reallocate resources within the Block to meet evolving priorities, proposing Supplementary Estimates as necessary to Parliament. In practice, additional demands are usually balanced by reduced requirements. If this is not the case, it could be necessary to take action to reduce expenditure in discretionary areas and, in exceptional circumstances, a bid on the Reserve may be submitted to the Treasury.

Department of Finance and Personnel

14 In dealings with the Treasury on the level of the Block, and on all questions of the allocation of resources between Departments, the Secretary of State is advised by the Department of Finance and Personnel. The Department approves Northern Ireland Estimates, and presents them to Parliament. The Department is also responsible for approving major projects and programmes in the NI Departments, seeking any necessary Treasury approvals, and co-ordinating applications for EC resources.

15 Within the Northern Ireland administration, it is also the role of the Department of Finance and Personnel and the Minister in day-to-day control to pursue value for money in Government spending. This includes encouraging the use of the best possible financial techniques, the promotion of the government's various efficiency initiatives including, for example, privatisation and "Next Steps" agencies, and, of course, the rigorous scrutiny of the need for any spending proposals.

16 Since NIO expenditure is borne on the UK Consolidated Funds, its expenditure is scrutinised by Treasury, but the Department of Finance and Personnel also take a close interest because it is a major component of the NI Block.

Relations with Bodies Outside Northern Ireland

17 Although the Secretary of State has a high degree of discretion in spending Northern Ireland resources, decisions on resource allocation must also take account of the requirements of outside bodies. In some areas, (eg industrial development) spending levels are in principle constrained by European Community agreements. But the Treasury has the most important role, and makes a number of requirements. First, the Treasury requires that DFP should effectively control the level of public expenditure from the Northern Ireland Block, and ensure value for money in NI Departments. It has to be assured, for example, that systems are in place to appraise projects using the most up-to-date techniques. It also seeks to ensure that policies such as market testing and privatisation, which should lower the cost of public services, are implemented. To this end, it regularly seeks information from DFP about Northern Ireland public expenditure. Second, the Treasury requires to be consulted about any proposals in Northern Ireland which could have a repercussive effect on public expenditure in other parts of the UK, while in some other areas the level of provision/benefits is determined on a parity basis. Nevertheless, there has been scope for the adoption of a range of distinctive and innovative policies (eg Making Belfast Work) to meet local needs.

The Rates

18 The Regional Rate is struck each year at a level agreed with the Treasury. The principle is that rates should make a broadly equivalent contribution to local services as community charge and business rates do in GB, taking account of a notional amount of Rate Support Grant.

Receipts from the European Community (EC)

19 Northern Ireland earns receipts from a number of EC budgetary sources. The largest is the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, where money is passed from Brussels to the farmer, mainly via the Intervention Board for Agricultural Produce. These payments are additional to the NI Block, although they have to be taken into account by MAFF with other Intervention Board expenditure for public expenditure planning purposes. Most other EC funding is anticipated when the public expenditure total is set, and the public expenditure total is greater than it would have been had the EC receipts not been available. In cash terms, of course, all EC money is paid to its due recipient. Where this is a Northern Ireland department, the receipts are passed to the Northern Ireland Consolidated Fund.

Comptroller and Auditor-General

20 The Comptroller and Auditor-General for Northern Ireland authorises the issue of public funds and certifies the accounts of all Northern Ireland Departments and a wide range of other public sector bodies. He is also responsible for examining the economy, efficiency and effectiveness with which policy is carried out, and probing the basis of expenditure decisions. He currently submits reports to the Public Accounts Committee at Westminster, which will examine officials on those reports where it considers appropriate to do so. This independent ex-post facto examination of Government spending is an important discipline on the system.

Future Local Administration

ANNEX A
POSSIBLE ARRANGEMENTS
21 Annex A sets out how the present finance system might be adapted to a local administration having a range of responsibilities on the lines of the 1973 Constitution Act. These arrangements would of course have to be varied if the administration had substantially different powers or was closer in form to a GB local authority.

Introduction

1. We assume a body (whether or not legislative) enjoying authority over wide areas of 'industry', 'agriculture', rather than a local authority-type body, which would have specific statutory powers. We also assume that the existing financial system would be adapted to minimum extent possible to create a coherent system.

Funding

2. Funding would be on the same basis as at present (ie distributed taxation, grant-in-aid, rates etc).

Block Arrangements

3. It would remain the Secretary of State's duty to secure resources for Northern Ireland from Central Government, both for his continuing responsibilities and those of the new administration. The comparability formula would continue. The Secretary of State would decide on the allocation of resources between the two sets of responsibilities, if either the Secretary of State or the local administration's responsibilities required additional resources during the year transfers between the two areas might be made. Alternatively there might be a bid to the Reserve. There would need to be a close collaborative relationship between the Secretary of State and the local administration in this area.

Discretion

4. Within its own area of responsibility the local administration would have a very wide measure of discretion to allocate its resources in line with its view of Northern Ireland's needs. The principal exceptions to this are that:

- (a) the local administration would be constrained by UK commitments to the European Community;
- (b) the Treasury would, as a condition of financial support, wish to continue to be assured that the local administration used its resources with due regard for value for money. (This, of course, is likely to be an interest which any local administration would share);
- (c) transfers of resources could not be made in certain areas (eg from Social Security to other areas); but additional funding for social security would not be a call on the Block.

Rates

5. The local administration would be free to vary the regional rate, but Central Government finance would assume a given level of rate receipts. If the local administration enjoyed legislative powers it would be able to change the rating system.

Auditors

ANNEX A

POSSIBLE FINANCIAL ARRANGEMENTS FOR LOCAL ADMINISTRATION

Introduction

1 We assume a body (whether or not legislative) enjoying authority over wide areas eg "industry", "agriculture", rather than a local authority-type body, which would have specific statutory powers. We also assume that the existing financial system would be adapted to minimum extent possible to create a coherent system.

Funding

2 Funding would be on the same basis as at present (ie attributed taxation, grant-in-aid, rates etc).

Block Arrangements

3 It would remain the Secretary of State's duty to secure resources for Northern Ireland from Central Government, both for his continuing responsibilities and those of the new administration. The comparability formula would continue. The Secretary of State would decide on the allocation of resources between the two sets of responsibilities. If either the Secretary of State or the local administration's responsibilities required additional resources during the year, transfers between the two areas might be made. Alternatively there might be a bid in the Reserve. There would need to be a close collaborative relationship between the Secretary of State and the local administration in this area.

Discretion

4 Within its own area of responsibility the local administration would have a very wide measure of discretion to allocate its resources in line with its view of Northern Ireland's needs. The principal exceptions to this are that:

- (a) the local administration would be constrained by UK commitments to the European Community;
- (b) the Treasury would, as a condition of financial support, wish to continue to be assured that the local administration used its resources with due regard for value for money. (This, of course, is likely to be an interest which any local administration would share);
- (c) transfers of resources could not be made in certain areas (eg from Social Security to other areas); but additional funding for social security would not be a call on the Block.

Rates

5 The local administration would be free to vary the regional rate; but Central Government finance would assume a given level of rate income. If the local administration enjoyed legislative powers it would be able to change the rating system.

Auditors

6 The Comptroller and Auditor General for Northern Ireland would continue to examine the propriety and regularity of expenditure, and the efficiency and effectiveness of the local administration. He might report to a committee set up under the local administration.

(16 JUNE 1992)

1. The sub-Committee noted that there was already a considerable corpus of legislation and other measures in addition to the Northern Ireland Constitution Act 1973 which sought to protect human rights. The Government paper describing this is at Annex A. It was agreed that the further protection and advancement of human rights would be an important element in any new political institutions in Northern Ireland. The parties agreed that, in order to have the greatest degree of credibility and effectiveness, any fundamental provisions should be "entrenched" against amendment by later legislation. New institutions in Northern Ireland could nevertheless have the right to request the Secretary of State for Parliament and action be taken to enforce the rights protected by those provisions.

2. The European Convention on Human Rights and its additional protocols (ECHR) were discussed. All the parties agreed that the ECHR covered many areas where human rights protection was desirable. The parties agreed that the ECHR would be a valuable, but not definitive, basis on which to build a system of fundamental provisions protecting human rights, and that provisions in other international agreements should be drawn on. (A summary of the provisions of the ECHR and its additional protocols was tabled and it attached at Annex B). The parties also agreed that other rights might be protected and that access to remedies against any breach of human rights provisions should be speedy, uncomplicated, and readily available.

3. The SDUP saw merit in additional provisions guaranteeing for voters on the basis of a proportional system of voting. While not disagreeing with this proposal, the other parties did not feel it appropriate to fix specific rights at this stage.

4. All the parties believed it desirable that any comprehensive human rights provisions such as a Bill of Rights should be entrenched against anti-terrorist laws applied in Northern Ireland. There were technical difficulties in such "entrenchment", although many experts believed it to be possible. It was noted, however, that support had not until now existed in Parliament for such entrenchment on a UK-wide basis, and that such entrenchment and even for Northern Ireland alone might not win acceptance in Parliament for a number of reasons.

5. It was noted that other forms of more limited entrenchment were possible, for example, on the model of Section 17-19 of the Northern Ireland Constitution Act 1973 or by making a matter "excepted". It was suggested that it might be possible to provide entrenched human rights provisions against anti-terrorist legislation by making such legislation subject to provisions which operated on the same legal basis as Sections 17-19 of the 1973 Constitutional Act. The parties noted that this might be a practicable way of achieving entrenchment.

6. The sub-Committee discussed two recommendations in the Second Report on Religious and Political Discrimination and Equality of Opportunity by the Standing Advisory Commission

HUMAN RIGHTS, A BILL OF RIGHTS AND CULTURAL EXPRESSION AND DIVERSITY: REPORT BY THE SUB-COMMITTEE

1 The sub-Committee met to continue its work on remaining matters and considered and developed further the statement, in Annex A to its report of 10 June, that "constitutional legislation for establishing new institutions would provide for machinery to deal with and correct grievances and would provide for the further entrenchment of individual and community rights, including through a Bill of Rights, which the Assembly could not amend". (References to "institutions" in Northern Ireland should be interpreted by reference to the other work of the sub-Committee).

2 The sub-Committee noted that there was already a considerable corpus of legislation and other measures in addition to the Northern Ireland Constitution Act 1973, which sought to protect human rights. The Government paper describing this is at Annex A. It was agreed that the further protection and enhancement of human rights would be an important element in any new political institutions in Northern Ireland; the parties also agreed that, in order to have the greatest degree of credibility and effectiveness, any fundamental provisions should be "entrenched" against amendment by local institutions. New institutions in Northern Ireland could nevertheless have the right to request the Secretary of State (or Parliament) that action be taken to enhance the rights protected by those provisions.

3 The European Convention on Human Rights and its additional protocols (ECHR) were discussed. All the parties agreed that the ECHR covered many areas where human rights protection was desirable. The parties agreed that the ECHR would be a valuable, but not definitive, basis on which to build a system of fundamental provisions protecting human rights, and that provisions in other international agreements should be drawn on. (A summary of the provisions of the ECHR and its additional protocols was tabled and is attached at Annex B). The parties also agreed that other rights might be protected and that access to remedies against any breach of human rights provisions should be speedy, uncomplicated, and readily available.

4 The SDLP saw merit in additional provisions guaranteeing fair elections on the basis of a proportional system of voting. While not disagreeing with this proposal, the other parties did not feel it appropriate to list specific rights at this stage.

5 All the parties believed it desirable that any comprehensive human rights provisions such as a Bill of Rights should be entrenched against anti-terrorist laws applied in Northern Ireland. There were technical difficulties in such "entrenchment", although many experts believed it to be possible. It was noted, however, that support had not until now existed in Parliament for such entrenchment on a UK-wide basis; and that such entrenchment even for Northern Ireland alone might not win acceptance in Parliament for a number of reasons.

6 It was noted that other forms of more limited entrenchment were possible, for example, on the model of Section 17-19 of the Northern Ireland Constitution Act 1973 or by making a matter "excepted". It was suggested that it might be possible to provide entrenched human rights provisions against anti-terrorist legislation by making such legislation subject to provisions which operated on the same legal basis as Sections 17-19 of the 1973 Constitutional Act. The parties noted that this might be a practicable way of achieving entrenchment.

7 The sub-Committee discussed two recommendations in the Second Report on Religious and Political Discrimination and Equality of Opportunity by the Standing Advisory Commission

on Human Rights (SACHR). The parties agreed that, in principle, provisions against indirect discrimination, and provisions for equity of treatment and esteem could be of value; but it would not be possible to take a definitive view without studying the text of possible provisions and looking at their effect on the system of government as a whole. Any system would have to be applied fairly and be capable of gaining confidence throughout the community.

8 The parties agreed that there would be a body to consider and investigate human rights matters and that the Standing Advisory Commission on Human Rights might have an expanded role. The body could have the role of investigating particular cases of alleged breaches of human rights provisions, and could sponsor cases before the courts; it could be charged with the promotion of and education in human rights; and it might have a formal role in making recommendations to new institutions about proposed legislation. Its annual report might also be laid before the Assembly as well as Parliament. Appointments to the body should be of independent persons, who would win confidence throughout the community.

9 the parties agreed that the possibility of a special division of the High Court to consider human rights cases (the "Human Rights court") should be considered further. Another potential way forward would be an expansion of judicial review.

10 It was agreed that new institutions in Northern Ireland would need to be sensitive to and allow the expression of different cultural traditions. There could be a body within the new institutions to promote knowledge of and respect for the various cultural traditions in Northern Ireland. A Bill of Rights could contain a provision requiring institutions in Northern Ireland to take account of cultural traditions in developing policies.

ANNEX A

ADDITIONAL MEASURES TO PROTECT HUMAN RIGHTS

Since 1969, key measures to protect human rights and to prevent discrimination in both the public and private sectors have included:

The Electoral Law Act (Northern Ireland) 1969 introduced universal adult suffrage for local council elections. The franchise had previously been limited to rate payers. The Local Government Act (Northern Ireland) 1972 established an independent Local Government Boundaries Commissioner to make recommendations on the boundaries of district electoral divisions and local government administrative areas and provided independent procedures for their review. The District Electoral Areas Commissioner (Northern Ireland) Order 1984 provided independent procedures for recommending the grouping of wards into electoral areas. The Electoral Law (Northern Ireland) Order 1972 created the independent post of Chief Electoral Officer with responsibility for the orderly conduct of all elections. This Order and subsequent legislation introduced proportional representation for local government elections and regional elections to the European Parliament. The Elected Authorities (Northern Ireland) Act 1989 extended the local authority franchise to bring it into line with that for Parliamentary elections.

The Parliamentary Commissioner Act (Northern Ireland) 1969 established the office of the Northern Ireland Parliamentary Commissioner for Administration with powers to investigate complaints of maladministration (including discrimination on the grounds of religious belief or political opinion) by Government departments. Unlike his Westminster counterpart, the Northern Ireland Parliamentary Commissioner was subsequently charged with responsibility to investigate complaints affecting personnel matters in the Northern Ireland Civil Service. Furthermore, in 1971 all contractors tendering for Government contracts were required to adhere to a contractual term not to practice religious discrimination in the performance of the contract. The Parliamentary Commissioner became responsible on an extra-statutory basis for overseeing the operation of the term. This arrangement was superseded by the Fair Employment Act.

The Commissioner for Complaints Act (Northern Ireland) 1969 established the Northern Ireland Commissioner for Complaints with powers to investigate grievance against local councils and public bodies. Where the Commissioner for Complaints found injustice in consequence of maladministration, including discrimination on the grounds of religious belief or political opinion, the Commissioner was empowered to certify the facts to the county court for the purposes of an action for damages by the complainant.

The Prevention of Incitement to Hatred Act (Northern Ireland) 1970 made it a criminal offence wilfully to stir up hatred against a section of the community including any section distinguished by race or religion. This legislation was subsequently consolidated into the Public Order (Northern Ireland) Order 1981. This was replaced by the Public Order (Northern Ireland) Order 1987 which *inter alia* repealed the Flags and Emblems (Display) Act (Northern Ireland) 1954 and amended the legislation to prohibit the use of words or behaviour, or display of any written material likely or intended to provoke hatred based on religious belief, colour, race or ethnic or national origin against any section of the public.

The Housing Executive Act (Northern Ireland) 1971 provided that all public authority house building and its allocation on the basis of an objective points system should become the responsibility of a central housing authority, the Northern Ireland Housing Executive. This measure was in part designed to meet allegations that some local authorities had discriminated in the location and allocation of housing.

The Prosecution of Offences (Northern Ireland) Order 1972 set up the office of an independent Director of Public Prosecutions in Northern Ireland. The Director is the sole prosecuting authority in Northern Ireland responsible for the consideration of facts relating to all indictable and certain other offenses with a view to initiating or continuing criminal proceedings. The Chief Constable is required to furnish the Director with facts and information relating to all alleged indictable offenses and any other alleged offenses as the Director may specify.

The Fair Employment (Northern Ireland) Act 1976 made direct discrimination on religious or political grounds unlawful in employment. A Fair Employment Agency was made responsible for receiving and investigating complaints of discrimination and for conducting investigations into the extent of equality of opportunity. A further initiative was brought into operation in 1982; tenders for Government contracts would not normally be accepted from firms unless they held an equal opportunity employment certificate issued under the 1976 Act. The Fair Employment (Northern Ireland) Act 1989 amended and extended the legislation and established a Fair Employment Tribunal and a Fair Employment Commission, replacing the Agency. It provided for compulsory registration of employers, monitoring by employers of their workforces and applicants for jobs, regular reviews by employers of their recruitment, training and promotion practices, taking into account a new Code of Practice and use of affirmative action including goals and timetables, as directed by the Commission, in the absence of fair participation. The Act provided that indirect discrimination should also be unlawful. The Act also provided for criminal penalties for failure to register, monitor and conduct reviews; criminal penalties and loss of grants and contracts in instances of bad practice; and compensation of up to £30,000 for individual victims of discrimination.

The Sex Discrimination (Northern Ireland) Order 1976 made it unlawful to discriminate on grounds of sex in employment or in the provision of goods, facilities and services. The Equal Opportunities Commission set up under the Order keeps under review the operation of the legislation and the Equal Pay Act (Northern Ireland) 1970. The Commission can investigate unlawful discriminatory practices and issue "non-discrimination notices", enforceable if necessary in the courts, by way of injunction or order. The Sex Discrimination (Northern Ireland) Order 1988 extended the 1976 Order to cover equal retirement conditions and various other provisions.

The Homosexual Offences (Northern Ireland) Order 1982 provides that homosexual acts in private between consenting males over 21 years of age should not be an offence. The Order brought the law in Northern Ireland into line with that already in force in Great Britain.

The Police Act (Northern Ireland) 1970 set up a Police Authority as an independent body to maintain an adequate and efficient police force. One of the Authority's responsibilities under the Act is to keep itself informed as to the manner in which complaints against members of the force are dealt with by the Chief Constable. The Police (Northern Ireland) Order 1977 provided for the establishment of a Police Complaints Board for Northern Ireland. The Board was replaced under the Police (Northern Ireland) Order 1987 by the Independent Commission for Police Complaints (ICPC). The ICPC receives copies of all complaints and, subject to any adjudication by the Director of Public Prosecutions, the relevant investigation reports. The ICPC is charged with ensuring that the investigation of complaints is carried out in a thorough and impartial manner and is required to supervise the investigation of all complaints involving death or serious injury and can supervise the investigation of any other complaints.

The Police and Criminal Evidence (NI) Order 1989 reformed the law relating to the investigation and detection of crime and revised the law on evidence. The new powers introduced were accompanied by a range of safeguards to ensure that they were used fairly and responsibly. Codes of Practice issued

under the Order provide detailed rules and guidance to the police on the exercise of their powers. In the law and order field, the emergency measures which are currently necessary take account of human rights and are subject to regular parliamentary scrutiny. They represent a carefully structured balance between the need to provide the security forces with the legal resources to counter terrorism effectively, and the necessity to protect civil liberties and safeguard fundamental human rights. Detention powers introduced in 1972 have been allowed to lapse and many other refinements have been made following regular independent reviews of the legislation, the last of which has only recently been completed by Lord Colville. The Government recently published a Guide to the Emergency Powers, which explains the main emergency powers and sets out the procedures governing the treatment and questioning of terrorist suspects in police custody. Those claiming ill-treatment by the police or Army are free to seek damages in the courts; in those cases where such allegations have proved true, compensation has been paid. The security forces enjoy no immunity from prosecution.

There have also been developments in the field of community relations in Northern Ireland. In 1987 a Central Community Relations Unit was set up within Government to advise the Secretary of State on all aspects of the relationship between the two sides of the Northern Ireland community and to ensure that at the centre of the decision-making process crucial community relations issues in their widest sense are given the fullest possible consideration. In 1990 an independent Northern Ireland Community Relations Council was established to provide support facilities and recognition for local organisations which are concerned with the development of community relations, awareness of cultural diversity and conflict resolution. There is also under review a system of equal opportunity proofing of Government policy-making and legislation. Under the system, policy and legislation proposals are considered by the NIO and NI Government Departments to establish whether they may discriminate on the grounds of religious belief or gender and provide equality of opportunity.

The Targeting Social Need initiative, which has been adopted as a third public expenditure priority alongside "law and order" and "strengthening the economy" has the objective of tackling areas of social and economic difference by targeting policies and programmes more sharply at those in greatest need. The essential foundation of this initiative is for all Government departments to monitor more closely the impact of their policies and programmes on the two main sections of the community and to bring forward proposals for further action to reduce differences. The Making Belfast Work and Londonderry initiatives, together with the rural development programme are examples of the TSN philosophy at work.

The Northern Ireland (Emergency Provisions) Act 1991 introduced a number of new safeguards on the exercise of emergency powers, such as a record-keeping requirement on police and Army search powers. The Act also provides that the police and armed forces may only stop and question any person for a reasonable length of time to establish their identity and movements. The Government are considering the appointment of an Independent Commissioner to monitor procedures at terrorist holding centres, and to publish a Code of Practice on the treatment of terrorist suspects in police custody. Consultation on the contents of the Codes has begun with interested bodies, including the Standing Advisory Commission on Human Rights. The Government also propose to establish a new Office of Independent Assessor of Armed Forces Complaints Procedures in Northern Ireland. The role of the Assessor will be to keep under continuous review the system of complaints against members of the armed forces which fall short of allegations of criminal actions.

ANNEX B

EUROPEAN CONVENTION ON HUMAN RIGHTS - PROVISIONS

1950

- 1 Right to life.
- 2 Prohibition of Torture, Inhumane or Degrading Treatment or Punishment.
- 3 No slavery or servitude, and no forced or compulsory labour.
- 4 Right to liberty and security of person.
- 5 Right to fair and public hearing with a reasonable time by an independent and impartial tribunal established by law.
- 6 No retrospection in laws.
- 7 Right to privacy in private and family life.
- 8 Right to freedom of thought, conscience and religion.
- 9 Freedom of expression.
- 10 Right of peaceful assembly and freedom of association.
- 11 Right to marry.
- 12 right to an effective remedy to breaches of Convention.
- 13 No discrimination in the application of the Convention.

Additional Protocols

(a) **1952**

- i Peaceful enjoyment of possessions.
- ii Right of education.
- iii Free elections at reasonable intervals by secret ballot.

(b) **1963**

- i Freedom of movement for those lawfully within a state.

(c) **1983**

- i Abolition of death penalty.

(d) **1984**