

STRAND II: NATURE, FORM AND EXTENT OF NEW ARRANGEMENTS

Paper by the British Government

1. All the participants have been invited to set out their views on the nature, form and extent of new arrangements in Strand II. What follows should be read in conjunction with the papers we have already produced on Principles and Requirements in this strand and on Constitutional Issues in Strands I and II.
2. The Government takes the view that, in considering the nature, form and extent of new arrangements in Strand II, it is useful to examine the underlying propositions that need to be clarified before new arrangements could be devised. A key question is **whether any new arrangements should be given institutional expression, and, if so, how**. There is already a wide range of contact and co-operation between the North and South, which works to the mutual benefit of both jurisdictions. The question is whether there is mutual advantage in seeking to enhance co-operation and to place it on a more formal footing.
3. It is the Government's view that new institutions and structures should be developed to take account of the totality of relationships and enable the people of the island of Ireland to work together in all areas of common interest while fully respecting their diversity. On the assumption that new devolved institutions are established in Northern Ireland (a matter for Strand I), there is a strong case for the creation of new institutions to cater for co-operation on the island of Ireland and to enable representatives of the main traditions, North and South, to enter agreed new, co-

operative and constructive relationships. Such institutions might take the form of a North/South body comprising elected representatives from the two jurisdictions. Agreement on such a North/South body would, in the Government's view, significantly increase the prospects for agreeing a set of arrangements, across the negotiations as a whole, which could command the full hearted allegiance of majorities in both main parts of the community in Northern Ireland.

4. If new institutions were to be created a number of related issues would need to be addressed, including:

- **their source of authority, legal status and constitution**
- **their powers, functions and responsibilities and how they should operate**
- **whether their powers, functions and responsibilities should be capable of amendment and, if so, how**
- **whether the institutions should operate as a single new structure or through a range of subsidiary bodies or agencies, or a combination of the two.**

5. The guiding principle when seeking to address these issues, as far as the Government is concerned, is that they should be resolved by agreement among the talks participants. The Government believes that any North/South institutions would need to be dependent on and accountable to the relevant administrations in Northern Ireland and the Irish Republic respectively.

Ireland and the Republic then they should have their foundation in, draw their authority and membership from, and be accountable to, elected institutions in the North and the Republic. There should be scope for new institutions to establish appropriate relationships with the two Governments and possibly also with regional government in the United Kingdom on matters of mutual interest. New North/South institutions should also be conducive to optimising the benefits from the EU framework, and its programmes, for the two parts of the island of Ireland, consistent with the role and responsibilities of the UK and the Republic of Ireland as separate Member States.

- it should be for discussion and agreement with the parties how new North/South institutions might develop a relationship with new intergovernmental structures between the two Governments established as part of a comprehensive agreement. It is desirable that the two Governments should be as open as possible in their dealings on East/West issues so that any North/South institutions are fully aware of relevant issues that are under consideration between the two Governments. Furthermore, the talks participants should consider whether any new North/South institutions should be able to make an input to the intergovernmental discussions and if so how that should be done.

- **what would be the implications of any new institutions for the British and Irish Governments as far as their national and international obligations are concerned.** It is essential that any new institutional arrangements between the North and South take full account of the two Governments' respective international and other obligations.

6. The functions of new North/South institutions would be an issue to be settled by agreement. As far as the Government is concerned, a wide range of powers could be devolved to a new Northern Ireland administration. In principle any function so devolved could, in the Government's view, be dealt with by North/South institutions, subject to any necessary safeguards. If the powers, functions and responsibilities of North/South institutions are to be capable of amendment, this should be done by agreement between the two jurisdictions. As for the method of operation of these institutions, the Government believes that decisions within them should be taken on a basis of consensus. The institutions should function according to the principles of democratic authority and accountability operating in each jurisdiction.

7. Other issues affecting the nature, form and extent of new North/South institutions are:

- **whether there should be a duty of service** on those participating in these institutions, or whether participation should be discretionary. It can be assumed that if the institutions are devised by agreement then all the relevant authorities will support them and participate normally in them. The talks participants may wish to consider, however, whether the membership of the institutions should be invested with a formal duty of service.
- **what should be the relationship with political institutions in Northern Ireland, other parts of the United Kingdom, the Republic and the European Union.** It seems logical that if new North/South institutions are created as a channel for enhanced co-operation between Northern

- **whether there should be a fall-back arrangement in the event that new devolved institutions fail to function**, and what would be the implications for North/South co-operation if no such mechanism was put in place. This may, in the final analysis, come down to a matter of confidence. If the parties are confident that new devolved institutions, and agreed North/South institutions which depend on them, would be stable and durable then no fall-back may be necessary. Alternatively, the parties may regard it as prudent to have a mechanism in place in case for some reason, currently unforeseen, new devolved institutions fail to operate as intended.

- **whether there should be an inter-parliamentary tier or forum**, to give expression to the shared interests of elected institutions in Northern Ireland and the Republic. This must be primarily a matter for the institutions concerned but, on the face of it such an arrangement would have obvious attractions.

- **whether new institutions would need permanent administrative support** and, if so, how it should be provided. If new institutions are created then they are likely to require dedicated support. The form that that support might take should be for agreement among the talks participants.

- **how would new institutions be financed**. This would need to be considered as part of an overall agreement.

8. The two Governments have addressed all these and other related issues in the outline model described in paragraphs 24-38 of '*A New Framework for Agreement*'. The ideas in those paragraphs are intended to reconcile the various competing interests in a balanced and realistic way. The Government commends those ideas for consideration by the parties. As it has already made clear, however, the Government believes the issues are best resolved among the other participants, to which would fall the responsibility of operating any new arrangements.

24 October 1997