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March 10, 1998

TO: Strand Two Participants
FROM: The Independent Chairmen
SUBJECT: Further Synthesis Paper

Introduction

On 23 February we circulated a paper synthesizing the responses of parties to the discussion paper tabled by the British and Irish Governments in London. This paper was discussed at the Strand Two meetings on Tuesday 24 February and Tuesday 3 March.

In accordance with the discussion held just prior to the conclusion of the 3 March meeting, we have now prepared this further paper, which seeks to identify (1) common ground; and (2) the main points which still appear to remain unresolved. This paper is not intended to be exhaustive. Rather it tries to concentrate on what appear to us to be the key matters for debate. Other matters listed in our previous paper will be easier to resolve if agreement is reached on these key matters.

Purpose of North/South Structures

- (1) Areas of Agreement: There appears to be broad agreement that formal structures can play an important and valuable role in promoting the best interests of the island of Ireland across a wide range of issues. All parties agree that such structures should facilitate the achievement of demonstrable, practical and specific benefits. There appears to be a general recognition that North/South structures would provide an institutional expression of the identity of nationalists in Northern Ireland.
- (2) Unresolved Areas: It is clear that for some parties, and for the Irish Government, the establishment of such structures, including a North/South Ministerial Council, is an indispensable part of an overall political settlement. Other parties have expressed concerns about the possible role and functions of North/South structures.

Relationship with East/West Institutions

- (1) Unresolved Areas: Some parties, while willing to acknowledge the value of East/West institutions and their place in any overall agreement, take the view that a North/South Ministerial Council must have a clear and distinct institutional identity. Others see it as meeting within the framework of a wider East/West structure.

Legal Basis of North/South Council

- (1) Areas of Agreement: There appears to be a general consensus that the Council should be provided for in a new British-Irish Agreement based on the relevant aspects of an overall political agreement.
- (2) Unresolved Areas: Some parties believe in addition that detailed provisions to this effect should be included in legislation in the Oireachtas and at Westminster. Others do not share this view.

Membership and Structure

- (1) Areas of Agreement: With one exception, there appears to be widespread agreement that the Council might comprise Heads of Department in new Northern Ireland institutions (and possibly also their deputies) and members of the Irish Government. (One party does not agree that the Northern members of a North/South Council should come from within a new institution in Northern Ireland, favoring instead direct election.)

There is widespread acceptance that while the Council would normally meet in sectoral format to deal with particular functional areas such as agriculture, health, etc., it would also meet in general or plenary format to consider a range of issues of common interest or concern.

- (2) Unresolved Areas: Some take the view that meetings should be arranged as business requires, while others would favor a timetable of regular and frequent meetings. Some parties support the idea of occasional meetings at Head of Government/Administration level, although the nature of representation on the Northern side would depend on the outcome of the

discussion on the nature and form of a devolved institution in Northern Ireland.

Duty of Service

- (1) Areas of Agreement: There appears to be agreement that the role and responsibilities of those exercising executive functions within Northern Ireland institutions would involve participation in a North/South Council.
- (2) Unresolved Areas: However, views differ on whether there should be an explicit duty of service on Heads of Northern Ireland Departments to take part in the Council.

Role and Remit of Council

- (1) Unresolved Areas: Some parties believe that the responsibilities of the Council, including the matters to be designated as falling within the Council's remit, and its functions in respect of such matters, should be clearly specified in an overall political agreement, in a subsequent British-Irish Agreement, and in legislation at Westminster and in the Oireachtas. Others believe that these issues should be for a Northern Ireland institution, once established, to agree.

Functions of the Council

- (1) Areas of Agreement: While parties employ different language, there appears to be general agreement that the Council could:
 - (a) discuss all matters of mutual interest within the competence of the Oireachtas and new institutions in Northern Ireland;
 - (b) exchange information and consult on such matters; and
 - (c) cooperate in various ways.
- (2) Unresolved Areas: A number of parties propose that the Council would, in addition:
 - (a) seek to agree common approaches to policy in specified areas; and

- (b) take decisions in further designated meaningful areas on integrated action and policy at an all-island and cross-border level, including on arrangements for the implementation of those decisions.

Decision-Taking

- (1) Areas of Agreement: There is broad agreement that decisions should be taken by consensus, and that every effort should be made within the framework of the Council to secure that consensus.
- (2) Unresolved Areas: Some parties believe that there should be provision for the British and Irish Governments together to have a role when agreement cannot be reached. Others expressed opposition to such a provision.

Implementation of Decisions

- (1) Areas of Agreement: Although the parties use different language, there appears to be widespread agreement that implementation of some of the Council's decisions would be through existing Departments and public bodies North and South.
- (2) Unresolved Areas: Some parties also propose that decisions of the Council in certain other matters would be implemented through agreed implementation bodies operating at an all-island and cross-border level. Others disagree.

Implementation Bodies

- (1) Unresolved Areas: Some parties believe that agreement should be reached as part of a political settlement on the establishment of a number of such implementation bodies in meaningful areas and on an all-island basis to operate under the aegis of the North-South Council. They also believe that there should be provisions to this effect in a British-Irish Agreement and in legislation at Westminster and in the Oireachtas. Others believe that any such bodies should be established at a later date, subject to the agreement of the Oireachtas and of Northern Ireland institutions, as and when appears necessary after the Council has commenced its operation.

Accountability

- (1) Areas of Agreement: There appears to be broad agreement that the members of the North/South Council would be accountable to the Oireachtas and to Northern Ireland institutions, as appropriate.
- (2) Unresolved Areas: Some believe that this accountability should take the form of regular scrutiny in the Oireachtas and in Northern Ireland institutions, and assume that members of the Council would only act in accordance with such provisions for co-ordination or collective responsibility as might exist within each administration. Others believe that the decisions of the Council should only be implemented after ratification in a Northern Ireland institution.

Further Development

- (1) Areas of Agreement: There appears to be a general recognition that the Council's role could evolve by agreement between the two sides and with the endorsement of the Assembly and the Oireachtas.
- (2) Unresolved Areas: Those parties who favor the designation of the remit and functions of the Council and of implementation bodies envisage that these should be capable of change by agreement on the same basis. Others disagree.

Funding

- (1) Areas of agreement: There appears to be broad agreement that funding for the Council and for implementation bodies should be provided directly by the administrations North and South. (It has also been suggested that alternative or supplementary sources of funding should be examined, but no clear view emerged on this suggestion.)

Administrative Support

- (1) Unresolved areas: There appears to be widespread support for the idea that the Council would be supported by a standing secretariat consisting of officials from the Northern Ireland Civil Service and the Irish Civil Service.

However, one party has suggested that administrative support should be provided by those with this function in respect of East/West structures.

Joint Parliamentary Body

- (1) Areas of Agreement: There appears to be substantial support for a joint body made up of representatives of the Oireachtas and a Northern Ireland institution. (Although some parties believe this is for decision by a Northern Ireland institution once established.)

Role of Civil Society

- (1) Unresolved Areas: Some parties strongly support the creation of a consultative forum, but others disagreed.

Fall-back Arrangements

- (1) Unresolved Areas: Parties are divided on whether there should be agreement that in the event of the Council failing completely it would be for the two Governments to maintain and develop North/South co-operation.