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FROM: S J LEACH  
ASSOCIATE DIRECTOR POLICING AND SECURITY  
3 FEBRUARY 1998

cc PS/Mr Ingram (B&L)\*  
PS/Mr Murphy (B&L)\*  
PS/PUS (B&L)\*  
PS/Mr Semple\*  
Mr Steele  
Mr Thomas  
Mr Bell  
Mr Ray  
Mr Shannon  
Mr Stephens  
Mr Watkins\*  
Mr Woods  
Mr Beeton\*  
Mr Hill  
Mr Ferguson\*  
Mr Maccabe  
Mr Perry  
Mr Huggins  
Mr Myles

Noted  
M  
9/24

[All without Annex B, save where marked\*]

PS/Secretary of State (B&L)\*

**BRIEFING FOR CBMs SUB-COMMITTEE: 4 FEBRUARY 1998**

The Secretary of State is to participate in the sixth meeting of the Liaison Sub-Committee on Confidence Building Measures, scheduled for 10.30 hours on Wednesday 4 February. I, Mr Watkins, Mr Huggins and Mr Beeton of REL will be present in support. (Under the rules set for the Sub-Committee, the Government has two places at the table and three in support, with discretion to rotate between the two. The Secretary of State will of course be at the table throughout the meeting; I will accompany her to start with and will give way to colleagues as appropriate as the discussion progresses.)

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2. The stated purpose of the meeting is to have a brief discussion of the **prisons** issue (already covered at the previous three meetings) and of **economic and social matters**, both on the basis of papers provided by the Government. On **prisons**, the Secretary of State indicated at the last meeting on **13 January** that:

- the Government recognised that prisoner issues were important and had to be resolved to the satisfaction of participants in the process, alongside progress on all the other issues;
- however, there could be no satisfactory resolution which ignored the need to maintain community confidence in the criminal justice system, or the feelings of victims and their relatives;
- the Government was therefore willing in the Sub-Committee to **discuss parties' concerns and work with them on an account** of what would happen in respect of prisoner releases in the context of a peaceful and lasting settlement;
- there would be **no** significant changes to release arrangements in any other context, or for prisoners associated with a paramilitary organisation actively engaged in terrorist activity; and
- to help take forward this work, it would be valuable for the parties to set out their views on the **modalities** which might be employed in resolving the prisons issue as part of an overall settlement. (While parties had previously submitted papers on prisons, these had dealt with the issues only in a very general way.)

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3. This approach was generally welcomed at the 13 January meeting, and the Chairman asked HMG to table a paper for the 4 February meeting specifying the areas in which it was looking for the parties' views on modalities. He made clear that there would **not** be a further substantive discussion of prisons at that meeting: that would take place in the future once the parties had set out their views.

4. We are tabling today a **paper** prepared by Mr Huggins, which has been approved by No 10 and is attached at **Annex A**. This sets out the questions which need to be addressed and provides background information. A brief introductory speaking note (also kindly provided by Mr Huggins) should suffice for this section of the meeting, and is attached at **Annex A1**. Given the Chairman's explicit statement at the last meeting that there would be no substantive discussion of prisons (beyond the introduction of the Government paper), I am not attaching further detailed briefing on prisons issues, though we will have this available tomorrow if, unexpectedly, discussion does develop. (And Mr Huggins will be submitting separately today **public** lines to take on the paper, should it leak to the media once it is circulated to the parties.)

5. It had been intended that the 13 January meeting should move on from prisons to discuss **economic and social issues**, on the basis of a paper provided by HMG. In the event this topic was not reached. Our paper, which takes account of papers from the SDLP and UUP and also responds to comments made during the Sub-Committee meeting on 15 December, therefore remains on the table and will be the focus for tomorrow's discussion. It is attached at **Annex B**. An **opening statement** introducing the paper is at **B1**. A range of supplementary briefing is also attached (see index), but since the possible scope of questioning is very broad the Secretary of State may wish to refer detailed points to Mr Watkins and/or Mr Beeton. (Because of its bulk, Annex B and the associated briefing does not go to all copy recipients.)

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6. Looking ahead, it may be worth mentioning that the next three issues on the Sub-Committee's agenda (which derive from the subjects listed in chapter 7 of the International Body's report) are:

- **paramilitary activity**, which is likely to be the subject for the next meeting, and would provide a natural opportunity for the Secretary of State to give a firm message condemning terrorist violence (although we are also likely to face demands for the Government to confirm or deny allegations of continuing terrorist activity by organisations connected with parties in the Talks);
- **security issues**; and
- **policing issues** (although in practice the main discussion on this topic will probably be in Strand One).

It is likely that the resumed discussion on prisons (once we have received and studied the parties' views on modalities) will be interposed between the discussions on paramilitary activity and security issues - possibly scheduled for **early March**. It may therefore be important at that point for the Government to be in a position to reveal more of its own thinking on prisoner releases.

7. Officials will be available in Castle Buildings tomorrow morning if the Secretary of State wishes to discuss the issues before the Sub-Committee meeting.

[sgd]

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**LIAISON SUB-COMMITTEE MEETING: 4 FEBRUARY 1998**

**INDEX OF BRIEFING**

**Prisons**

Government Paper	Annex A
Introductory Statement	A1

**Economic and Social Issues**

Government Paper	Annex B
Opening Statement	B1
General Issues	B2
Specific - Public Expenditure	B3
Employment/Equality	B4
Human Rights	B5
Education	B6
Local Government	B7
Quangos	B8
Community and Cultural Development	B9
Public Appointments	B10
Regional and Urban Development	B11
Peace and Reconciliation Fund	B12
Minority Rights	B13
PAFT	B14
Targeting Social Need	B15

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## ANNEX A

### LIAISON SUB-COMMITTEE ON CONFIDENCE BUILDING MEASURES: MEETING ON 4 FEBRUARY

#### PRISON ISSUES - PAPER BY THE BRITISH GOVERNMENT

##### GENERAL

1. The British Government recognises the importance of prisoners for many of the participants in the talks process and their supporters. The Secretary of State has said that she is prepared to discuss the parties' concerns and to work on an account of what could happen in respect of prisoner releases in the context of a peaceful and lasting settlement being agreed.
2. At the meeting of the Liaison Sub-Committee on Confidence Building Measures on 13 January the Secretary of State offered a paper setting out areas in which she believed the views of parties need to be clarified in relation to the possible release of prisoners.
3. This paper fulfils that remit and also considers the substantive proposals made by some of the parties in their submissions to the Sub-Committee. Issues are identified that require further clarification by the parties in preparation for renewed discussion in the Sub-Committee at a future meeting. However, it is not the intention of this paper to exclude any proposal from consideration.
4. To assist with consideration of the issues discussed in this paper an annex is attached which gives some statistical information about prisoners in Northern Ireland.

##### PRISONERS AND THE POLITICAL PROCESS

5. Throughout the process the government has demonstrated a willingness to address the prisoner issue. A number of significant changes have already been made to permanent release arrangements, temporary release schemes and prison regimes.

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6. Under the previous government changes to the arrangements for the release of determinate sentence prisoners were made by the Remission of Sentences Act (which came into force in November 1995). The Act works by bringing forward the date of release for prisoners convicted of serious scheduled offences to the mid-point of sentence. In practice this means that prisoners are released steadily over a period of time rather than in groups. More than 250 prisoners have already been released under this scheme, which has continued in force throughout the process, and in time a further 300 will benefit.

7. Changes to the various temporary release schemes were also introduced under the previous administration including - a reduction of the time-served required for Christmas home leave from 11 years to 10 years; an increase in the number of days of pre-release leave; and the extension of the circumstances in which compassionate temporary release may be granted.

8. These policies have been continued and extended under the current government. To take account of the continuing cease-fires the Secretary of State reduced the maximum knock-back for life sentence prisoners from five to three years. Further changes to temporary release arrangements have also been introduced, particularly in relation to Christmas home leave which is now available to a wider group of prisoners and has been increased from 7 to 10 days.

### **PARTY POSITIONS**

9. A number of the parties (UDP, PUP, SDLP, Sinn Fein, Irish Government) made specific recommendations regarding the release of prisoners in their submissions to the Sub-Committee. The other parties did not address the issue of prisoners in their submissions.

10. The recommendations made may be summarised as follows:

- a) There should be some form of early release for terrorist prisoners. Eligibility for early release should take account of the paramilitary affiliation of a

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prisoner, the attitude of his paramilitary group to the political process and if the group has maintained a cease-fire.

- b) The life sentence review procedures should be changed for terrorist prisoners. There should be automatic release after a set period (perhaps 10 years) and the first review should be advanced. The procedure should also be more open.
- c) Determinate sentence terrorist prisoners should receive 66% remission.
- d) More generous treatment might be given to prisoners who have been convicted of certain offences, or who are serving long sentences.

11. Leaving aside for the purposes of this paper the basic issue of broad principle in relation to the different treatment of so-called "political prisoners", these proposals raise a series of issues requiring further clarification.

### ISSUES RAISED

#### Who could be granted early release?

12. The submissions propose that any changes should only apply to what have been described as 'political' or 'politically motivated' offenders and that only prisoners linked to organisations that support the political process and have maintained a cease-fire should benefit.

13. There are a series of difficulties with the different aspects of this proposal.
- National and international law prohibits, in certain circumstances, discrimination on the grounds of political opinion (or other grounds).
  - Using the idea of membership of a paramilitary organisation would give a benefit to members of illegal organisations.
  - Some prisoners convicted of scheduled offences (which it has been suggested are political offences) are not terrorists; some prisoners affiliated to paramilitary groups have been convicted of non-scheduled offences.

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14. In addition there are practical problems with deciding whether a person is a member of a paramilitary organisation.

- Many terrorist prisoners have not been convicted of membership of any paramilitary organisation.
- Some prisoners convicted of terrorist offences have distanced themselves from terrorism and are no longer affiliated to groups.
- Some prisoners who committed offences while a member of one group are now affiliated to another group.
- Some prisoners who are or were not affiliated to a paramilitary group (or are or were affiliated to a group that does not qualify) may claim affiliation to obtain a benefit.
- Some prisoners who are affiliated to a group may have committed crimes which would not be regarded by anyone as 'political'.

**Which prisoners or groups of prisoners could be considered for early release?**

**If affiliation were the best method of selecting prisoners, how could affiliation be determined?**

What changes might be made in respect of lifers?

15. It has been suggested by some of the parties that the Life Sentence Review Board might be directed by the Secretary of State to take a different approach to the cases of terrorist life sentence prisoners who are eligible (under any criteria that might be agreed) to be considered for early release.

16. Life sentence prisoners serve a period in custody proportionate to the nature of their particular offence which also takes account of factors in relation to risk and deterrence. Although the period to be served by life sentence prisoners is considered on the basis of the individual case, there is an expectation that prisoners convicted of similar offences will serve similar periods in custody (except

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where there are ongoing concerns over the risk of further serious offences being committed). The Life Sentence Review Board advises the Secretary of State on matters in relation to the release of individual life sentence prisoners. The Secretary of State makes release decisions and sets the general policy for the operation of the LSRB.

17. Principles of natural justice make it difficult for the Secretary of State to direct the LSRB to treat prisoners differently according to their affiliation (other than in respect of risk, which is already taken into account). It would also be contrary to the principle of fairness if the release of all non-terrorist and some terrorist lifers were considered on the basis of their particular offence, while at the same time certain terrorist lifers were automatically released after a given period in custody because of their perceived affiliation. This approach could also exclude any consideration of risk in individual cases.

**If changes to LSRB arrangements are not the best method, what procedures might be put in place to consider the early release of life sentence prisoners?**

Should there be 66% remission?

18. The recommendation was made by some of the parties that remission for scheduled offenders should be increased to 66%. However, a change to the law of this kind would not discriminate between prisoners affiliated to the different paramilitary organisations and would benefit organisations who have maintained a cease-fire as well as those that have continued to engage in violence.

**Would the parties want changes to be made to remission rates even though such changes would benefit prisoners who are affiliated to organisations that have continued to engage in violence?**

**If a change to the remission rate were not appropriate, are there other methods that might be used?**

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Could some offences or offenders receive special treatment?

19. Some of the parties have suggested that in addition to a general early release scheme for terrorist prisoners some prisoners might receive special treatment. In particular, it has been suggested that prisoners serving disproportionate sentences should benefit as should prisoners convicted in circumstances in which it is alleged that there has been a miscarriage of justice. However, these categories focus on matters which are primarily the responsibility of the judiciary. For the executive to intervene would compromise the integrity of the criminal justice process. However, other criteria might be appropriate.

**Could prisoners convicted of any particular offences or serving particular sentences (for example, sentences over 10 years) receive more favourable treatment?**

**Could prisoners convicted of certain offences (for example, offences committed during the cease-fires) be excluded?**

What about licenses, working out and supervision?

20. Views have not been expressed in the submissions to the Sub-Committee on whether prisoners released early should be subject to special licensing provisions or supervision and in what circumstances prisoners might be recalled to prison. Although, it has been suggested by some that prisoners released on license could be subject to recall should the faction that they are affiliated to return to violence, such a condition of release would pose serious legal questions. Some parties have recommended that the working out scheme for life sentence prisoners should be abandoned, others have suggested that prisoners should be given early release to undertake work in the community.

**Could prisoners granted early release be released on license or under supervision?**

**If yes, what conditions might apply and in what circumstances could prisoners be recalled to prison?**

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**ANNEX**

The British Government considers that it may be of value to provide some background information to the parties regarding prisoners serving sentences in Northern Ireland for offences connected to terrorism.

This paper is based on records held by the Northern Ireland Office for management purposes. Except where otherwise indicated the figures are for prisoners serving determinate sentences of three years or more who will be released after 30 April 1998 and who are held at Maghaberry or the Maze. The short term work force at Maze has been excluded from the figures. Female prisoners held at Maghaberry are included with the total figures for Maghaberry.

**PRISON POPULATION**

As of 26 January 1998 there were 1513 prisoners in custody in Northern Ireland. This includes both sentenced and remand prisoners, female prisoners and young offenders. Prisoners were held in prison and young offender establishments as follows.

<b>Establishment</b>	<b>Remand</b>	<b>Sentenced</b>	<b>Total</b>
Maghaberry (Male)	204	263	467
Maghaberry (Female)	4	15	19
Magilligan	0	339	339
Maze	96	436	532
Young Offenders Centre	53	103	156
Total	357	1156	1513

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**MAIN OFFENCES OF PRISONERS HELD AT MAGHABERRY AND MAZE**

The main offences of determinate sentence prisoners (serving three years or more and due to be released after 30/4/98) are as follows.

<b>Offence</b>	<b>Maze</b>	<b>Maghaberry</b>
Murder (Attempted)	67	17
Murder (Conspiracy)	64	6
Manslaughter	1	8
Explosives Offences	47	0
Firearms Offences	35	6
Hi-jacking/Kidnapping.	11	0
Membership, inc directing terrorism	2	0
Burglary/Robbery	20	19
Assault/Wound	9	5
Sex Offences	0	29
Drugs Offences	0	7
Other (Arson, Blackmail)	5	2
Total	261	99

In addition there are 113 life sentence prisoners at the Maze and 99 life sentence prisoners at Maghaberry (figures as of 27 January 1998). Almost all of these prisoners have been convicted of murder (a small number have not been convicted of murder but have been convicted of other very serious offences).

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**PARAMILITARY AFFILIATION**

Prisoners at the Maze are held in blocks according to their paramilitary faction. As of 26 January the different factions at the Maze had the following number of prisoners (these figures include 15 prisoners who were on temporary release, prisoners serving short sentences and remand prisoners)

Faction	INLA	LVF	PIRA	UDA/UFF	UVF
Prisoners	19	28	224	121	107

For management purposes the Prison Service records the perceived paramilitary affiliation of prisoners when they are committed to custody. For the prisoners at **Maghaberry** (serving three years or more and due to be released after 30/4/98) the figures are as follows:

Faction	Republican	Loyalist	No Affiliation	No Affiliation Recorded
Prisoners	11	22	33	33

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**SENTENCE LENGTHS**

The sentence lengths of prisoners at Maze and Maghaberry (serving three years or more and due to be released after 30/4/98) are as follows. The figures reflect the sentences as given by the courts and do not take account of remission.

<b>Sentence</b>	<b>Maze</b>	<b>Maghaberry</b>
3 years or more, but less than 10 years	45	51
10 years or more, but less than 15 years	74	24
15 years or more, but less than 20 years	67	19
20 years or more, but less than 25 years	48	4
25 years or more	27	1
<b>Total</b>	<b>261</b>	<b>99</b>

In addition, there are about 200 prisoners in custody or on the pre-release programme who are serving life sentences. The average period in custody served by a terrorist life sentence prisoner in Northern Ireland is just under 15 years. The periods that have been served by life sentence prisoners convicted in Northern Ireland and currently in custody are as follows (figures as of 27 January, not including prisoners who have been recalled or prisoners on restricted transfer).

<b>Period Served</b>	<b>Less than 5 years</b>	<b>5 years or more, but less than 10 years</b>	<b>10 years or more, but less than 15 years</b>	<b>15 years or more</b>
<b>Number of Prisoners</b>	38	93	56	9

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**PERIOD STILL REQUIRED TO SERVE**

The periods that determinate sentence prisoners at Maze and Maghaberry (serving three years or more and due to be released after 30/4/98) are required to serve before release is as follows. These figures take account of remission.

<b>Period Remaining</b>	<b>Maze</b>	<b>Maghaberry</b>
Less than a year	54	21
1 year or more, but less than 2 years	52	21
2 years or more, but less than 3 years	52	20
3 years or more, but less than 4 years	32	12
4 years or more, but less than 5 years	30	8
5 years or more	41	17
Total	261	99

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**RE-OFFENDING RATES**

There has been some discussion of the re-offending rates of prisoners convicted of terrorist offenders. It is not possible to provide a historical analysis of the re-offending pattern for all released terrorist prisoners. However, it is possible to offer figures for the number of life sentence prisoners and prisoners detained at the Secretary of State's Pleasure (SOSPs) released since 1983 (when the current release arrangements were put in place) who have had their licence revoked. A prisoner released on life licence may have his or her licence revoked if the Secretary of State considers that his or her continued liberty would be a risk to public safety. In many cases the prisoner will have been charged with or convicted of a new criminal offence, but this is not required by law.

The figures are given with reference to perceived paramilitary affiliation and all figures are as for 31 December 1997.

This table shows the number of revocations as a per centage of the total number of releases.

<b>Affiliation</b>	<b>Releases</b>	<b>Revocations</b>	<b>Rev Rate</b>
Republican	188	3	1.6%
Loyalist	213	10	4.7%
Non-Terrorist	23	5	21.7%
Total	424	18	4.25%

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This table shows the number of prisoners who have been recalled as a percentage of the number of life sentence prisoners currently in custody. The figures for England and Wales have also been included for comparison purposes.

<b>Affiliation</b>	<b>Current Population</b>	<b>Recalls</b>	<b>Per centage recalled</b>
Republican	74	2	2.7%
Loyalist	85	5	5.9%
Non-Terrorist	62	2	3.2%
NI Total	214	9	4.1%

England and Wales (1995 Figures)	3289	151	4.6%
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In addition, a number of released life sentence prisoners have been convicted of further criminal offences but have not had their licence revoked as they were not considered to constitute a serious risk to the safety of the public. Figures for these further offences have not been included.

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**INTRODUCTORY STATEMENT: PRISONS**

The British Government recognises that prisoner issues are important to participants in the Talks process and their supporters. In particular, the **possible early release** of prisoners has been raised by a number of parties in these Talks.

I made clear at our last meeting on 13 January that I would work with the parties on an **account of what would happen in respect of prisoner releases in the context of a peaceful and lasting settlement**. To take this work forward, it will be important for the parties to set out their views on the **modalities** which might be employed. I agreed to provide a paper setting out the issues on which views would need to be clarified. That paper has been circulated to the Sub-Committee.

In addition to setting specific questions, the paper identifies a series of issues following from the proposals made by those parties that have made submissions on prisoner matters. The paper is not intended to exclude from discussion any of the proposals that have been made, only to identify at an early stage where there are particular difficulties.

Once parties have been able to reflect on the issues and formulate their views, I look forward to **further discussion at a future meeting of the Sub-Committee**.

I should make clear that although I am willing to pursue work on what might happen in the context of a peaceful and lasting settlement, there will be **no** significant changes to release arrangements in any other context, or for prisoners associated with a paramilitary organisation actively engaged in terrorist activity.

**LIAISON SUB-COMMITTEE ON CONFIDENCE BUILDING MEASURES:  
MEETING ON 13 JANUARY 1998**

**ECONOMIC AND SOCIAL DEVELOPMENT:  
FURTHER PAPER BY THE BRITISH GOVERNMENT**

1. This paper represents a further British Government contribution on the topic of economic and social development. It takes account of papers already lodged by the SDLP and the UUP and reflects a response both to those papers and to comments made by participants at the Sub-Committee's meeting on 15 December.

2. The Government fully acknowledges participants' concerns about economic and social issues and does not wish to preclude discussion of any matter which participants wish to raise. It believes, however, that if there is to be productive debate on such a wide-ranging area of activity it is important to focus on those matters which are directly relevant to confidence building in support of the Talks process and to underpinning and reinforcing any settlement that emerges. With this in mind, the paper concentrates on 5 main areas - targeting social need, rural development, employment equality, cultural issues and rights and safeguards.

**Targeting Social Need**

3. The Government recognises that Northern Ireland experiences particularly high levels of socio-economic disadvantage and high levels of unemployment. Socio-economic deprivation affects significant sectors of both the Protestant and Catholic communities, but the Catholic community has traditionally experienced worse levels of disadvantage. Though the differentials between the communities have been eroded in some respects in recent decades (notably educational

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performance and housing), community differentials persist in other significant fields, including long term unemployment.

4. The Targeting Social Need (TSN) initiative was launched in 1991 by the previous administration. The current Government has restated its commitment to the initiative's principles. The initiative seeks to direct resources to people and areas on the basis of objectively-identified social need, without regard to their community background. Because of the disparities in differentials referred to above, however, it is expected that over time TSN should have the effect of reducing differentials between the two communities.

5. Many economic and social programmes already make a contribution to TSN - for example, differential grants for inward investment; area-based regeneration projects; and the new Welfare to Work programme. SACHR's report on employment equality (see below) has made a number of recommendations on the future development of the TSN initiative. These are currently under consideration, along with SACHR's other proposals.

### **Rural Development**

6. The Rural Development Programme has been in place since 1991. DANI has primary responsibility and has rural co-ordination offices in Enniskillen, Ballymena and Newry.

7. The main aim of the Programme is to advance social and economic regeneration in the most disadvantage rural areas. These have been identified as peripheral Fermanagh, the Sperrins, western shores of Lough Neagh, the Glens of Antrim/Rathlin and South Armagh/South Down. Action can be taken in other areas where pockets of disadvantage arise.

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8. Phase I of the programme (1991-97) has majored on developing rural communities and their ability to work in partnership with others on regeneration projects. It has three main strands - capacity building among rural communities (primarily taken forward by the Rural Development Council and the Rural Community Network - both based in Cookstown); community project support; and area based strategies which focus on localities with particular needs and allow for local decision making on project funding. These strands are complemented by partnership programmes which DANI has with the EU, LEADER, PESCA and INTERREG initiatives and with the International Fund.

9. To date this work has created over 300 jobs - more than 1,000 people are involved in regeneration activities, over 200 community groups have taken up training programmes and 50 projects and 8 area based strategies are under way. In financial terms it is expected that Government action will have channelled around £50m into rural areas through the Programme by the end of the current structural funds spending period (2000/2001).

10. The Rural Development Programme has promoted and will continue to promote and action cross community regeneration and there will be an increasing emphasis on sustainable projects, the creation of employment, environmental management and quality in delivery. The importance of a broadly based rural development programme will be enhanced in the 2000/2006 period as pressures on both the agricultural industry and individual farmers increase as a consequence of Agenda 2000 and further CAP reform.

### **Employment Equality**

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11. The Government is committed to ensuring equality of opportunity in employment, based on recruitment and promotion on merit. To eliminate unfair discrimination on religious and political grounds, it has enacted fair employment legislation which imposes obligations on employers well beyond those in comparable gender and race discrimination law.

12. Providing opportunities for employment based on merit requires more than fair employment legislation. The Government's programmes for economic growth and the attraction of inward investment, training and education all contribute to employment opportunities, matched with a skilled workforce. In particular in Northern Ireland, as with the rest of the United Kingdom, the Government is devoting special attention to tackling the problem of long-term unemployment through the New Deal initiative, with some £140m being made available over the next 5 years.

13. In this context, it is acknowledged that Catholic males are disproportionately represented among the long-term unemployed in Northern Ireland. The reasons for this differential are complex and involve a range of contributory factors. But while it remains an indicator of Catholic socio-economic disadvantage, it is not an appropriate indicator of the fairness of the current labour market, nor of the success of the fair employment legislation.

14. More generally in the field of employment equality, the previous administration invited the Standing Advisory Commission on Human Rights to take forward a comprehensive review in 1994. SACHR reported in June 1996, making over 160 specific recommendations on current fair employment law and Government policies on education, training, tackling social deprivation and equality of opportunity. These recommendations are currently the subject of detailed consideration, with a view to publication of a paper on employment equality in the

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next few months. Meanwhile, the Government has already indicated certain recommendations on which it proposes to take action, notably clarification of the law on direct recruitment of the long-term unemployed and firmer powers against persistent discriminators.

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