4.   A central objective of the Government's political policy for
Northern Ireland has been to sustain and develop the legitimacy of
the constitutional and political arrangements for the province.
Political development arguably also has a place in the longer term
in efforts to marginalise and defeat terrorism. For instance,
political policy may be able to demonstrate the availability of
viable internal democratic alternatives to terrorism, and to deprive
it of spurious legitimacy which it claims.

5.   One of the particular prospects held out by the Talks is the
possibility of agreeing arrangements which could revitalise
political life within Northern Ireland. In his opening statement in
last year's talks the leader of the SDLP said "we are a powerless
people"; and the UDUP opening statement referred to "the democratic
deficit that exists in Northern Ireland." Political development
could involve transferring a significant measure of power, authority
and responsibility to locally accountable institutions, as part of a
system enjoying widespread acceptance. Such a transfer would have
real attractions. Locally accountable government would mean that
local people could take greater responsibility for, and exercise
greater power over, their affairs.

Underlying principles

6.   In his speech at Bangor on 9 January 1990 the then Secretary of
State for Northern Ireland said:

> "Our only broad criteria for endorsing any particular
> arrangement which might be proposed are that it should be
> workable, and likely to prove stable and durable; and that it
> must command widespread support and provide an appropriate and
> fair role for both sides of the community ... The Government
> will look seriously at any proposal that is workable and could
> achieve widespread support."

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The Government has thus left open a wide range of possible approaches to political arrangements in Northern Ireland, which might be considered in the Talks. Discussion might focus on, but need not be necessarily confined to, province-wide institutions. Possible arrangements could include legislative as well as administrative functions. They could involve significant changes to powers currently exercised by the Secretary of State and by District Councils and Executive Bodies (such as the Education and Library Boards). There might be implications for the handling of business at Westminster, and for Northern Ireland's financial arrangements.

7.   Participants in the Talks may wish to consider which principles would constitute the most important criteria against which any new political arrangements proposed for Northern Ireland might be judged. There is a wide range of possible candidates. Some may be considered to be fundamental, others merely desirable, if still important. Paragraphs 8-16 below seek to provide an aide memoire without prejudging discussion of the relative importance and significance of the various possible principles. They are all based on what the Government takes to be the common ground that any new arrangements must be democratic and acceptable to the people.

8.   It is often suggested that it is fundamental that any new system should be workable. This might imply that it should be easy to operate, that responsibility should be clear, that mechanisms should be relatively straightforward and simple to understand, and that procedures should not be subject to paralysis. Talks participants may wish to offer their own views on what is implied by workability.

9.   A second frequently suggested fundamental criterion is that any new arrangements should be stable and durable. (The UUP opening statement last year, for instance, picked out durability as a key test.) This might imply that they should hold out a

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reasonable prospect of being able to withstand the stresses and strains of normal government. How far is it also desirable that the system should be self-sustaining, able to cater for an orderly transfer of power after elections, and not dependent on a specific interparty deal or on particular personalities? If a proposed system did not have stability and durability in this sense, any arrangement might need to be painfully renegotiated after each election or change of personality. HMG might also need to be involved very heavily in that process. Talks participants may take the view that that would not be desirable. That is not necessarily a view which HMG would dispute!

10.   A third possible fundamental criterion is that any system should be widely acceptable. This principle is often developed to add that the system should provide an appropriate and fair role for both sides of the community. This cluster of criteria might be taken to imply that the system should command the willing support and commitment of all sections of the community, and offer a framework within which elected representatives of all parts of the community could pursue their respective interests by constitutional means on a basis which all would find acceptable. The Alliance Party's opening statement last year commended "complete and effective participation in our political, government and public life at all levels by people drawn from both sides of our present religious divide."

11.   Fourthly, any future arrangements for the government of Northern Ireland would need to preserve appropriate relationships with UK institutions. Talks participants will wish to consider what this should imply. The Government has already signalled - in the course of last year;s Talks - that areas in which this principle might come into play include financial commitments, international obligations and security responsibilities.

12.   Fifthly, while the system as a whole should provide for fair participation, at least over a period, by representatives of all sides of the community, it might be regarded as desirable that

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it should not give any sectional interest as of right power disproportionate to its electoral strength.

13.   Sixthly, how important is it that the governing administration, whatever form it might take, should be generated by the system itself, rather than being a function of some external bargaining or other intervention? Should the system operate independently of the negotiations which led to its being established? Is it essential that the system should be capable of operating over a period without external manipulation? This links back to the possibility, mentioned in paragraph 9 above, that any new system might be self-sustaining.

14.   A seventh possible criterion for consideration might be that the system should be designed in the expectation that there could be alternations of power, without the system itself being threatened as a result, and without the need for further intervention by some external agent. Alternations of power can take a number of forms. These need not necessarily be confined to the succeeding of the administration by the official opposition. Shifts in coalitions or representation on Committees might also satisfy the criterion. The key feature is that there should not be stagnation, with one political grouping or coalition perpetually holding power notwithstanding shifts of opinion within the electorate.

15.   Eighth, is it possible, and if so is it desirable, for the system to be neutral as to communal identity, operating equally well whether or not political life and political parties are organised around the community divide? (This need not preclude features of the settlement as a whole providing express safeguards for aspects of cultural, religious or political diversity.

16.   Ninth, how far do some or all of the previous eight criteria need to be constrained by the consideration that the system should be such as to enable the administration to function

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effectively, efficiently and decisively? If it is accepted that
this is an important criterion in its own right, what does it
imply? Does it mean, for instance, that the administration should
have clear financial powers and responsibilities, and that there
should in general be a clear division of powers between those
enjoyed by the administration and any subordinate local
institutions on the one hand, and on the other any powers retained
by the Secretary of State or other agencies?

The institutional framework

17.   Having considered these and other possible underlying
principles or criteria, Talks participants may wish to consider in
the light of their conclusions what a new institutional framework
for Northern Ireland might look like. Paragraphs 18-26 below
provide a checklist of some key ingredients. They do not examine
financial arrangements, the EC, human rights and security, each of
which will need to be looked at separately.

18.   First, on the assumption that there should be a transfer of
powers of Government to new locally elected institutions in
Northern Ireland, should there be a single province-wide elected
assembly? Is it common ground that a new provincial government of
some form or other is needed to provide a common focus of
identity, and an opportunity to share in self-government? Does
that imply a focal province-wide institution? How far would the
creation of more than one sub-provincial assembly or regional
council entail extra expense? Could this be justified, and would
there be a risk of confusion of responsibilities? Is it right to
take the view that Northern Ireland should be regarded for
governmental purposes above the district council level as a single
entity? The restructuring of local government consequent upon the
report of the review body on local government in Northern Ireland
1970 (the Macrory Report) took place in 1973. How far was it an
inherent part of the post-Macrory structure that a single elected

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Northern Ireland Assembly would constitute a top tier authority of democratic scrutiny and control of services to be managed henceforth on a province-wide basis? Would it be possible for local differences and needs to be catered for where appropriate by special arrangements in the administration of particular services? As regards the size of any new provincial Assembly, past experience in Northern Ireland and the needs of adequate representation suggest that it could appropriately contain about 85 members. Does this seem right? Would any single province-wide elected Assembly need to be balanced by a second chamber?

19.   Secondly, would Talks participants agree that in the light of the special political considerations which apply in Northern Ireland, the method of election to the Assembly should continue to be the <u>single transferrable vote form of proportional representation</u>? This method is familiar and well established in Northern Ireland, having been used since 1973 for all elections except those to Westminster.

20.   Thirdly, should any new Assembly and any administration derived from it have responsibility over a <u>range of subjects broadly similar to that transferred in 1973</u>? A transfer on this scale would enable the existing administrative machinery of the Northern Ireland Departments now under the direct control of the Secretary of State to come under the control of the new body. How much weight should be given to the advantages of keeping the existing Northern Ireland Civil Service intact?

21.   HMG has already indicated that there would be likely to be objections of principle and practicality to transfer to any new Northern Ireland administration of any powers in the "excepted" category, and that similar considerations could apply in relation to at least some of the powers currently in the "reserved" category. This would not entail that a new Northern Ireland administration should have no role in relation to security. The

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Government would be prepared to consider a range of possible roles and mechanisms. On reserved powers more generally, the Government would not argue that none of these should at any point be transferred. It does, however, question whether it would be wise to earmark any such powers for transfer before it was clear that any new local institutions would be stable and durable, and able to agree on how any such powers should be exercised.

22.   Fourthly, the Government envisages that the Secretary of State for Northern Ireland would continue to be wholly accountable to Parliament at Westminster for those responsibilities and functions which he continued to exercise. These would be those reserved and excepted matters (and any 'transferred' matters) for which he remained directly responsible, and also the consideration of the total Northern Ireland public expenditure requirement, in consultation with members of the new Northern Ireland administration and in the context of United Kingdom public expenditure policy. Means would be needed to ensure that actions of the administration in the transferred field did not jeopardise the exercise of the Government's responsibilities in the reserved or excepted fields (eg to ensure that the United Kingdom's international obligations were observed). Talks participants may wish to consider what mechanisms would be appropriate for this purpose. For its part a new NI administration would presumably wish to keep in touch with Whitehall thinking on GB policies in relation to subjects which in the case of NI were transferred matters; and to influence Whitehall thinking on non-transferred matters such as EC and other international issues. The formal link with Whitehall would be the Secretary of State as a member of Cabinet. But the existing patterns whereby officials and others in executive positions keep in touch with their Whitehall counterparts would continue to be important.

23.   Fifth, Talks participants will wish to consider, both specifically in relation to security, and more generally, what machinery would be needed to provide a local input on those

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excepted and reserved matters for which the Secretary of State remained ministerially responsible and accountable to the Westminster Parliament. Should there, for instance, be a general advisory council under the chairmanship of the Secretary of State and comprising representative leading members of the Assembly as a means of ensuring consultation and local input on such matters? How would any such arrangements tie in with arrangements for the Secretary of State to consult the Irish Government on such excepted or reserved responsibilities as they might have an interest in, eg in the field of cross-border security co-operation? What would be the implications for parliamentary scrutiny and legislative procedures at Westminster?

24. Sixth, Talks participants will wish to consider whether the Assembly should have power, as in 1974, to <u>legislate</u> on as well as <u>administer</u> transferred matters. The existing administrative institutions in Northern Ireland are designed to service a local system of Government with corresponding legislative powers. Are Talks participants agreed that any new Assembly should possess such powers? (If it did <u>not</u> possess legislative powers, what arrangements would need to be made to cater for the fact that NI Departments would be under the direction of both members of the Assembly and the Secretary of State?) Should Westminster have any role in relation to legislative measures of the Assembly on transferred matters? Conversely, should the Assembly have any legislative role in relation to non-transferred matters? So far as the <u>administrative</u> aspects of transfer are concerned, do Talks participants envisage that there would be significant implications for the roles of Boards and District Councils?

25. Seventh, would Talks participants agree that there should be <u>departmental committees</u> of the Assembly? Irrespective of the form which the Executive may take, an important role could be envisaged for committees formed of elected representatives of significant constitutional parties to scrutinise the actions of the Executive and offer advice to the administration. Possible

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powers of such committees, which could between them cover all the
Northern Ireland Departments, could include: calling for papers
and persons; scrutinising departmental policy, including the
departmental estimates; holding hearings on proposed legislation;
and taking the Committee Stage of measures not taken on the floor
of the Assembly. They might also have allotted time in the
Assembly for debating their own proposals for legislation. The
chairmanships and membership of such committees could be either
proportionately representative of the Assembly as a whole, or
equally distributed between the party supporting an Executive and
the opposition. That choice would depend on the method of
selecting an Executive.

26.   Eighth, would Talks participants agree that existing
safeguards and remedies against discrimination on religious or
political grounds should be maintained? Are there any
modifications which they would wish to see? Is there a case for
further entrenchment of provisions to safeguard human
rights?Taking account of community divisions

27.   An essential issue - and one which distinguishes Northern
Ireland and other divided communities from more homogeneous
jurisdictions - is the desirability of ensuring that all sides of
the community feel that the system as a whole sufficiently
recognises and accommodates their interests. One reason this may
be desirable is so that they can accord it the respect and support
necessary for the system to be sustained in peace and stability
over a period. That issue needs to be addressed on a number of
dimensions, including by attempting to ensure that the wider
relationships with and between the rest of the United Kingdom and
the rest of the island of Ireland are conducive to resolution of
the communal tensions in Northern Ireland, and by adequate
security, economic and social policies. Nevertheless, it is clear
that the way in which any new system of localised institutions for
government is able to facilitate a working accommodation between
divided segments of the community is of crucial importance.

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28.   Talks participants will wish to consider how this central
issue should be formulated. They might then wish to discuss what
institutional conclusions should be drawn. Paragraphs 29-34
examine five broad approaches, simply as a means of mapping out
the range of possibilities rather than with a view to advocating
any particular one of them.

29.   First, it would be possible to recognize and
institutionalise the unionist and nationalist communities, and
allocate roles within the government system accordingly. An
example would be a system where one political grouping took the
presidency and another the premiership. While such a system can
exacerbate polarisation, and perpetuate the communal divide, it
has in some circumstances been found to encourage stability by
providing each community with reassurance that its interests were
safeguarded. But such an approach could make difficult the
organic development of political life.

30.   Secondly, the system could recognise, if not fully
institutionalise, the community divide by seeking to accommodate
representatives of both communities within a particular executive
or administration. This was the approach followed with the
power-sharing Executive in Northern Ireland in 1973-74. A system
of this kind can be fragile, although much depends on the terms of
any such cross-community representation. It is not easy to
reconcile with the desirability of alternations of power.

31.   Thirdly, it is possible to attempt to ensure, by various
devices, a means of protection or participation for the main
interests across the power structure as a whole (at Westminster
and, locally, at the level of government, legislature and other
agencies): for example by checks and balances, entrenched
provisions, constitutional safeguards and overrides, and
requirements for weighted majorities for various purposes.

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32.   Fourthly, power could be distributed, as in a federal
system, among different levels of Government. For example local
authorities, on a cantonal approach, could be designed to afford
the relevant community local dominance, with federal institutions
being designed to ensure joint participation. (Executive agencies
could also feature in such a sharing of the cake.)

33.   Fifthly, it would be possible to seek to ensure that the
system enjoyed confidence on all sides on the basis that there
were equitable opportunities for participation from all sides over
a period in either the executive or in institutions exercising
balancing power. A key feature of such a system in a divided
community would be its capacity for alternation of power through
shifting alliances and coalitions.

Illustrative models

34.   Some illustrative models may help to focus discussion.
They are closely inter-related. Many variants are possible. The
Government is not seeking at this stage to advocate any one of
these. Moreover, while some necessarily have features in common
with proposals made either by the Government or by political
parties in the past, the Government is not seeking in this way to
pre-empt any model which either it or any other Talks participant
may wish to put forward.

35.   Models I and II might involve an elected Assembly with an
Executive or Cabinet. Following the elections, the Chief
Executive could be appointed either automatically, as the leader
of the largest party, or by a vote in the Assembly, or by
appointment by the Secretary of State. On Model I the Chief
Executive might then appoint the Executive himself from the
largest party or parties. On Model II the Executive would be
constituted according to the proportionate strengths of the
parties in the Assembly. On either Model there could be a need to

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pass an investiture vote in the Assembly, and this vote could require either a simple or a weighted majority. On Model II, there might be a Deputy Chief Executive chosen to represent the community not represented by the Chief Executive.

36.   Model III would be a variant of Model I. It might involve an Executive formed by the largest party or parties, but balanced by committees of the Assembly with seats and chairmanships shared equally between government and opposition. The Assembly committees might have powers to call for papers and persons, institute inquiries, and make policy recommendations to Ministers. There might also be a provision that any measure rejected by the relevant committee would need a weighted majority in the Assembly on Second Reading. Equal distribution of committee chairmanships and seats between supporters of the Executive and supporters of the opposition might be criticised as a departure from the principle of proportionality. This could, however, be defended on the ground that the committees were not themselves part of the administration, but rather were counterbalancing institutions designed to scrutinise the policies and activities of the administration and the Northern Ireland Departments. It would be for consideration, on this Model, whether the committees should have more substantial counterbalancing or delaying powers, and whether there should also be a security and external relations committee and a chairman's liaison committee or general purposes committee. On Model IV, a Council of the Assembly rather than Committees might provide the main counterbalance to the Executive. On Model V, a second chamber might fill this role.

37.   Model VI might be described as a committee system with both legislative and administrative roles. There would be committees of the Assembly with both legislative and administrative responsibilities in relation to all the matters to be transferred from Westminster. The seats and chairmanships of the committees could be allocated proportionately to party strengths in the

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Assembly. This proportionality could apply either within each Committee individually or, instead, across them collectively. Day to day executive decisions might normally fall to a committee chairman, but authority and policy responsibility would formally rest with the committees. The committees could include a Finance and Budget Committee. This could in principle be built into a General Purposes Committee with roles relating to policy co-ordination and the provision of advice to the Secretary of State on non-transferred matters. The Assembly might elect the Chief Executive, who would chair the Finance and Budget or General Purposes Committee. Executive Committee members and chairmen could be elected by the Assembly by proportional representation. Committee Chairmen would need some freedom to run their Departments and take executive decisions, but the whole question of the relationship between the powers of the Chairmen and those of their Committees would need careful consideration.It would be possible to provide various safeguards such as weighted majority voting on Committees in respect of more significant matters, or a right for members of Committees to refer disputed decisions or votes to the vote of the full Assembly.

38.   Model VII would be similar except that the Committees and the Assembly would not have a legislative role. A significant implication is that some of the overall policy responsibility for transferred subjects would remain with the Secretary of State because he would be responsible for formulating and presenting legislation. There would be a range of possibilities as to how far this left the local administration with a policy making as distinct from an executive role. Model VII could be viewed as a staging post towards fuller transfer of powers, including power to legislate on transferred matters. Some of the Assembly's executive responsibilities could be sub-delegated to Boards, whose members might include Assembly representatives.

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39.   Model VIII would entail some departure from the possible elements of a framework discussed above. There would be separate elections to a Northern Ireland Assembly and for the post of President. The President might need a weighted majority of all the votes cast. He would then form an administration, not necessarily drawn just from within the Assembly. The Assembly might elect a Speaker, on a weighted majority, from the opposite community from that of the President. The President might have responsibility for policy and executive actions, while the Speaker might have a power of veto over legislation, the budget and human rights. On policy and executive matters not directly within his competence, the Speaker could veto the administration if he could get more than a fixed, substantial minority of Assembly votes. The Assembly might also appoint scrutinising Committees with seats evenly divided between both sides of the community and chairmen elected in proportion to the size of parties in the Assembly. Such a system would be significantly different from what has gone before but might tend to institutionalise the community divide.

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