



Government of Bermuda

A Green Paper

The Implications of Independence for Bermuda

Presented to the House of Assembly 3 February 1995

A Green Paper is a factual objective position paper. The paper sets out proposals expressly intended to serve as a basis for discussion rather than as a commitment by the Government to a particular course of action.

FOREWORD

The question of independence for Bermuda has been under consideration periodically since the 1966 Constitutional Conference in London led to Bermuda's present form of responsible Government.

The issue was first comprehensively reviewed in the Green Paper — a discussion paper — presented to Parliament on 15 July 1977.

That Green Paper was followed on 9 November 1979 by a White Paper. Whereas the Green Paper offered alternative ways in which various questions – citizenship for instance – might be dealt with in the event of independence, the White Paper was more definitive, setting out Government's firm proposals on a number of issues.

Government's conclusion in the White Paper was that for the present:

The time has not yet arrived for the convening of a Constitutional Conference for the purpose of negotiating with the United Kingdom Government an Independence Constitution, and setting a date for independence for Bermuda.

But it also accepted that –

Local opinions may well change, and external circumstances be different. Events beyond Bermuda's control may be at any stage in the future necessitate a reappraisal of the situation.

Over 15 years have elapsed since the White Paper and this is an appropriate time for reappraisal. Having regard to changes which have taken place meanwhile, both internationally and locally and particularly during the last few years, Government decided that the time had come to review the question and to give the people of Bermuda an opportunity to express an opinion on the matter of independence for Bermuda.

Hence, on 1 July 1994, on behalf of the Government, the Premier made the following statement to the Parliament:

Mr. Speaker, early in the next session the Government will bring forward a Green Paper on the issue of independence. The Green Paper will not make a recommendation for or against independence. Instead, it will identify the issues and examine the pros and cons of independence for Bermuda.

The Green Paper will form the basis for an extensive public education programme. In addition, it will be debated in the House of Assembly and widely discussed and debated in a series of public meetings.

Once the public has had an opportunity to thoroughly review and consider the information in the Green Paper, it is the Government's intention to allow the people of Bermuda to express their opinion as to whether Bermuda should or should not be independent through the vehicle of a referendum. It is intended to hold the referendum either before the end of the next Parliamentary year or during the 1995 summer recess.

Mr. Speaker, the Government recognizes that an overwhelming majority of Bermudians are in favour of more information on the subject of independence, and we believe that a majority are in agreement with the idea of a referendum to express their opinion. Government also believes that a Green Paper followed by a referendum will resolve the issue by putting the final decision about independence in the hands of the Bermudian people.

The Government would like to thank those organizations and individuals who have so helpfully and thoughtfully responded to the Committee's invitation to make written submissions (Appendix 1). These

were of considerable assistance in highlighting matters which needed to be addressed in this, Bermuda's second Green Paper on the subject of independence.

The Government would also be remiss if it did not extend thanks to those concerned at the Foreign and Commonwealth Office for their helpful and willing assistance in the preparation of this Paper.

The Government believes that the facts set out in this second, rather more detailed, Green Paper will assist the public in reaching a decision on which constitutional position they feel will best serve Bermuda for the foreseeable future.

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INTRODUCTION

This review was conducted by a Cabinet Committee. Its composition and terms of reference are set out for information in Appendix II.

The Government appreciates the diligence with which members of the Committee have applied themselves, and is particularly grateful for the dedicated assistance of both Sir John Sharpe and Mr. Kenneth Richardson, whose many years of experience with Government and the present Constitution have proved invaluable.

The terms of reference assumed that an independent Bermuda would remain within the Commonwealth.

In this regard it is noted that 30 members of the Commonwealth are republics, and 16 are monarchies under Queen Elizabeth II. In each of the latter, except in Britain, the Queen is represented by a Governor-General. Five others have national monarchs. The Queen, symbol of the free association of independent member nations, is recognized by all its members as Head of the Commonwealth.

As a matter of interest, the essential difference between a republic and a monarchy can be summarized as follows:

Republics have Presidents as their Heads of State. Their Presidents may be elected, in which case they are usually Heads of Government too, with executive responsibilities. Or they may be appointed, for instance by the Prime Ministers of the countries concerned, in which case they are not Heads of Government and have few, if any, executive responsibilities.

In those **Monarchies** within the Commonwealth which have Governors-General, the Queen is Head of State and the Governor-General acts as her representative. Governors-General are appointed by the Queen, usually on the advice of the Prime Ministers of the countries concerned. They are never Heads of Government and have few, if any, executive responsibilities.

This Paper is written on the assumption that in the event of independence, Bermuda would wish to follow the monarchical system, since it has had a long familiarity with it – for over 375 years, the last 26 years with responsible government.

In summary, the terms of reference required the Committee to enquire into the effects which might reasonably be expected to follow if Bermuda remained a dependent territory of the United Kingdom, and, similarly, if Bermuda were to become an independent country within the British Commonwealth.

These two aspects, where possible, are dealt with under the same subject headings. Additionally, this paper comments on other relevant questions raised in correspondence addressed to the Committee, or at public meetings. In some cases, Appendices are used to provide further background information on various subjects.

For the avoidance of doubt, it is worth restating the position of the United Kingdom Government on the matter of independence for Bermuda. Simply put, it is not to actively encourage any dependent territory to seek independence, nor to discourage them if that is their choice.

The Government will be introducing a Referendum Bill to Parliament early in 1995 which will set out the guidelines for the Referendum. The results of the Referendum will not be binding on the Government unless:

- Two-thirds of those persons on the electoral roll vote; and
- Fifty per cent of the valid ballots cast, plus one, declare their choice.

Depending on the outcome of the referendum, the Government will either announce its intention to preserve the status quo, or will proceed in consultation with the Opposition to ask the United Kingdom Government to convene an Independence Conference.

SUMMARY

This Green Paper on Independence fulfills the Government's commitment, made in Parliament on July 1 1994, to review the matter of independence for Bermuda prior to offering the electorate of Bermuda an opportunity to express themselves on the issue at a referendum to be held in 1995.

Bermuda has had a parliamentary form of government for over 375 years. The present Constitution, within those constraints Bermudians have successfully operated for 26 years, provides for internal self-government. External affairs, defence, including armed forces, internal security and the Police are matters reserved to the Governor. The Premier and some other Cabinet Ministers serve on a Governor's Council, under the Governor's chairmanship, which considers these matters. More importantly, some of the Governor's responsibility for these matters has been delegated to Ministers.

Although the United Kingdom Government is content to continue with the existing arrangements, it is prepared to set in motion the legislative and constitutional processes necessary for independence, whenever the people of Bermuda have clearly signified their desire for it.

Discussions have confirmed that there is no option of any intermediate status, such as associated statehood, or the assumption of further responsibility short of independence.

In the event of independence, Bermuda would automatically assume full responsibility for defence, external affairs and internal security, with their attendant costs. But advice and assistance in the way of training for the Police and Regiment would continue to be available from the United Kingdom, at cost, in much the same way as it is now.

This Green Paper has examined various ways of conducting Bermuda's external relations. It would be necessary to have a Ministry of External Affairs in Bermuda, probably as part of the responsibility of an existing ministry. Consideration would also have to be given to the most economical and efficient way of handling Bermuda's relations with her main partners, the United Kingdom, Canada and the United States – and to Bermuda's position vis-à-vis various international organizations such as the United Nations.

Currently, the defence of Bermuda is the responsibility of the British Government. However remote the prospect of an invasion may seem, an independent Bermuda would be likely to seek a Treaty of Friendship with the United Kingdom, United States or Canada to protect against such an eventuality.

Upon Independence, Bermuda would be free to decide her own marine, shipping, civil aviation, citizenship and nationality policies. Various approaches to these matters have been explored in the relevant paragraphs of the Paper.

Independence need not affect the financial position of Bermuda.

The possible effect of independence on the tourist industry and international companies needs to be carefully considered, as it is difficult to deal definitively with the concerns raised. Bermuda enjoys a high reputation for political and social stability, and any changes would have to be carefully managed in order to ensure that international confidence was retained.

No major changes would be required in the existing Constitution, except to provide for Bermuda becoming a fully independent Sovereign State, to set out how public officers would be appointed, and to entrench certain fundamentally important matters. This Paper assumes that Bermuda would become a Monarchical State, with a Bermudian Governor-General replacing the British Governor.

The initial and annual estimated costs of the three options offered in this Paper range from a low of approximately \$800,000 to a high of approximately \$2,330,000 and are detailed in Appendix IX.

The previous Green Paper concluded that it was difficult to identify tangible benefits that would arise from independence, and it is self evident that Bermudians would have to assume additional and serious

responsibilities with their attendant costs. But the Green Paper went on to recognize the natural desire of some Bermudians to identify more positively with their own country as an independent nation. This re-examination of the issue of independence for Bermuda reaches much the same conclusion and accepts that the latter statement, although difficult to quantify, is for some irrefutable.

There are matters, inappropriate for decision in a Green Paper, about which the public may want additional information, prior to voting at a referendum. Government intends, when and where appropriate, to make available further information as to how these matters would be provided for in an Independent Constitution prior to the referendum.

CONSTITUTIONAL BACKGROUND

Bermuda has enjoyed a parliamentary form of Government for 376 years. Its first written Constitution was, however, introduced as recently as 1968. Under the present Constitution, the Constitution of 1968, as amended in 1973 1979 and 1989, the Premier and the Cabinet, through the Legislature, have full responsibility for the governing of Bermuda, except for those matters specifically reserved to the Governor.

The Constitution is generally well understood, and 26 years of experience confirm that it has provided a satisfactory instrument for the protection of society and the administration of a system of responsible Government.

With its guarantees of the fundamental rights and freedoms of the individual, its provisions for the independence of the judiciary and the various public offices which protect the integrity of the system, the Constitution has unquestionably contributed in a meaningful way to the overall political and social stability which Bermuda has enjoyed.

Stability is the key to Bermuda's continued success and is as much a prerequisite under dependent territory status as it would be for an independent Bermuda. Stability should not be taken to indicate a commitment to government by one particular party, but rather to a situation where there is due constitutional and democratic processes whereby the people can elect the government of their choice.

Political and social stability is also important in that it affects the everyday life of the people, the harmony of their working and social relationships and, thereby, the face they present to the world.

Political stability in any country, independent or not, implies the maintenance of the existing democratic safeguards to which countries like Bermuda have long been accustomed. These safeguards include the supremacy of Parliament and the independence of the judiciary and the Public Service. This paper discusses how these fundamental safeguards are assured in Bermuda today, and how they might be provided for should Bermuda choose to be independent. However, it must be appreciated that before independence, a constitutional conference would be held at which the Bermuda Government, the Opposition and the United Kingdom Government would be represented.

A more detailed account of the principle features of the present Constitution is attached as Appendix III.

Constitutional Advance Short of Independence

Questions continue to be asked about the possibility of some further constitutional advance short of independence.

The 1977 Green Paper advised that no further substantive advance was possible. The United Kingdom Government has recently confirmed this, pointing out that the Constitution already provides a very large degree of self-government, and that even the reserve powers have been the subject of delegation. It takes the view that it is unrealistic to expect Britain to maintain responsibility for Bermuda as a dependent territory on one hand, while shedding even more of its remaining power to discharge that responsibility on the other.

Nevertheless, it has been suggested by some that the relationship which the Channel Islands and the Isle of Man have with the United Kingdom, might be appropriate and even advantageous to Bermuda.

This question is examined in some detail in Appendix IV. A reading of it will reveal clearly why any consideration of trying to establish a similar relationship in the case of Bermuda would not be acceptable to either party.

Another possibility of a quite different kind has also been suggested. In 1997 Hong Kong, currently

a British dependent territory is being ceded to China. It has been suggested by some that the United Kingdom, once only ten dependent territories were left (see Appendix V) with a total population of about 160,000, Bermuda being the largest, might be prepared to give British Citizenship to its remaining British dependent territories citizens. That could mean the right of abode and work in the United Kingdom and similarly the European Community countries.

Questioned about this possibility at a meeting between the Committee and the United Kingdom Government Minister responsible, the Minister replied: "We have not discussed any change in our relationship with the dependent territories post-1997. This raises complex issues. However there may be opportunity for reassessment of UK/DT policy at that time."

Hence, the choice at this time is clear. Bermuda has the option either to remain a dependent territory of Great Britain, or to become an independent state.

Status of an Independent Bermuda

Should the people of Bermuda vote for independence, the Constitution would continue to be the supreme law of Bermuda, based on ideals of democracy, freedom, and the rule of law, all of which are already well established. The day-to-day implementation of the provisions of the Constitution is already set in the Statutes and Statutory Instruments, and this would continue to be the case. Obviously these would be subject to legislative amendment in the normal way, as the social and economic needs of the country suggest from time to time.

If a conflict between the Constitution and any other law were to arise, then the Constitution would prevail.

Every person in the islands of Bermuda is entitled to the fundamental rights and freedoms of the individual under the law, regardless of race, place of origin, political opinion, colour, creed or sex, subject only to the need to respect the rights and freedoms of others, the security of the State, and public order and morality. These fundamental rights and freedoms are already provided for in the Constitution of Bermuda and would continue in effect.

Amendments to the Constitution

How the constitution of an independent Bermuda should be amended is a decision to be made at a constitutional conference. The previous Green Paper made reference to entrenchment, or protection, of some matters. There are precedents in other independence constitutions for ordinary entrenchment and special entrenchment so that matters of fundamental importance cannot lightly be changed by the body politic. The 1979 White Paper offered detailed proposals, having regard to the importance of continuing to safeguard the rule of law and to protect those offices and institutions which guarantee the democratic process. This paper repeats its suggestion for ordinarily and specially entrenched provisions.

Ordinarily entrenched provisions would, among other matters, deal with the following:

- (a) The Governor-General and his powers;
- (b) Qualifications for members of the House of Assembly and the Senate and their tenure of office;
- (c) Appointments of public officers; and
- (d) The establishments and composition of the Public Service Commission, Judicial and Legal Service Commission and the Police Service Commission and Government expenditure.

Specially entrenched provisions would, amongst other matters deal with:

- (a) The legal force of the Constitution;

- (b) Citizenship;
- (c) Fundamental rights and freedoms and their enforcement;
- (d) The establishment of Parliament;
- (e) Sessions of Parliament;
- (f) Prorogation and Dissolution of Parliament;
- (g) General Elections;
- (h) The executive authority of Bermuda; and
- (i) Amendments to the Constitution.

A new clause would need to be incorporated in the Constitution, making provision for amendment to the Constitution through the democratic process. Any amendment of the Constitution would require a majority decision of all the Members of each House, apart from certain ordinarily and especially entrenched provisions, which might require a larger majority and, probably, a public referendum.

Of an importance equal to that of the provisions concerning appointment to certain offices are those designed to safeguard the independence of officers once appointed – for example, the procedures for their removal from office. Such provisions might also be matters for entrenchment.

RESERVED POWERS

Section 62 (1) of the Constitution provides for his Excellency the Governor to be responsible for the following matters:

- (a) External Affairs;
- (b) Defence, including the Armed Forces;
- (c) Internal Security; and
- (d) The Police.

The Governor's responsibility is to the United Kingdom Government, which now possesses an ultimate power of control in respect of these matters. In practice, however, there is consultation with the Bermuda Government and, indeed, some delegation.

Section 70 of the Constitution provides for the establishment of a Governor's Council, under the Governor's chairmanship, with the Premier and two or three other Ministers as members, to consider the four issues listed above.

Section 62 (2) of the Constitution prescribes the condition under which the Governor may delegate responsibility for some aspects of his responsibilities to a Minister.

Responsibility for various matters in relation to the Police has been delegated since 1977. There has also been delegation by the United Kingdom Government to the Bermuda Government on an ad hoc basis, for the negotiation of the Tax Treaty with the United States, for example, for negotiations with foreign governments over visa arrangements, and for other matters. Hence, the Bermuda Government now has a good working experience with these four matters and exercises considerable influence – in some, just short of final control.

In the event of independence Bermuda would assume full responsibility for all these matters. It is, therefore, appropriate at this point to discuss each of them under separate headings, reminding readers of the present position and setting out the options possible in the event of independence. This chapter will consider those matters in which the British Government exercises influence, to a greater or lesser extent, with regard to Bermuda.

EXTERNAL AFFAIRS

At the present time the United Kingdom Government is responsible for the conduct of Bermuda's external affairs and related matters, although some delegation on an ad hoc basis has been permitted from time to time.

In the event of independence, Bermuda would automatically assume full responsibility for the conduct of its foreign affairs.

This section identifies various matters and, where applicable, explains how they are currently dealt with, and how they might be organized by an independent Bermuda.

The Commonwealth

The Commonwealth is a free association of states, one of the world's strongest voluntary international groupings. In 1994, it had 51 members, ranging in size from a few thousand people to several hundred million – as is detailed in Appendix VI. They include some of the richest nations and many of the poorest.

Only independent countries are members, but the Commonwealth also includes some six million people in the self-governing states and dependencies associated with member nations. These countries take part in many Commonwealth activities, including programmes of cooperation.

The Commonwealth Secretariat is an international body located in London at the service of all member countries of the Commonwealth, providing the central organization for joint consultation and cooperation in many fields. It was established in 1965 by Commonwealth Heads of Government, who saw it, in the words of the Agreed Memorandum, as "a visible symbol of the spirit of cooperation which animated the Commonwealth."

The Secretariat is responsible to Commonwealth governments collectively, and is the main agency for multilateral communication between them. It promotes consultation, and collects and disseminates information for the use of Commonwealth governments. The Secretariat organizes meetings and conferences and is responsible for putting into effect decisions for collective action. It also provides technical assistance for economic and social development through the multilateral Commonwealth Fund for Technical Cooperation.

There are two types of membership, "full" and "special". Only two independent members of the Commonwealth (the tiny Pacific Islands of Nauru, which has a population of 8,000, and Tuvalu, whose population is 9,000) have opted for special membership. In this category, although they pay no fee, they can attend meetings except for those of senior officials and heads of Commonwealth countries. Full membership does entitle members to attend these meetings. The previous Green and White Papers assumed that an independent Bermuda would wish to be a full member of the Commonwealth.

The annual cost for full membership in the Commonwealth would be approximately \$80,000.

The United Nations

Membership Costs

Bermuda is now not a member of the United Nations but does send representatives to some meetings of specialized agencies, such as the Universal Postal Union, as observers attached to the United Kingdom delegation.

There would be no obligation for an independent Bermuda to join the UN, although virtually all independent states are full members except Switzerland, which has observer status but pays assessed

contributions. Appendix VII refers.

The United Kingdom supports the principle of universal UN membership and would encourage an independent Bermuda to join the global community as a full member.

Under the current methodology for calculating membership, which is based on a country's Gross National Product for the preceding four years, Bermuda could expect to pay .01% of the UN Regular Budget annually, which would be about US \$102,000. But the Peacekeeping Budget, to which Bermuda would be expected to contribute in addition to the Regular Budget, fluctuates considerably depending on peacekeeping activity. It is at present very high and Bermuda's contribution at this time would be in the region of US \$350,000.

Based on current data, therefore, the annual membership cost (exclusive of agency costs) would be approximately \$450,000.

Agency Costs

An independent Bermuda should consider joining a number of specialized agencies of the United Nations. Estimated annual membership costs are shown below (note – the asterisks denote those whose meetings Bermuda currently attends as an observer).

ITU*	(International Telecommunications Union)	9,700
UPU*	(Universal Postal Union)	2,600
IMO*	(International Maritime Organization)	150,000
UNESCO	(UN Educational, Scientific and Cultural Organization)	26,000
WHO	(World Health Organization)	43,000
ILO*	(International Labour Organization)	12,400
WMO	(World Meteorological Organization)	4,700
FAO	(Food and Agriculture Organization)	39,300
ICAO*	(International Civil Aviation Organization)	37,200
	Sub Total	325,000
	Membership Costs	452,000
	Grand Total	US\$777,900

Final Projected Costs for U.N. and Agencies

In summary, the annual costs for an independent Bermuda belonging to the United Nations and some of its specialized agencies would be approximately \$800,000.

Ministry of External or Foreign Affairs

In view of the limited scope for Bermuda's engagements in foreign affairs, an independent Bermuda would be likely to follow the practice of some small countries who have no such Ministry. In their case, responsibility for these matters is subsumed within the Premier's, or some other Minister's office.

Costs for this new department/Ministry are estimated at \$473,557. For a detailed breakdown, see Appendix IX.

Overseas Missions

An observation made in the White Paper of 1979 is relevant to a consideration of this question, namely that

–

Unlike most other territories, including relatively small ones...there are no Bermudian communities

aboard of significant size requiring consular support and no exports¹ of foreign markets which need to be protected or developed.

The inference was that Bermuda would not, as a result, need much in the way of overseas representation. On the other hand, it must be assumed that one reason for becoming independent is the desire that Bermuda's voice should be heard in its own right in the international community, so that it may have a greater influence on the island's destiny.

The previous Green Paper offered three options:

- To establish no overseas diplomatic missions, using instead, missions which other countries establish in Bermuda, direct correspondence, ministerial or official visits and the appointment of part-time agents of Honorary Consuls in London, Ottawa and Washington.
- To upgrade to diplomatic status the Department of Tourism Offices which already exist in London, Toronto and New York.
- To establish diplomatic missions in London, Ottawa and Washington.

While in general terms these options all appear to be open to an independent Bermuda, note is taken of the fact that virtually all independent countries have missions in New York because they are members of the United Nations, and that virtually all former British Dependent Territories are members of the Commonwealth and consequently have missions in London.

This Paper therefore attaches a cost to the various possibilities, including small missions in New York and London. If it were considered desirable to have representation elsewhere, this could be provided at relatively little cost, through the appointment of honorary consuls.

Most small countries combine their overseas consular, tourism and diplomatic offices. Some have their High Commissioner in London also accredited as Ambassador to Brussels, having regard to the increasing importance of the European Community. Some have their United States mission in New York, with their Ambassador to the United Nations also being accredited to Washington and Ottawa. Some leave their overseas missions to be run by a chargé d'affaires, their accredited High Commissioner or Ambassador remaining at home and travelling overseas only as necessary. Most start very small and, years after independence, some of these still have an office of only two or three persons. The size depends largely on what the respective country is trying to achieve.

This Paper recognizes Bermuda's limited money and manpower resources and the need to use them wisely. While many countries maintain overseas missions for regional and global reasons – to play a part in shaping the world – others have missions overseas to support their citizens living abroad, or to protect or enhance their exports or to position themselves for development aid. Sometimes, a mission is maintained for all three of these reasons.

An independent Bermuda would not need representation overseas for any of these reasons. Hence, its staffing requirements would be minimal and it could have the benefit and satisfaction of small missions in London and New York at very modest costs.

At the time of the last Green Paper, the Bermuda Government maintained a Tourism office in London. This has since been closed, its business now being conducted on an agency basis. If an independent Bermuda were to establish a diplomatic mission in London, it might also include an Office of Tourism to further develop the United Kingdom and European travel markets.

¹In this context, export is taken to be the export of goods, not services.

A fairly recent development in New York, which has proved helpful to some small independent Commonwealth countries, is the largely subsidized provision of accommodation and supporting core facilities by the Commonwealth Secretariat for the use of those independent countries' individual representatives to the United Nations and, in some cases, to Washington. The Commonwealth Secretariat has indicated that it would try to accommodate Bermuda should we elect to go independent. An extract from the Memorandum of Understanding establishing this facility is attached as Appendix VIII.

However, in the event of the establishment of a small mission in New York, it might prove to be just as economical to share space with the Bermuda Department of Tourism there, and to share their core services.

This Paper provides various options for conducting an independent Bermuda's external affairs. There are, of course, other permutations, but the following alternatives offer a reasonable basis for consideration.

Option 1	Assumes that Bermuda would not apply for full membership of the UN or the Commonwealth Secretariat but would join certain Specialized Agencies of the UN. It also assumes that Bermuda will not have any overseas missions, but will rely on conducting business with foreign missions in Bermuda, by direct correspondence, and by ministerial visits as necessary. This cost is estimated as follows:	
	Ministry in Bermuda (see Appendix IX for cost breakdown)	473,557
	Subscriptions to Specialized UN Agencies	325,000
	Total	\$ 798,557
Option 2	Assumes that Bermuda becomes a full member of both the UN and the Commonwealth, but does not open overseas missions, relying on conducting business with foreign missions in Bermuda, by direct correspondence and ministerial visits as necessary.	
	Ministry in Bermuda (see appendix IX for personnel and accommodation cost breakdown)	473,557
	UN Membership fee	102,000
	Subscription to UN Peacekeeping Budget	305,000
	Subscription to UN specialized agencies	325,000
	Subscription to Commonwealth Secretariat	\$ 80,000
Option 3	Assumes that Bermuda becomes a full member of the UN and the Commonwealth and has a small mission combined with its tourist office in New York, and a small mission in London. Ambassadors or High Commissioners would be based in Bermuda. This cost is estimated as follows:	
	Ministry in Bermuda (see appendix for personnel and accommodation costs)	473,557
	UN Membership Fee	102,000
	Subscription to UN Peacekeeping Budget	350,000
	Subscription to UN Specialized Agencies	325,000
	Two Overseas Missions (see appendix IX for cost breakdown)	762,996
	Subscription to Commonwealth Secretariat	80,000
	Total:	\$ 2,093,523

Option 4	Assumes as above except that the Ambassadors or High Commissioners would be resident in New York and London.	
	This cost is estimated as follows:	
	Ministry in Bermuda (see Appendix IX for personnel and accommodation costs)	473,557
	UN Membership Fee	102,000
	Subscription to UN Peacekeeping Budget	350,000
	Subscription to UN Specialized Agencies	325,000
	Overseas Missions in New York and London (see Appendix IX for cost breakdown)	998,948
	Subscription to Commonwealth Secretariat	80,000
	Total:	\$2,329,505

General Comment on Costing

In that there has been widespread concern about potential costs should Bermuda choose to become independent, the question of cost has received the most careful consideration.

Note has been taken of the limited requirement for Bermuda to have missions overseas, and of the fact that unlike some other former dependent territories, Bermuda would not need overseas missions for the purpose of supporting its expatriate citizens, protecting or promoting its trade, or positioning itself for aid.

In the consideration of staffing, space and rentals and other costs, a close look has been taken at the representation in London and New York of other small territories.

The Government is satisfied that the staffing and costs set out represent the optimum in terms of Bermuda's requirements should it choose to become independent.

Although no account has been taken of it, it is worth noting that on independence, the Deputy Governor's Office would be abolished, since its function would be assumed by the Government. The expense, therefore, of running an External Affairs Department can be set against the expense of running the Deputy Governor's Office – presently \$266,000.

Finally, although setting up costs are non-recurrent, other costs could be expected to increase at the rate of inflation on an annual basis.

Missions in Bermuda

A number of countries would probably choose to establish missions in an independent Bermuda. The United Kingdom would have a High Commission. The United States would almost certainly have an Embassy; Canada would probably have a High Commission. And, having regard to Bermuda's importance as an international finance centre, it seems likely that other countries might also wish to have a presence here. Foreign policy matters between the Government of an independent Bermuda and these countries would be discussed through such missions.

Consular Assistance

Concern has been expressed for travelling Bermudians who might find themselves in difficulty overseas in the event of independence. The fact of the matter is that while many Bermudians travel, few have difficulties. Those few now seek out the nearest British Mission, which contacts the Bermuda Immigration Department and renders appropriate assistance.

The United Kingdom is willing to continue to represent the interest of newly-independent former British territories for up to one year after independence. Thereafter, under the Commonwealth Host Country Convention, Bermuda nationals in Commonwealth countries where Bermuda does not maintain representation would approach the host Government for assistance. British missions would be prepared to continue to assist Bermudians in Commonwealth countries where Bermuda did not have representation, although the United Kingdom Government is currently looking at sharing the burden of responsibility of protecting unrepresented nationals in foreign countries with other Commonwealth governments. Costs would not be significant, Bermuda being expected to pay only for out-of-pocket expenses, as it does now.

These arrangements appear to have served the nationals of other small independent Commonwealth Countries satisfactorily.

Treaty Succession

As a dependent territory, Treaties and Agreements entered into by the United Kingdom have been extended to Bermuda over many years, since 1968 with the knowledge and consent of the Bermuda Government. These documents have sometimes been modified to take into account the particular circumstances of Bermuda.

If the more recent and successful precedents are followed, the Bermuda Government would, on independence, elect to succeed to all treaties entered into on its behalf, on condition that within a reasonable time, the Government would decide which were of importance and of benefit to Bermuda and should be retained. Those of no significance would be discontinued.

This review would be carried out by the Attorney General's Chambers but, since they are questions of a highly technical nature, there may be a need also to seek the advice of a lawyer experienced in these matters.

Funds have not been specifically allowed for this purpose, since the Attorney General's Chambers is already in the process of reviewing those treaties and agreements extended to Bermuda over the years, as a means of ensuring that our legislation is in conformity with them.

Bermuda Shipping Register

Current Position

The Bermuda shipping register has been in existence since 1789 as a part of the British register, the jurisdictions of which are known as the 'Red Ensign Group'. As a result of the coming into force of the Merchant Shipping Act 1988, Bermuda has been classified as a Category 1 register and can accept for registration vessels of all types and sizes.

Bermuda's is considered to be a world class register, with the principal international maritime conventions all having been extended to Bermuda, with safety standards equivalent to those of other major registers, and with the Registrar and staff who are knowledgeable and responsive.

As at June 30 1993, Bermuda ranked 28th among the world's registers in total gross registered tonnage, the registry producing approximately \$500,000 per annum in net revenue for Bermuda.

The present register might be described a 'niche' register, because the restriction on manning and other political factors associated with being a British register, effectively exclude many large shipping groups from utilizing Bermuda.

However, there may be some change in the foreseeable future, as evidenced by the debate currently under way on officer manning in the United Kingdom. Recently, the Secretary of State for Transport, in a written answer to a parliamentary question said:

Under the new proposal, the intention is that there should be no officer nationality requirements for United Kingdom registered ships, except for certain strategic ships which will still be required to have a British Commonwealth, NATO or EC national as Master.

In allowing ship-owners the option of employing non-UK officers, appropriate measures will be required to ensure that safety is not compromised. The proposed relaxation will, therefore, be accompanied by a scheme of licensing to ensure that all non-UK officers are not only professionally competent but also have a good command of British maritime law. A licence will be a pre-requisite both to initial employment and to continuing employment on board a British flagged ship.

If this recommendation were introduced, Bermuda would be in a strong position to seek additional tonnage from companies or groups who were previously disinclined to use the Bermuda register because of the restrictions on officer manning. However, as a result of the licensing requirement, which will be based on UK-accepted standards of competency, Bermuda may still not be able to be as flexible as certain other jurisdictions where the nationality, or in some instances the qualifications, of officers are less reliably monitored.

Hence, there may be scope for increased tonnage for Bermuda within the Red Ensign group. The Red Ensign Group's assistance and benefits to its members at present include:

- Representation at international bodies such as the International Maritime Organization (IMO) and International Labour Organization (ILO) at no cost to the Bermuda Government;
- British Consular representation for ships and seamen;
- The rights and privileges enjoyed by British ships, which include benefits under bilateral agreements;
- Protection of British Ships by the Royal Navy; and
- Technical assistance from the United Kingdom Government agencies.

Position Upon Independence

Upon independence, Bermuda would withdraw from the Red Ensign Group (as will Hong Kong in 1997). The United Kingdom would cease to have legislative oversight in Bermuda's maritime affairs and would no longer act on Bermuda's behalf to extend to Bermuda international maritime conventions, such as those dealing with the Safety of Life at Sea and Prevention of Marine Pollution.

Technical advice is currently provided through the UK Government's Marine Safety Agency, with which a service agreement now exists. It may be possible to continue this on a commercial basis post-independence. There are other options for these services, such as other maritime administrations or classification societies. In any case, no significant costs are involved since most of the costs of services rendered to Bermuda Registered ships are paid by shipowners.

Save for membership of the International Maritime Organization, at \$150,000 annually, there would appear to be little in the way of additional costs in the day-to-day operation of the Bermuda register, post-independence, except the initial set-up costs of a Shipping Registry to compete with other open registers.

To the extent that much of the tonnage, currently on the register has come to Bermuda because it is part of the Red Ensign Group, it is likely that this business could be lost as a consequence of the establishment of an independent register.

On the other hand, an independent Bermuda register operating in its own right, with the appropriate level of promotion and investment, would be in a position to compete for world tonnage with the major open registers. This would require significant investment in the register which could, in time, be more than offset by increased Government revenue.

In any case, the Bermuda Register is considered to be a competent and well-run register which, given necessary resources, could have the potential to expand if the island chose to become independent.

Civil Aviation

Current Position

At the present time, virtually all Bermuda's aviation obligations are ultimately the responsibility of the United Kingdom Government. Bilateral Air Service Agreements with other States, encompassing Bermuda, are negotiated by the United Kingdom with some Bermuda Government input where it concerns the island's specific interests. Air services between the United Kingdom and Bermuda are governed by cabotage arrangements which impose certain added restrictions. The United Kingdom Government provides representation in international bodies such as the International Civil Aviation Organisation (ICAO).

Relevant United Kingdom aviation law is now extended to apply to Bermuda. The Governor has delegated to Bermuda's Ministers some of his responsibilities under such law.

Matters of aviation economic regulation, airline tariffs and related activities are administered by the United Kingdom Civil Aviation Authority (UK CAA), acting in consultation with the Bermuda Director of Civil Aviation (DCA).

The Bermuda Register of Aircraft and all of the various air safety regulatory activities flowing from it, such as crew licensing, airworthiness and flight operations inspections are administered by the Bermuda DCA, completely independently of the UK CAA. However, in view of the ultimate responsibility of the United Kingdom Government internationally, the Foreign and Commonwealth Office and the United Kingdom Department of Transport (with specialist advice from the UK CAA) take a very active interest in these matters and Bermuda is required to demonstrate, on a continuing basis, that its practices accord with international conventions.

Position Upon Independence

Bermuda would have to assume full responsibility for all its aviation relations with other States and international bodies if it chooses to become independent. Air Services Agreements will have to be negotiated with the United States of America and Canada, as well as with the United Kingdom itself. In order for Bermuda to maintain international respect it will need to ensure compliance with the provisions established under a number of international conventions and treaties.

Local legislation will need to be enacted to replace the body of United Kingdom aviation law which is now applied to Bermuda.

Aviation economic regulatory activity will need to be administered solely by Bermuda. Arrangements would need to be put in place to ensure the availability of specialist air safety advice and assistance, as required, from a major aviation regulatory body such as the UK CAA, or the United States Federal Aviation Authority. This will be essential, in order to ensure that the Bermuda Department of Civil Aviation can continue to provide all the necessary technical expertise to regulate activities under the Register of Aircraft, and to operate the airport properly.

The financial implications for the Department of Civil Aviation are expected to be modest and, with the exception of the specific membership costs of ICAO, which are approximately \$30,000 per annum, would not greatly exceed the resources already necessary to support our current activities, which are currently under review. It is anticipated that any additional costs of administering the Bermuda Register of Aircraft would, in due course, be met from revenue earned under this activity.

In the consideration of this matter, an extract from the White Paper of 1979 is relevant.

Unlike most other territories, including relatively small ones, there are no neighbouring countries near enough to pose problems over international boundaries or illegal immigration.

Bermuda's geographical location, and the fact that the United States is its closest neighbour, virtually preclude any possibility of an invasion by way of a landing of hostile forces here.

One of the Bermuda Regiment's objectives is to "supplement Police operations against infiltrators and saboteurs as a contribution to external defence."

This paper nevertheless assumes that an independent Bermuda would wish to have, as a formal precaution, a Treaty of Friendship with either the United Kingdom, Canada or the United States of America to cover its defence.

On independence, the Regiment would be a responsibility of the Government, rather than the Governor. But there has always been a high level of coordination with the Government, hence Ministers already have a good working familiarity with this responsibility.

Bermuda currently receives expert advice and assistance from the United Kingdom in respect of the training of the officers and men and women of the Bermuda Regiment. The Foreign and Commonwealth Office has assured Bermuda that, in the event of independence, this advice and assistance would continue to be available, as it is to many independent Commonwealth countries large and small. Bermuda would pay for it — as it does now.

INTERNAL SECURITY

Perhaps this section should begin with an acknowledgement that a major concern, particularly for the business community, is whether an independent Bermuda, standing alone, would have the ability to control civil disorder.

At the moment, comfort is derived from the fact that, under Bermuda's present constitutional arrangements, should matters reach a point where the Police, assisted by the Bermuda Regiment and the Reserve Constabulary, appeared no longer able to control the situation, the Governor is able to ask for assistance from the United Kingdom. This would almost certainly be forthcoming, although it has been made abundantly clear that Bermuda would be expected to pay the full cost of such assistance.

Upon independence, the United Kingdom would no longer have this responsibility or obligation.

Such a scenario understandably causes public concern, since civil disorder has the potential to damage, not only people and property, but in both the short and long term, the tourism and international business on which Bermuda's economy entirely depends.

Bermuda experienced riots in 1968 and 1977. In both cases the Governor finally concluded that the local security forces, stretched to their limits, might require assistance. In both cases troops were dispatched by the United Kingdom. As it happened, on neither occasion were they actively used, but their involvement probably had a cooling effect on the situation.

Subsequently, in 1977 and 1978, steps were taken to ensure that the Bermuda Regiment would, in future, be able to fulfil its commitments without external reinforcement. As a result equipment was added, training was improved (particularly in respect of riot control) and the establishment of the Regiment was increased from 450 to 700.

Since then Police capability has also substantially improved, both in respect of equipment and manpower. Although their manpower establishment stands at 489, funding is currently provided for only 432. This Paper assumes that, as the economy recovers and finances permit, numbers might well be increased, further improving Police capability to deal with civil disorder.

There has not been any serious civil disorder for 15 years, which may indicate that the chance of any in the future is remote. Moreover, as already noted, during these 15 years training and equipment have improved and the establishment has been increased. Hence the indications are that Bermuda, with its well-trained and equipped Police Force, Reserve Constabulary and Regiment, should have the capability to manage its internal security without external reinforcement.

In the event of independence the Police, like the Regiment, would, on request, continue to receive expert advice and assistance from the United Kingdom — for which they would pay, as they do now.

If Bermuda chose to move to independence it would be prudent to ask the United Kingdom Government to review our present capability to determine what, if any, additional resources might be required to ensure that Bermuda has the ability to look after itself.

POLICE

At present, responsibility for the Police is one of the Governor's reserved powers, although considerable delegation to the Government has already taken place (see Appendix X). On independence, full responsibility for the Police would devolve upon the Bermuda Government, thus removing the ambiguity which currently exists.

Section 87 of the Bermuda Constitution provides that:

Power to make appointments to the offices of Commissioner of Police and Deputy Commissioner of Police and to remove or exercise disciplinary control over persons holding or acting in those offices is vested in the Governor acting after consultation with the Public Service Commission.

Should the electorate vote for independence, the new Constitution would need to set out how these appointments would be made. Most independent Commonwealth countries which are monarchies have Police Service Commissions which advise their Governors-General on these matters. This is discussed in more detail under the heading dealing with the Appointment of Public Officers.

In any question of constitutional advance an important consideration must be that the integrity and independence of the Police should be maintained.

Relevant to this matter is Part 2 Section 3 of the Police Act which, under the heading, Command and Administration of Force by Commissioner, reads:

- 1) *The force shall be under the command of the Commissioner, who subject only to such general directions of policy with respect to the maintenance of public safety and public order as the Governor may give him, shall determine the use and control of the operations of the Force, and shall be responsible subject to such directions as the Governor may give him for the administration of the Force.*
- 2) *Any act which may be done, ordered or performed by the Commissioner may, subject to the orders and direction of the Commissioner, be done, ordered or performed by the Deputy Commissioner.*

There could be merit in enshrining this sort of safeguard in any independence constitution.

APPOINTMENT OF PUBLIC OFFICERS

Insofar as it is possible to do so, the present Constitution provides for the impartial and independent appointment and discipline of Bermuda's public officers.

The Bermuda Constitution currently allocates a role to the Governor in the appointment of certain public officers, which is seen in some cases to provide neutrality important to the integrity of the system. Where the Constitution provides for the Governor to act:

- a) On the advice (or on the recommendation) of some person or body, then he has no freedom of choice, being bound by that advice.
- b) After consultation with some person(s) or body, then he must consult whoever is specified and although no doubt usually guided by any views expressed to him as a result, he is not absolutely bound to accept them.
- c) In his own discretion (or in his own deliberate judgment), then he must reach his own decision though he is entitled to consult anyone he wishes first.

Some examples of (b) and (c) are provided in Appendix XI. Should Bermuda choose to become independent, careful consideration will need to be given at the constitutional conference as to how the above responsibilities will be arranged, having regard to the importance of preserving the independence and security of the public officers concerned.

This section explains how appointments are now made and indicates how they may be provided for in the Constitution of an independent Bermuda, using in some cases proposals contained in the White Paper of 1979.

The Governor

Current Position

The Governor is now appointed by the Queen on the advice of the Prime Minister of the United Kingdom.

Position Upon Independence

A Governor-General, representing the Monarch, would be appointed by the Monarch on the advice of the Prime Minister of Bermuda, given after consultation with the Opposition Leader. In the execution of his duties, the Governor-General would act on the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except where he is required to act in his own discretion or on the advice of some other authority.

The Judiciary

Current Position

The Constitution provides for the establishment of a Supreme Court with offices of Chief Justice and Puisne Judges, and for a Court of Appeal consisting of a President and such number of Justices, not being fewer than two, as Legislature may prescribe. There are safeguards for the protection of the judiciary from political interference or pressure from the Executive.

The Chief Justice is appointed by the Governor after consultation with the Premier, who must himself first have consulted the Leader of the Opposition. Other Judges, Magistrates and legally qualified staff of the Courts are appointed by the Governor after consultation with the Chief Justice. The President and Justices of the Court of Appeal are appointed by the Governor in his discretion.

Position Upon Independence

The independence of the Judiciary, including the Court of Appeal, would continue to be guaranteed under the Constitution. There are precedents for the Chief Justice, as well as the President and Justices of the Court of Appeal, to be appointed by the Governor-General on the recommendation of the Prime Minister after consultation with the Opposition Leader, and for all other judicial and legal officers to be appointed by the Governor-General on the advice of a Judicial and Legal Service Commission. Safeguards of the present kind for the protection of the Judiciary should be preserved.

The Judicial Committee of the Privy Council

The Judicial Committee of the Privy Council, which sits in London, is the final Court of Appeal for many Commonwealth countries, including Bermuda, and its members are drawn from several of them. Much emphasis has been placed on the desirability of retaining appeals to it and it has been confirmed that this facility would continue to be available to an independent Bermuda. Provision for this might therefore be entrenched, or even specially entrenched, in an independence Constitution.

The Civil Service*Current Position*

The power to make appointments to public offices and to remove, or exercise disciplinary control over civil servants, is vested in the Governor acting in accordance with the recommendation of a Public Service Commission. The Commission is appointed by the Governor after consultation with the Premier, who must have first consulted with the Leader of the Opposition. Before the Commission recommends to the Governor the appointment of a person to the office of permanent secretary or head of department, it must consult with the Premier. Appointments in secretarial and clerical grades are delegated to the permanent secretary or head of department, who follow Public Service Commission regulations in their selection.

Position Upon Independence

As provided for now in the Constitution, the Public Service Commission would continue to be the authority for the appointment, removal and disciplinary control of public officers.

The Police*Current Position*

The Bermuda Constitution provides that the power to appoint Commissioners of Police and Deputy Commissioners of Police and to remove or exercise disciplinary control over persons holding or acting in those offices is vested in the Governor, acting after consultation with the Public Service Commission.

The Governor acting on the advice of the Public Service Commission makes appointments from the rank of Inspector to Assistant Commissioner. The Commissioner makes appointments to the rank of Sergeant.

Position Upon Independence

The 1979 White Paper suggested that the power to appoint the Commissioner of Police and the Deputy Commissioner of Police should be vested in the Governor-General acting on the advice of the Prime Minister, given after he had consulted with the Opposition Leader.

It also suggested that power to make appointments to the office of Assistant Commissioner should be vested in the Governor-General, acting on the advice of the Prime Minister, given after he had consulted

with the Police Service Commission.

Save as provided above, the power to make appointments to offices of the rank of Inspector and above would be vested in the Governor-General, acting on the advice of the Police Service Commission. The power to make appointments below the rank of Inspector would be vested in the Commissioner of Police. The Constitution would contain formulae regarding the removal from office and disciplinary control of members of the Police Service.

The Attorney General

Present Position

The Constitution provides that the office of Attorney General may be held by a member of the Legislature or by a public officer. Any public officer holding the office is appointed by the Governor in his discretion. The Attorney General has exclusive authority to institute or discontinue criminal proceedings in respect of any offence against any law in force in Bermuda. In exercising these powers he or she is not subject to the direction or control of any other person or authority. If the office is held by a member of either House, there must also be a Director of Public Prosecutions, appointed by the Governor in his discretion, whose office is a public office and who assumes the authority in criminal proceedings attributed to the Attorney General in this paragraph. There are substantial safeguards against the removal of the Attorney General or Director of Public Prosecutions.

Position Upon Independence

The 1979 White Paper suggested that if the Attorney General was a public officer he would be appointed by the Governor-General on the advice of the Judicial and Legal Service Commission, given after consultation with the Prime Minister.

It also suggested that in the event of the Attorney General being a member of the Legislature, a Director of Public Prosecutions would be appointed by the Governor-General on the advice of the Judicial and Legal Service Commission.

Any Director of Public Prosecutions would have powers similar to those currently vested in the Attorney General with regard to prosecution.

The Auditor

Present Position

Power to make appointments to the office of Auditor is vested in the Governor acting in his discretion. The Constitution also provides that the Auditor may be removed from office only for inability to discharge the functions of his office, or for misbehaviour.

Position Upon Independence

The Constitution of an independent Bermuda would need to protect the independence of the Auditor.

It would be for consideration as to whether the Government Auditor should be appointed at the discretion of the Governor-General, or by the Governor-General after consultation with or on the advice of the Public Service Commission.

ECONOMY AND FINANCE

Since there can be no enduring political independence in the absence of a sound, viable economy, a study of the implications of independence for Bermuda would not be complete without a review of the economy, upon which the prosperity and well-being of every member of the community depends.

Finance

The Bermuda Monetary Authority, which was established in 1972, is responsible for monitoring the balance of payments and advising the Ministry of Finance of any measures necessary to rectify significant and unsustainable imbalances.

As far as the Government's own finances are concerned, Bermuda has always supported itself through its own internal revenues. It has received no direct financial aid from the United Kingdom or from any foreign government or international agency. Even those internal matters that are the responsibility of the United Kingdom through the Governor, namely the Armed Forces, internal security and the Police, are, like the office of the Governor, paid for by Bermuda. Conversely, Bermuda makes no financial or material contribution, either directly or indirectly, to the United Kingdom except in payment for specific services rendered.

Public and publicly guaranteed debt at the end of March 1994, was \$110.7 million, or 6.1% of Gross Domestic Product, well below the statutory borrowing limit of \$185 million established in 1991. With effect from the financial year 1993/94, the Government introduced a sinking fund, with the intention of annually setting aside a sum equivalent to 2.5% of the public debt outstanding at the end of the proceeding year. This has the effect of enabling repayment of the principal sum borrowed after 20 years.

At the end of June 1994, Bermuda's Gross Domestic Product was estimated to be \$1,863.5 million, which places Bermuda in the top ten of the world's richest countries on a per capita basis. At the time of the Government's most recent borrowing, Bermuda's credit rating as set by Moody's (the US Credit Agency) was AA1.

The legal status of the Bermuda Monetary Authority would not be affected by independence.

The value of the Bermuda Dollar is fixed at par with the US Dollar under the terms of the Bermudian Dollar Parity Order 1981, which was made under the terms of Section 10(1) of the Bermuda Monetary Authority Act, 1969.

The possibility of membership of the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD), also known as the World Bank, has been examined, but is considered unnecessary at this time, since Bermuda has the ability to borrow sufficient foreign currency on the open markets without the assistance of either organization.

Bermuda's association with the Organization of Economic Cooperation and Development (OECD) as a Dependent Territory of the United Kingdom was formalized only very recently, in November, 1994. The only other Dependent Territory that has the same relationship with the OECD is Gibraltar.

Association with the OECD potentially offers significant benefits to international and local business, insofar as companies registered in Bermuda cannot be treated any less favourably by a member state of the OECD than it would treat a company registered in another member state. This is particularly important in the insurance field, where insurance/reinsurance regulations within parts of the European Union require that ceding insurers are subject to supervisory regulations specified by various European Union Directives. To avoid discrimination against non-European Union members of the OECD (e.g. the United States) the supervisory legislation of all member countries of the OECD is considered to be equivalent to the legislation

in force in the European Union. Bermuda's association with the OECD would lapse on independence. It should be pointed out that Bermuda's success in international business, particularly in the insurance field, precedes membership in the OECD.

Further information on the IMF and the IBRD, and the potential implications of various trade agreements are contained in Appendix XII, provided by the Economic Adviser to the Minister of Finance.

Tourism

Bermuda has virtually no natural resources in the usual sense, but has built up a renowned service industry by the judicious exploitation of the friendliness of the population, of geographical position, climate, natural scenery, beaches and waters. Tourism has become a most important economic factor, contributing a substantial portion of the Gross National Product through visitors' expenditure in hotels, restaurants and shops, and on sports, transport and other activities.

The number of visitors, including cruise ship passengers, who came to Bermuda in 1994 was 590,000. The value of their expenditure here was estimated at about \$530 million. The island's political stability and its residual British atmosphere are considered to be contributing factors in its success as a tourist destination.

There is no reason to believe that, should Bermuda choose to be independent, there would be much, if any, diminution of our British atmosphere. The inherited traditions associated with Parliament, the Judiciary, the Regiment and the Police would continue, much as they do today. The historical atmosphere created by the town of St. George's, the Dockyard and the various buildings throughout Bermuda would remain.

International Companies

Of an importance equal to that of tourism's is the contribution made to the economy by international companies of which, at the end of June 1994, there were 7,831. It is estimated that international companies and their business visitors spent \$410 million in Bermuda in 1993, and that a further \$93 million was earned overseas by Bermudian-based operations and the financial service sectors. International Business employs nearly 2,000 Bermudians directly and, according to the Archer Report, contributes substantially to the income of 3,500 more. It has provided opportunities for upward mobility and improved standards of living for many Bermudians, both those directly involved with the industry and those in other sectors of the economy.

Aside from Bermuda's good location, legal systems, communication facilities, and sophisticated infrastructure for servicing this business, of paramount importance is the proven stability and overall quality of the Bermuda jurisdiction.

There is a strong perception in some quarters that Bermuda's constitutional relationship with the United Kingdom ensures its economic success by reassuring international business clients of the island's security, stability, democratic way of life and the rule of law, including the ability to appeal to the Privy Council.

Representations have also been made that being a dependent territory on the United Kingdom is an important selling point in the continuing development of Bermuda's international businesses — a selling point that, in the event of independence, could be lost to other dependent territories.

The concern centres around the issue of change — change from the predictable to the unpredictable, change from certainty to uncertainty, change from a system with which all are familiar to another without checks and balances provided in a Constitution for which the United Kingdom is seen to be ultimately

responsible.

Clearly everything comes back to a question of confidence.

If there was a loss of confidence, independence for Bermuda, at least temporarily, would almost certainly have an adverse effect on international business. Nonetheless, there is little evidence that would lead one to believe that those characteristics which have made Bermuda attractive to international company business in the past would disappear simply because the country chose to be independent.

Confidence, per se, should not diminish on independence, because it would quickly be evident that there was no change in the legal system and the right of final appeal to the Judicial Committee of the Privy Council. Equally important is the fact that Bermuda has now developed its own capacity to maintain internal security. Of paramount importance is the fact that politicians from all political parties clearly recognize the absolute necessity of maintaining political and social stability in order to retain Bermuda's enviable international reputation in the fields of tourism and international business.

Finally, it is worth emphasizing that international business and tourism are inextricably integrated with the broader community. Hence, these two sections must be read in conjunction with and in context of other relevant sections of this Paper.

PASSPORTS, NATIONALITY AND CITIZENSHIP

Passports

The passport office in the Department of Immigration issues British passports as the agents of the United Kingdom Government. No specific Bermudian law deals with the subject.

Before 1983, both United Kingdom nationals and colonial passports holders were citizens of the United Kingdom and Colonies. As a result, the two groups were virtually indistinguishable in the eyes of authorities elsewhere. With the coming into force of the British Nationality Act 1981 on 1 January 1983, British citizens, with the right of abode in the United Kingdom, were for the first time clearly distinguished as being different from British Dependent Territories citizens, such as those from Bermuda.

After their new designation as British Dependent Territories citizens, Bermudians experienced increased difficulty when travelling overseas. The problems were severe enough to warrant the bilateral negotiation of visa-free access to a number of countries. Fourteen countries, besides the United Kingdom, now recognize the Bermuda-issued British Dependent Territories Citizen passport. Each of these has visa abolition agreements with the United Kingdom, which extend to Bermuda, although none of them acknowledge this.

In effect, Bermuda has therefore already experienced overseas the problem of a "different" passport, Bermuda's link with the United Kingdom being too obscure for some countries to recognize.

Should Bermuda become independent it should have no greater problems with regard to Bermuda passports being recognized than have already been experienced. Indeed, the passport of an independent Bermuda might be more valuable than the British Dependent Territories passport, since it would leave no doubt that the bearer had the right of abode in Bermuda. The British Dependent Territories passport implies no such rights unless a person's passport is stamped to indicate that the holder is Bermudian.

In conclusion, it is not expected that the introduction internationally of a Bermuda passport would cause any significant problem should Bermuda choose to become independent.

Citizenship

Should Bermuda become independent it would cease to be a British dependent territory, and British Dependent Territories citizenship would then no longer apply to Bermudians in general, because they would thenceforth be citizens of Bermuda.

Upon independence, or immediately following it, who would be citizens of an independent Bermuda? Certainly those who at the point enjoyed Bermudian status by birth or by grant would be. At a conference convened for the purpose of producing a Constitution for an independent Bermuda, other classes of non-Bermudian residents of Bermuda would need to be considered, including those who were stateless, or who were long-term residents or who were on the electoral register as a consequence of being in Bermuda in 1976.

An independent Constitution would, once and for all, resolve the question of who is a Bermudian.

Dual Nationality

The question of independence for Bermuda leads inevitably to the question of dual nationality. Would a Bermudian who was also a citizen of another country such as the United Kingdom, the United States of America, Canada, Barbados or Jamaica, be permitted to continue to be a citizen of both Bermuda and other countries?

It might be argued that, as a confirmation of his loyalty, a person should be obliged to choose one or the other.

The practice adopted by those countries with which Bermuda has its most important links, the United Kingdom, Canada and the United States permits dual, or even multiple, nationality. Jamaica and Barbados also allow dual nationality, and in the Constitution of the British dependency that most recently became independent, St. Christopher and Nevis, a provision to this effect is included in their new Constitution. Moreover, in these days of extensive travel for education and work experience it would be advantageous for Bermudians to have additional citizenship in one or more industrialized countries. Upon independence it would almost certainly be in Bermuda's advantage if her citizens had access to the educational and work experiences of other countries.

Bermuda has no hinterland in which people can seek refuge at a time of economic hardship. However, those Bermudians with a second citizenship would have the ability to ease the strain on themselves and, just as importantly, on those left in Bermuda, by seeking employment in their second country, at least until the Bermuda economy recovered. Such a safety valve to release short-term overcrowding on Bermuda could be vital to Bermuda's continued welfare in difficult times.

This question of dual nationality would have to be dealt with at any constitutional conference on independence, but common sense strongly suggests that it would be in everyone's best interest.

THE LEGISLATURE

Bermuda currently enjoys a bicameral form of Legislature, consisting of an 11-seat Senate and a 40-seat House of Assembly.

The Senate is composed of:

- Five members appointed by the Governor on the advice of the Premier
- Three members appointed by the Governor on the advice of the Opposition Leader; and
- Three members appointed by the Governor in his discretion

The House of Assembly has 40 members who are elected by the voters of 20 constituencies, four in Pembroke and two in each of the other eight parishes. Constituency boundaries, qualification of electors, and qualification and disqualification for appointment to the Senate and election to the House of Assembly are covered in the Constitution and are not directly related to the matter of independence, except that at any constitutional conference, they would be matters for re-examination.

The White Paper of 1979 proposed that, should Bermuda become independent, the bicameral form of Legislature should be retained, and the qualifications laid down for appointment to the Senate or election to the House of Assembly should remain substantially unchanged. The Speaker, it suggested, should continue to be elected from among the Members of the House of Assembly or could be selected from outside Parliament, as is the case in some other small countries, such as Malta.

The White Paper also proposed that the Senate should consist of five members appointed on the advice of the Prime Minister, three members appointed on the advice of the Opposition Leader, and three members appointed by the Governor-General, in his discretion, after consultation with the Prime Minister and the Opposition Leader.

CONCLUSION

In summary, the Committee's terms of reference required an enquiry into the effects, which might follow if Bermuda were to remain a Dependent Territory of the United Kingdom, and if Bermuda were to become an Independent Country within the Commonwealth.

The answer in summary appears almost self-evident. If Bermuda remained a Dependent Territory of the United Kingdom, the status quo is retained, with no additional costs, with the security, which the present position offers, and with the limitations, which the present position imposes.

If Bermuda chose to become independent there would be some additional cost to the taxpayer. Managed properly, independence should not cause a diminution of confidence within the international community. Those companies already registered here would undoubtedly continue. But, to the extent that potential registrations adopted a wait and see attitude, it would affect the growth of the economy.

On the other hand, Bermuda would be free to discuss or negotiate with other countries in what it perceived were its own best interest without first having to negotiate permission to do so with the United Kingdom.

The status quo offers the reassurance of continuity to Bermudians and foreign residents alike; while independence, giving Bermudians full responsibility for both Bermuda's internal and external affairs, offers the prospect of new opportunities developed by Bermudians for Bermudians.

APPENDIX I

**ORGANIZATIONS AND INDIVIDUALS WHO MADE SUBMISSIONS TO THE
COMMITTEE LISTED IN ALPHABETICAL ORDER**

1. Dr. William T. Andrews
2. Bank of Bermuda
3. Bank of Butterfield
4. Bermuda Chamber of Commerce
5. Bermuda Chamber of Commerce International Companies Division
6. Bermuda Hotel Association
7. Bermuda International Business Association
8. Bermuda Public Services Association
9. Bermuda Union Of Teachers
10. Ms. C. Joanne Brangman
11. Mr. Owen H. Darrell
12. Mrs. Owen H. (Pamela) Darrell
13. Mr. W. Roger Davidson
14. Mr. Geoffrey Elliott
15. Sir Randeville Flash
16. Mr. Ted Gauntlett
17. Capt. Sir Richard M. Gorham, CBE, DFC, JP, RA, Retd.
18. Mrs. Joyce D. Hall
19. Mr. Erich W. Hetzel
20. Mr. John R. F. Instone
21. Ms. Angela Kendall
22. National Liberal Party
23. Ms. Anne Pearson
24. Mr. Gregory M. Peters
25. Mr. Cordell W. Riley
26. Mr. Reggie Semos
27. Dr. A. M. Ware-Cieters
28. Mr. J.V Zuill
29. Mr. W. S. Zuill

COMMITTEE MEMBERSHIP AND TERMS OF REFERENCE

The following Committee was appointed on 19 July 1994 to prepare a draft Green Paper for the consideration of the Government:

Chairman	The Hon. John Irving Pearman, JP, MP
Members	Dr. the Hon. Clarence R. Terciera, JP, MP Dr. the Hon. David J. Saul, JP, MP The Hon. Maxwell A. Burgess, JP, MP The Hon C. Jerome Dill, JP, MP
Advisor	The Hon. Sir John Sharpe, CBE, JP
Administrator	Mr. Kenneth A. Richardson, CVO, CBE

Terms of Reference of the Committee

1. To enquire into the effects which might reasonably be expected to follow:

- (a) If Bermuda were to remain a Dependent Territory to the United Kingdom and, in that connection, to examine and determine, through such investigations, studies and hearings as the Committee may deem appropriate, the consequences for Bermuda so remaining and, in particular:
 - (i) What changes, if any, might be appropriate in those matters for which the Government is responsible under section 62 of the Constitution; and
 - (ii) What social and economic changes for Bermuda might reasonably be expected in the future; and
 - (iii) What changes might reasonably be expected to occur in Bermuda's tourism and international business in the future; and
 - (iv) What other matters and consequences might reasonably be expected to affect Bermuda in the future; or
- (b) If Bermuda were to become an independent country within the British Commonwealth and, in that connection, to examine and determine, through such investigations, studies and hearings as the Committee may deem appropriate, the consequences for Bermuda becoming such a Country and, in particular:
 - (i) What constitutional changes might reasonably be expected to follow for Bermuda as a result of such Independence; and
 - (ii) What international responsibilities and obligations might reasonably be expected to devolve on Bermuda as a result of such Independence, and what arrangements might be available or required for the discharge of those responsibilities and obligations; and
 - (iii) What social and economic consequences might reasonably be expected to follow for Bermuda as a result of such Independence, and at what costs; and
 - (iv) What effect such Independence might reasonably be expected to have on Bermuda's tourism and international business; and
 - (v) What other matters and consequences might reasonably be expected to follow as a result of such Independence; and

2. Without expressing any opinion whether the Committee favours Bermuda remaining a Dependent Territory or becoming an Independent Country as aforesaid, to prepare a report on the Committee's deliberations.

CONSTITUTIONAL BACKGROUND

The present Constitution is contained in the Bermuda Constitution Order 1968 as amended in 1973, 1979 and 1989. The Premier and Cabinet, through the Legislature, have full and complete responsibility for the Government of Bermuda except for those matters reserved to the Governor. Even in respect of many of these, the Governor must consult with the Governor's Council.

The principle features of the current Constitution may be summarized as follows:

1. The fundamental rights and freedoms of the individual are protected by comprehensive provisions covering, among other things, freedom of speech and protection from discrimination on the grounds of race, political opinion, colour or religion.
2. The offices of Governor and Deputy Governor are established. The Governor is appointed by the Queen on the advice of the British Prime Minister. In exercising his functions the Governor is normally required to act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet. The main exceptions are the reserved subjects of external affairs, defence, internal security and the police; the exercise of the Prerogative of Mercy, and appointments to certain specified offices.

In regard to the reserved subjects the Governor acts in his own discretion but only after he has consulted with the Governor's Council which the Constitution establishes under the Chairmanship of the Governor, with the Premier and either two or three other Ministers as members. Additionally, the Governor acting in his discretion, may delegate, with the prior approval of the Secretary of State, to the Premier or any Minister designated by him after consultation with the Premier, such responsibility for any matters reserved to him in Section 62 (1) of the Constitution as he sees fit.

In regard to the exercise of the Prerogative of Mercy, the Governor consults the Advisory Committee for which the Constitution provides but is not bound by its advice. The position regarding most of the specified offices mentioned above is set out below in some detail.

3. The Legislature is composed of two chambers, the Senate and the House of Assembly. Of the 11 members of Senate, five are appointed by the Governor acting on the advice of the Premier, three are appointed by the Governor acting on the advice of the Opposition Leader and three are appointed by the Governor acting in his discretion. The House of Assembly consists of 40 elected members.
4. Bills become law when they have been passed by both Houses and have been given formal assent by the Governor on behalf of the Queen. The Senate has powers, which, in effect, enable it to delay legislation by up to one year. The Senate is restricted, however, with regard to certain financial measures. It may not itself initiate or amend a money bill, or delay such a bill for more than two months. A distinction is made in the case of money bills that might seek to impose income tax, corporation tax or similar direct taxation. In such cases the Senate may exercise the same delaying powers as for legislation which is not financial in character.

5. Constituencies for the purposes of elections are based on parishes, the parish of Pembroke being divided into four constituencies and each of the other eight parishes into two constituencies. Each constituency returns two members to the House of Assembly. Constituency boundaries are determined on the authority of an order made by the Governor with the prior approval of the House of Assembly and based upon the recommendations of a Boundaries Commission. The Chairman of such a Commission and the judicial member are appointed by the Governor in his discretion. Under these provisions, constituency boundaries must be reviewed at intervals of between three and seven years.
6. A person is qualified to be registered as an elector in a constituency if he is ordinarily resident in that constituency, is a British (commonwealth) subject who has attained the age of eighteen years and possesses Bermudian status (by birth or grant). If he does not possess that status, he must have been registered as an elector on the 1st day of May, 1976.
7. With the exception of those subjects reserved to the Governor, the executive authority of the Government is effectively vested in the Cabinet.
8. The Premier is appointed by the Governor, acting in his discretion, as the member of the House of Assembly who appears to him to be best able to command the confidence of a majority of the members of that House.
9. Ministers are appointed by the Governor in accordance with the advice of the Premier. There should be not fewer than six Ministers of whom not fewer than one nor more than two shall be appointed from among members of the Senate. The remainder shall be appointed from among the members of the House of Assembly.
10. The Cabinet is collectively responsible to the Legislature. Ministers are given responsibilities and portfolios by the Governor acting on the advice of the Premier.
11. Parliamentary Secretaries may be appointed by the Governor, acting on the advice of the Premier, from among the members of the Senate or the House of Assembly to assist Ministers in their functions, provided that the number of Ministers and Parliamentary Secretaries from the House does not exceed 12 at any time.
12. The post of Attorney General is provided for in the Constitution. If he is a public officer he is appointed by the Governor in his discretion, and has exclusive authority to institute or discontinue criminal proceedings in respect of any offence against any law in force in Bermuda. In exercising these powers he is not subject to the direction or control of any other person or authority.
If the office of Attorney General is held by a member of either House, then the Constitution provides for an additional officer, a Director of Public Prosecutions. He, too, is appointed by the Governor in his discretion, and he assumes the authority for criminal proceedings otherwise held by the Attorney-General.

13. There is also specific provision for the appointment of an Opposition Leader who, in the opinion of the Governor, is the leader in the House of Assembly of any opposition party whose numerical strength in that House is greater than that of any other opposition party.
14. The Constitution provides for the establishment of a Supreme Court with the offices of Chief Justice and Puisne Judges, and for a Court of Appeal consisting of a President and such number of Justices, not being fewer than two, as the Legislature may prescribe. There are safeguards for the protection of the judiciary from political interference or pressure from the Executive.

The Chief Justice is appointed by the Governor after consultation with the Premier, who must himself first have consulted the Leader of the Opposition. Other Judges, Magistrates and legally qualified staff of the Courts are appointed by the Governor after consultation with the Chief Justice. The President and Justices of the Court of Appeal are appointed by the Governor in his discretion.
15. The power to make appointments to public offices and to remove or to exercise disciplinary control over civil servants is vested in the Governor acting in accordance with the recommendation of a Public Service Commission. This body is appointed by the Governor after consultation with the Premier who must first have consulted the Opposition Leader.

Before the Commission recommends to the Governor the appointment of a person to the Office of a permanent secretary or head of a department of Government the Commission must consult the Premier. Appointments in the junior grades are delegated to the Permanent Secretary or Head of Department who follow Public Service Commission regulations in their selection. The Governor appoints the Commissioner and Deputy Commissioner of Police after consultation with the Public Service Commission.
16. Finally, the Constitution makes provision for the authorization of the expenditure of public money by the House of Assembly on the basis of annual estimates submitted by the Minister of Finance, and there can in general be no expenditure without authority given by way of an Appropriation Act or Supplementary Estimate. There is provision for a Government Auditor who is appointed by the Governor in his discretion, who is independent of the executive and responsible directly to the House of Assembly.
17. The above represents a summary of the main provisions in the Bermuda Constitution and should not be taken as being complete in every respect. The Constitution itself is obviously the proper legal reference.

APPENDIX IV

THE CHANNEL ISLANDS AND THE ISLE OF MAN

Between 1969 and 1973 a UK Royal Commission examined “the present functions of the central legislature and government in relation to the several countries, nations and regions of the United Kingdom.”

It simultaneously considered whether any changes were desirable “in the constitutional... relationships between the United Kingdom and the Channel Islands and the Isle of Man,” which two groups it collectively called “the Islands”.

Part XI of Volume I of its report dealt with these relationships. When describing the Islands’ system of government, the Commission stated (paragraphs 1459 and 1462 - 63) that:

That system, as we have said, is unique and not capable of description by any of the usual categories of political science. It is full of anomalies, peculiarities and anachronisms, which even those who work the system find hard to define precisely . . .

The authorities in all the Islands, but not some other witnesses, agreed that the United Kingdom Parliament has power to legislate for the Islands, but that the exercise of the power is limited by the convention that Parliament does not legislate without the Islands’ consent in respect of purely domestic matters. But what are purely domestic matters? How binding is the convention? In what circumstances is it proper for the Royal Assent to be refused to insular legislation? And what is the scope of the prerogative power of the Crown to legislate for the Islands by Order in Council? All these are matters in doubt or dispute.

The first question we had to ask ourselves was whether we should seek to determine these issues and draw up an authoritative statement of the present relationships. The evidence we received on the constitutional history of the Islands shows that the issues are complex and that earlier commissions or committees of enquiry into the Channel Islands’ constitutional matters expressed views which were not entirely consistent. The issues could be conclusively determined only by a Court of Law.

The Commission decided that it should avoid attempting to make an authoritative statement. So it made none and the relationships remain as uncertain, and hence as liable to lead to disputes, as ever.

Such uncertainty is probably acceptable in the case of these islands because the relationships result from an accident of history and have already endured for so many centuries. The Islands are geographically, even if not constitutionally, part of the United Kingdom, and their populations have almost the same make-up and heritage as the population of the rest of Great Britain. It is therefore generally recognized that, however peculiar and anachronistic the relationships may be, they have proved reasonably satisfactory in practice.

Put it another way. Experience may have shown that disputes are liable to cause controversy from time to time. But it has also shown that, with goodwill on both sides, any disputes can be settled amicably in the end. As a result, the islands’ principal concern has always been to safeguard the degree of independence which they have long enjoyed, not to start exploring the possibility of becoming sovereign independent nations. Indeed, that is a possibility they have never seriously contemplated.

Bermuda’s position is very different. For instance, it is geographically much closer to the United States than to the United Kingdom, its economy is far more closely linked to that of the United States than to the United Kingdom’s and, unlike the Channel Islands, the make-up of its population is quite different from that of the United Kingdom. Moreover, a proportion of its population wants the territory to become a sovereign independent nation. So there can be little prospect of persuading the United Kingdom that the odd arrangements which are acceptable in the case of these Islands would be appropriate for Bermuda too.

Quite apart from that, there would obviously be an inherent difficulty about applying arrangements so imprecise and anomalous that nobody can say with confidence just what they are. Nor does it seem at all likely that Bermudians would welcome the degree of uncertainty which could result from their application, even were that difficulty to be somehow overcome.

APPENDIX V

BRITAIN'S REMAINING INHABITED OVERSEAS DEPENDENT TERRITORIES

Territory	Inhabitants
Anguilla	8,000
Bermuda	58,000
British Virgin Islands	14,000
Cayman Islands	28,000
Falkland Islands	2,000
Gibraltar	30,000
Montserrat	13,000
Pitcairn	59
St. Helena and Dependencies	6,000
Turks and Caicos	9,000

This list excludes Hong Kong which will cease to be a dependent territory of the United Kingdom on 1 July 1997.

MEMBERS OF THE COMMONWEALTH

Her Majesty the Queen's Realms	Population	Republics	Population
	(00) 1992		(00) 1992
Antigua and Barbuda	81	Bangladesh	112,832
Australia	17,540	Botswana	1,360
The Bahamas	263	Cyprus	715
Belize	259	Dominica	72
Britain	200	The Gambia	929
Canada	57,701	Ghana	15,824
Grenada	27,844	Guyana	806
Jamaica	91	India	883,473
New Zealand	2,394	Kenya	25,838
Papua New Guinea	3,415	Kiribati	75
St. Christopher and Nevis	4,055	Malawi	9,085
Saint Lucia	42	Maldives	228
St. Vincent and the Grenadines	152 109	Malta	360
Solomon Islands	335	Mauritius	1,099
Tuvalu (Special Members)	9	Namibia	1,529
Indigenous Monarchies		Nauru (Special Member)	8
Brunei	273	Nigeria	101,844
Lesotho	1,860	Pakistan	119,347
Malaysia	18,610	Seychelles	69
Swaziland	860	Sierra Leone	4,354
Tonga	101	Singapore	2,814
		South Africa	39,763
		Sri Lanka	17,396
		Tanzania	25,965
		Trinidad and Tobago	1,268
		Uganda	17,475
		Vanuatu	155
		Western Samoa	162
		Zambia	8,589
		Zimbabwe	10,352

APPENDIX VII

FULL MEMBER STATES MAINTAINING PERMANENT MISSIONS
AT UNITED NATIONS HEADQUARTERS

Afghanistan	Costa Rica
Albania	Côte d'Ivoire
Algeria	Croatia
Andorra	Cuba
Antigua & Barbuda	Cyprus
Argentina	Czech Republic
Armenia	Democratic People's Republic of Korea
Australia	Denmark
Austria	Djibouti
Azerbaijan	Dominica
Bahamas	Dominican Republic
Bahrain	Ecuador
Bangladesh	Egypt
Barbados	El Salvador
Belarus	Equatorial Guinea
Belgium	Eritrea
Belize	Estonia
Benin	Ethiopia
Bhutan	Fiji
Bolivia	Finland
Bosnia & Herzegovina	France
Botswana	Gabon
Brazil	Gambia
Brunei Darussalam	Georgia
Bulgaria	Germany
Burkina Faso	Ghana
Burundi	Greece
Cambodia	Grenada
Cameroon	Guatemala
Canada	Guinea
Cape Verde	Guinea Bissau
Central African Republic	Guyana
Chad	Haiti
Chile	Honduras
Colombia	Hungary
Comoros	Iceland
Congo	India

**FULL MEMBER STATES MAINTAINING PERMANENT MISSIONS
AT UNITED NATIONS HEADQUARTERS (continued)**

Indonesia	Namibia
Iran (Islamic Republic of)	Nepal
Iraq	Netherlands
Ireland	New Zealand
Israel	Nicaragua
Italy	Niger
Jamaica	Nigeria
Japan	Norway
Jordan	Oman
Kazakhstan	Pakistan
Kenya	Panama
Kuwait	Papua New Guinea
Kyrgyzstan	Paraguay
Lao People's Democratic Republic	Peru
Latvia	Philippines
Lebanon	Qatar
Lesotho	Republic of Korea
Liberia	Republic of Moldavia
Libyan Arab Jamahiriya	Romania
Liechtenstein	Russian Federation
Lithuania	Rwanda
Luxembourg	Saint Kitts and Nevis
Madagascar	Saint Lucia
Malawi	Samoa
Maldives	San Marino
Mali	São Tomé and Príncipe
Malta	Saudi Arabia
Marshall Islands	Senegal
Mauritania	Seychelles
Mauritius	Sierra Leone
Mexico	Singapore
Micronesia	Slovakia
Monaco	Solomon Islands
Mongolia	Somalia
Morocco	South Africa
Mozambique	Spain
Myanmar	Sri Lanka

**FULL MEMBER STATES MAINTAINING PERMANENT MISSIONS
AT UNITED NATIONS HEADQUARTERS (continued)**

Sudan
Suriname
Swaziland
Sweden
Syrian Arab Republic
Tajikistan
Thailand
The former Yugoslav Republic of Macedonia
Togo
Trinidad & Tobago
Tunisia
Turkey
Turkmenistan
Uganda
Ukraine
United Arab Emirates
United Kingdom of Great Britain & Northern Ireland
United Republic of Tanzania
United States of America
Uruguay
Uzbekistan
Vanuatu
Venezuela
Viet Nam
Yemen
Yugoslavia
Zaire
Zambia
Zimbabwe

**NON-MEMBER STATES MAINTAINING PERMANENT OBSERVER MISSIONS
AT UNITED NATIONS HEADQUARTERS**

Holy See
Switzerland

**EXTRACT FROM A MEMORANDUM OF UNDERSTANDING RELATING TO THE
MAINTENANCE OF AN OFFICE IN NEW YORK FOR THE PERMANENT MISSIONS OF THE
UNITED NATIONS OF CERTAIN COMMONWEALTH COUNTRIES**

HAVE AGREED that this Memorandum records the understanding of the participating Governments and the Commonwealth Secretariat (hereinafter referred to as "the Secretariat") in its capacity as the administering agency of the facilities as to the basis of arrangements for the establishment and maintenance of this office accommodation, and that, while care will be exercised to ensure that due regard is accorded to the national independence and integrity of their Missions, such Missions will be required to share certain office facilities as provided hereunder.

1. The Secretariat has obtained and leased premises on the eighth and ninth floors at 820 Second Avenue New York City, appropriate and suitable for use as office by the Permanent Representatives of the participating Governments and their staff accredited to the United Nations. The two leases are in the name of the Secretariat which, out of the common fund, is responsible for meeting the rent, insurance, local rates and taxes and other regular outgoings of a periodic nature, and for ensuring that the landlord provides the services allowed for under the terms of the leases.
2. Within the premises leased by the Secretariat, each participating Government will be provided with secure office accommodation for the exclusive use of its own Permanent Representative. This area amounts in each case to approximately 450 sq. ft. (hereinafter referred to as "the core area"). Where a participating Government requests space in addition to its allotted core area, the rental, furnishing, maintenance and service costs of such additional space (hereinafter referred to as "the additional area") will be charged at cost to the account of that participating Government. Such other office space and common services as may be available from time to time may be allocated at the discretion of the Chief Administrative Officer on a temporary basis to one or more of the participating Governments or to other Commonwealth Governments.
3. In addition, common facilities available to all participating Governments will include (1) archive and research functions, (see paragraph 5 below) and (2) general administration, including accounts management support relevant to the needs of the core area (relating to the charges and costs associated with the provisions of paragraph 8 and 9 below) and, in the case of certain participating Governments only, of the associated Financial Annexes which those Governments have already signed. The specified terms of service to individual support staff members appointed to perform these common functions will be determined by the Secretariat in consultation with the participating Governments and the Chief Administrative Officer. The cost of providing and maintaining those support staff and common facilities will be born from the common fund.
4. The Secretariat in consultation with the participating Governments engage a Chief Administrative Officer and support staff for the Joint Office after the Commonwealth Secretariat consulted with donor Governments. The Chief Administration Officer will be responsible for the administration of the office and the provision of such common services as may from time to time be mutually agreed between the parties. The Chief Administrative Officer and the support staff will be responsible to and report to the Commonwealth Secretary-General.

5. Such support staff will include an Archivist/Research Officer to maintain an archive of United Nations documentation and of such other material as may from time to time to be mutually agreed and, at the discretion of the Chief Administrative Officer, to perform occasional work of a research nature which may be required by the Permanent Representative of the participating Governments generally or by the Secretariat. In addition, an Assistant to the Chief Administrative Officer may be appointed to administer the office accounts and render such other administrative support to the Chief Administrative Officer as may be necessary. Receptionist/Typists will be appointed as appropriate. No additional staff will be appointed without prior consent of donor Governments.

DETAILED PERSONNEL AND ACCOMMODATION COSTS

Options 1 and 2

External Affairs Department (Bermuda)

Permanent Secretary (PS 45)	101,160
Administrative Assistant (PS 21 – 23)	41,598
Private Secretary (PS 16-18)	34,760
Telephonist/ Receptionist (PS 9 – 11)	27,638
Other Personnel Costs (Health Insurance, Hospital Levy, Superannuation, Social Insurance)	18,401
Total Personnel Cost	223,557
Professional/Special Services	100,000
Accommodation (Government Building)	
Operational Expenses (Electricity, Telephone, Fax, Postage Stationery, Office Cleaning, Security, etc)	40,000
Travel/Entertainment	60,000
	Sub Total 423,557
Fitting Out Offices (One Time Expense)	50,000
	Grand Total 473,557

Option 3**1. Mission in New York (Share office space with Bermuda Tourism Office)**

Non-Resident Ambassador¹ (Permanent Secretary PS 45 in Bermuda would be accredited to the UN, USA, Canada and the UK.)

Chargé d'affaires ² (PS 43)	92,633
Administrative Assistant (PS 21 – 23)	41,598
Private Secretary (PS 16 – 18)	34,760
Other Personnel Costs (e.g. Health Insurance, Hospital Levy, Superannuation and Social Insurance)	14,942
Total Personnel Costs	18,933
Office Accommodation (1100 sq ft @ \$33 sq. ft)	36,300
Operational Expenses (Electricity, Telephone, Fax, Postage Stationery, Office Cleaning, Security etc.)	30,000
Travel/Entertainment Expenses	50,000
Staff Rent Subsidy	25,000
	Sub Total 325,233
Fitting out Offices (one time cost)	25,000
	Total 350,233

2. Mission in London

Non-Resident High Commissioner³ (Permanent Secretary (PS 45) in Bermuda would be accredited to the UK, Brussels and any other European country Bermuda feels is desirable.

Chargé d'affaires ⁴ (PS 43)	92,633
Administrative Assistant (PS 21 – 23)	41,598
Private Secretary / Telephonist (PS 16 – 18)	34,760
Other Personnel Costs (e.g. Health Insurance, Hospital Levy) Superannuation, Social Insurance	14,942
	Total Personnel Costs 183,933
Office Accommodation (1100 sq ft @ \$48 sq ft)	52,800
Operational Expenses (Electricity, Telephone, Fax, Postage, Stationery, Office Cleaning, Security, etc)	40,000
Travel/Entertainment Expenses	50,000
Staff Rent Subsidy	36,000
	Sub total 362,733
Fitting Out Office (One Time Cost)	50,000
	Grand Total \$412,733

¹No cost is set against this, since the non-resident Ambassador would be the Minister or Permanent Secretary of the Ministry in Bermuda.

²This is the grade of Assistant Cabinet Secretaries, Assistant Financial Secretaries, the Accountant General and the Solicitor General.

³No cost has been set against this since the non-resident High Commissioner would be the Minister or Permanent Secretary of the Ministry in Bermuda.

⁴This is the grade of Assistant Cabinet Secretaries, Assistant Financial Secretaries, the Accountant General and the Solicitor General.

Option 4**1. Mission in New York (Shared office space with Tourism Department)**

Resident Ambassador (PS 45) to UN (also accredited to Canada and USA)	101,160
Chargé d'affaires ⁵ (PS 43)	92,633
Administrative Assistant (PS 21 – 23)	41,598
Private Secretary / Receptionist (16-18)	34,760
Other Personnel Costs (e.g. Health Insurance, Hospital Levy, Superannuation, Social Insurance)	21,773
Total Personnel Costs	291,924
Office Accommodation (1100 sq. ft @ \$33 sq. ft)	36,300
Operational Expenses (Electricity, Telephone, Fax, Postage Stationery, Office Cleaning, Security, etc.)	50,000
Travel / Entertainment Expenses	50,000
Staff Rent Subsidy	25,000
Sub Total	453,224
Fitting Out Office (one time cost)	25,000
Grand Total	\$478,224

2. Mission in London

High Commissioner (PS 45) in London (accredited to the UK, Brussels and any other European country Bermuda feels is desirable)	101,160
Chargé d'affaires (PS 43)	92,633
Administrative Assistant (PS 21-23)	41,598
Private Secretary / Telephonist (16-18)	34,760
Other Personnel Costs (e.g. Health Insurance, Hospital Levy, Superannuation, Social Insurance)	21,773
Total Personnel Costs	291,924
Office Accommodation ⁶ (1100 sq ft @ \$48 sq. ft)	52,800
Operational Expenses (Electricity, Telephone, Fax, Postage, Stationery, Office Cleaning, Security, etc.)	50,000
Staff Rent Subsidy	36,000
Sub Total	470,724
Fitting Out Office (one time cost)	50,000
Grand Total	\$520,724

⁵This is the grade of Assistant Cabinet Secretaries, Assistant Financial Secretaries, the Accountant General and the Solicitor General.

⁶If the High Commission shared space with a Tourism Office, it would prove more cost-efficient for both.

APPENDIX X

INSTRUMENT OF DELEGATION OF RESERVED POWERS

No. 429
Bermuda Alias
Somers Islands

DELEGATION

By his Excellency the Honourable Sir Peter Edward Ramsbotham, Knight Grand Cross of the Royal Victoria Order, Knight Commander of the Order of St. George, Governor and Commander-in-Chief in and over the Bermuda or Somers Islands.

Peter Ramsbotham
Governor and
Commander in Chief

WHEREAS it is provided by Section 62 (2) of the Constitution of Bermuda that the Governor acting in his discretion may by directions in writing, with the prior approval of the Secretary of State, delegate to any Minister designated by him after consultation with the Premier such responsibility for matters relating to the Police as the Governor may think fit upon such conditions as he may impose.

NOW THEREFORE, in exercise of the powers vested in me as aforesaid and with the approval of the Secretary of State conveyed to me on the 20th day of October 1977, I do hereby delegate to the Honourable John William David Swan, Minister of Home Affairs, designated for this purpose after consultation with the Premier, my responsibility for the following matters relating to the administration of the Bermuda Police Force; namely

Establishment matters, recruitment, training, equipment, general organization, finance and community relations.

PROVIDED always that it shall be a condition of the exercise of the powers delegated hereby that nothing herein contained shall derogate from the powers and responsibilities vested in the Public Service Commission in relation to the members of the Police Force by or under Constitution.

Dated the 3rd day of November, 1977

By His Excellency's Command

G.P. Lloyd

Deputy Governor

CONSTITUTIONAL POWERS OF THE GOVERNOR

Decisions made by the Governor after consultation with some person(s) or body. (Although he will most invariably accept such recommendations, he is not absolutely bound to do so.)

- Section 73 (3) When appointing an Opposition Leader and dealing with various matters involving one, the Governor may, under certain circumstances, use his discretion.
- Section 73 (4) The Governor shall appoint Puisne Judges after consultation with the Chief Justice.
- Section 81 (2) The Governor shall appoint the members of the Public Service Commission after consulting the Premier who shall first have consulted the Opposition Leader.
- Section 87 After consultation with the Public Service Commission, the Governor appoints, exercises disciplinary control over and removes substantive and acting Commissioners and Deputy Commissioner of Police.
- Section 89 (1) & (2) After consultation with the Chief Justice, the Governor appoints, exercises disciplinary control over and removes magistrates and various other specified legally qualified court staff.

Decisions made by the Governor in his own discretion

- Section 27 (2c) The Governor appoints the three members of the Senate in his discretion; and may likewise remove them under section 31 (a).
- Section 49 (1) The Governor may, in his discretion, under certain specified circumstances, either refuse a dissolution sought by the Premier, or he himself decide to dissolve the Legislature.
- Section 53 (2a & b) The Governor appoints the Chairman and the judicial member of the Constituency Boundaries Commission in his discretion.
- Section 53 (4c) The Governor may in his discretion direct that the Chairman or the Judicial member of the Constituency Boundaries Commission be removed from office for inability or misbehaviour.
- Section 74 (3), (4) & (6) The Governor, acting in his discretion, may take various actions connected with the possible removal of a judge from office – but none may be removed unless the Judicial Committee of the Privy Council so advises.

Section 77 (3)	The Governor appoints Justices of Appeal in his discretion.
Section 78 (3), (4), (6) & (7)	The Governor, acting in his discretion, participates in the procedure for removing or suspending a Justice of Appeal – but none may be removed unless the Judicial Committee of the Privy Council so advises.
Section 79	The Governor, acting in his discretion, may appoint an acting President of the Court of Appeal after consulting the President of the Court of Appeal; and may in his discretion revoke the appointment of an acting President or Justice.
Section 86(1)	The Governor appoints the Attorney General, acting in his discretion.
Section 86 (5a)	The Governor in his discretion selects individuals, from amongst people who hold or have held high judicial office, to form a tribunal to enquire into and report on the possible removal from office of an Attorney General for inability or misbehaviour.
Section 88 (1)	The Governor appoints the Auditor in his discretion
Section 88 (3) & (4)	An Auditor may only be removed from office for inability or misbehaviour, by the Governor, acting in his discretion.
Section 88 (5)	The Governor may in his discretion suspend an Auditor whose possible removal is under investigation, and may revoke any suspension.
Section 62	Provides that the armed forces shall be one of the Governor’s special responsibilities and although there are no constitutional provisions dealing with the appointment of the Commanding Officer of the Bermuda Regiment, or of other members of it, section 21 probably has the effect of ensuring that he is entitled to deal with such matters in his discretion.

MEMBERSHIP OF INTERNATIONAL TRADE AND FINANCIAL ORGANIZATIONS

North American Free Trade Association (NAFTA)

No consideration is being given to the extension of membership to NAFTA for at least four years as the three member countries come to grips with the major issues facing them. At present efforts are being concentrated on trade in physical goods, which has limited interest to Bermuda, but NAFTA will probably extend their efforts to services once other issues have been resolved. It would be sensible, therefore, for Bermuda to continue to monitor and track developments in NAFTA. It would also be sensible to seek the views of the American State Department as to their attitude towards an independent Bermuda in the event that CARICOM member countries are successful in negotiating either an associate or full membership arrangement. Would the State Department be prepared to have a separate arrangement for Bermuda or insist that it is in the context of CARICOM?

European Union (EU) formerly European Economic Union (EEU)

The European Union (EEC) has shifted focus toward Eastern European and the gradual absorption of those countries. While the Dutch have an interest in establishing an arrangement for their Caribbean Dependent Territories, discussion to date has focused on trading in physical goods rather than services. It is unlikely that this emphasis will change. While, therefore, Bermuda should monitor such initiatives, it is doubtful whether there is much mileage in exploring closer contact with the EU. In terms of immigration policies/work permits alone, Bermuda has far more to lose in terms of sovereignty than the island could be expected to gain economically.

Bermuda was invited to have associate status with the EEC at the time the United Kingdom acceded but following a report by the Pearman Committee the Island declined such association in 1975. However, under the terms of Articles 131 – 136 of the Treaty of Rome, Bermuda is regarded as an OCT (Overseas Country and Territory) by Brussels. This means that, in theory at least, the United Kingdom would be obliged to ensure that any European Directive that was extended to Member Countries' OCTs was extended to Bermuda and enforced (much akin to the Orders in Council)

In practice, because the EU's pre-occupation until now has been with the trade in physical goods, no directives have been extended in that manner. There are, however, several instances where work currently being undertaken by Brussels in the field of financial instruments and financial services could be extended to Bermuda. The best example is that on mutual funds where new, tighter supervisory requirements will be extended to Bermuda and will require legislative changes. Another example is in the field of fiscal studies where the European Union is working closely with the OECD on Tax Treaties and other fiscal benefits conferred upon off-shore financial centres.

An independent Bermuda would not, of course, be governed by European Directives but the Island would need to keep abreast of developments and thinking in Brussels in order to ensure that the financial services sector was not disadvantaged by any, say, protectionist or supervisory measures that "Europe" might adopt in, say the insurance or mutual fund or trust areas.

Caribbean Community and Common Market (CARICOM)

There is a temptation to say that an independent Bermuda should draw closer links with CARICOM member countries, particularly when dealing with the larger trading blocks of NAFTA and EU. However,

this should be approached with caution primarily because of the customs union which has preferential tariffs for CARICOM agricultural and manufactured products and an element of protectionism against other areas. Since Bermuda is not a significant agricultural or manufacturing base, the cost of imports could rise significantly, for the betterment of the Islands down south and the disadvantage of local customers. The exception may be in the tourism field where the Ministry of Tourism may feel that a closer linkage with CARICOM might bring some benefits at least in the marketing field.

General Agreement of Trade and Tariffs (GATT)/General Agreement on Trade and Services (GATS)

Completion on the Uruguay Round should bring wide benefits to international trade. There is merit in Bermuda acceding to the World Trade Organization by signing the GATT (which regulates trade in physical goods). For the first time services have been included and it is critical that Bermuda, independent or otherwise, sign the General Agreement on Trade in Services (GATS) if it wishes to preserve the present relationship with its trading partners and improve the opportunities for Bermudian service companies to expand overseas.

There is general confusion within the business community as to whether Bermuda would still be able to retain its customs duties and be a member of GATT. The purpose of GATT is to gradually remove impediments to trading between one country and another. Such impediments are primarily in form of protectionist or discriminatory tariffs or quotas on one country's goods. Bermuda does not impose quotas and does not discriminate against different countries and uses the tariff purely as a revenue source. In such circumstances although the issue of complete bans on certain agricultural products is, perhaps, contrary to the letter (and certainly the spirit) of GATT, there appears to be no reason for Bermuda's customs tariff regime to change.

Western Hemisphere Free Trade Agreement (WHFTA)

This sounds like wishful thinking by some who are both anti NAFTA and anti EU. In the 1960s when the UK was considering whether to remain in EFTA or join the EEC there was a group of basically anti-European individuals in the UK who argued in favour of a free trade arrangement with the "English Speaking World". It was doomed to failure. The gap between the EU and the United States over GATT/GATS demonstrates the broad divergence of opinion on many issues. NAFTA has a temptation to look southward as the US desires to dominate the Americas, while the EU has a prime desire to unite the whole of Europe now that the cold war has ended. WHFTA has no chance until those objectives have been achieved, by which time the next round of GATT may well have headed the world toward free trade anyway.

IMF/IBRD

Membership of the IMF is open to any country that is in control of its foreign affairs.

The cost of membership of the IMF is determined by five quite comprehensive formulas and the resultant quota is then adjusted in the light of comparisons with the quotas of existing members of comparable economic size. The agreed quota determined a member's voting strength. The size of potential borrowings, future Special Drawing Rights (SDR) allocation and subscription. Bermuda might incur a charge of between \$3.75 - \$4 million in foreign currency and a further \$11 - \$12 million in local currency of which 0.25% would be in cash.

Are there advantages in joining the IMF (World Bank membership can follow on from IMF subscription)? Basically, newly independent countries join the IMF because they feel that they may benefit from it in terms of access to cheap World Bank loans to assist them either in deficit financing or structural adjustment

when access to global financial markets is not available for one reason or the other.

Given Bermuda's current credit rating and ability to tap the financial markets, and its GDP per capita ratio it is hard to believe that Bermuda would easily obtain IBRD funding. Equally, the only occasion that Bermuda might consider access to IMF funding would be in the event of a sharp downturn in one of the export fields – tourism or international business with a consequent unsustainable and unfinanceable balance of payments position. In such circumstances it might be possible to obtain a Compensatory Financing Facility (CFF) with minimal "conditionality", but it's hardly likely to be of a magnitude that would really help the island and, is relatively short term.

The other side of the coin is what the World Bank in particular would expect of a country with the second/third highest GDP per capita in the world. The Development Assistance Committee (DAC) "encourages" the richer countries of the world to donate 1% of their GDP to assist the poorer countries. In Bermuda's case that would amount to some \$18 million per annum. While no country achieves the 1% target, moral suasion would undoubtedly be placed on Bermuda and we would be expected to donate some \$3 – 5 million as a minimum.

This Paper sees no reason for an independent Bermuda to join the IMF.