Explanatory Note

Further to the 8 March Security Council Briefing of the Special Envoy, the attached non-papers should be read within the context of the Geneva Communiqué of 30 June 2012 as endorsed by Security Council resolution 2118 (2013), Security Council resolutions 2254 (2015), 2268 (2016) and 2336 (2016), and relevant statements of the International Syria Support Group, which set out the requirements of a negotiated political transition process for the resolution of the conflict in Syria. The items listed in the non-papers are not exhaustive and are designed to facilitate starting substantive discussions in relation to any negotiated political transition process.

Non-paper 1

Basket 1: Governance Issues

Essential principles

Specific requirements for the governance established in SCR 2254 include:

- Credible;
- Inclusive;
- Non-sectarian;
- Ensuring continuity of institutions and public services;
- Dedicated to safeguarding human rights.

Functions of the governance arrangements

- Functions related to continuity of public institutions and services
- Facilitating constitutional drafting and UN supervised elections
- Additional functions flowing from the tasks agreed by the sides
- Further functions

Key elements or institution/s of the governance arrangements

- Single governance mechanism
- Governance exercised by several institutions

Membership and functioning of the governance.

- Size of the governance
- Criteria for service in the governance
- Selection
- Decision-making

Powers of the governance

- Extent of powers
- Exclusivity of powers
- Independent exercise of powers

Relationship with other institutions

- Legislative
- Adjudicative
- Others

Practices, policies and mechanisms, including code of conduct, continuity and reform of institutions.

- Continuity
- Reform
- Operating practices and codes of conduct
- Agreed policies

Implementation Mechanisms

- Judicial, Ombudspersons, others
- Oversight and reporting mechanisms

Legal implementation of the governance arrangements.

Basket 2: Constitutional Process Issues

Essential Principles

- Essential substantive principles to guide the process
- Process principles
    - Inclusive
    - Competent
    - Transparent
    - Participatory

Type of constitutional process

- Expert committee
- Appointed, representative body
- Elected body
- Secretariat and support

Possible national dialogue

- Size
- Format
- Duration
- Preparatory Committee
- Secretariat
- Chairs
- Disputes
- Outcomes

Public consultation

- Soliciting views before commencement of the process
- Receiving contributions during the process
- Dissemination and discussion of the draft constitution

Revision after consultation, referendum

- Taking account of the results of public consultation
- Finalizing and approving the final version
- Referendum

Schedule

Time-frame for the above steps.

Basket 3: Electoral issues

Balloting events

- Will the first balloting event be a referendum on a new constitution?
- Sequence of preparations
- Timelines

Administration

- Authorities, institutions and composition
- Electoral dispute resolution
- Role of the governance

Supervision of the United Nations

- Role of the United Nations

Free and fair elections, to the highest international standards

- International declarations, covenants and human rights instruments, including, inter alia, Universal Declaration of Human Rights, ICCPR and CEDAW
- Legal framework
- Election system
- Other

Eligibility of all Syrians to participate, including members of the diaspora

- Eligibility to participate
- Out of country voting
- Internally displaced persons

Additional Basket 4: Counter-terrorism, security governance and CBMs

The "fourth-basket" should deal with strategic issues related to countering terrorism; security governance issues; and mid- to long-term confidence-building measures.

Addressing conditions conducive to spread of terrorism

- Political measures
- Social and educational measures

Preventing and combatting terrorism

- Institutional arrangements
- Military and law enforcement
- Economic and social policies
- Judicial means

State capacity to prevent and combat terrorism

- Institutions relevant for the fight against terrorism
- International cooperation
- Support by UN and other international actors

Human rights & the rule of law in combatting terrorism

- Legal basis for combatting terrorism
- General practice of state institutions

Security-related governance issues

- Unity of command over regular and irregular armed forces
- Powers of and oversight over security agencies
- Credible and effective police forces all over the country
- The issue of foreign forces and foreign fighters

Confidence-building measures