

**A Framework for
Accountable Government
in
Northern Ireland**

PART I

A FRAMEWORK FOR ACCOUNTABLE GOVERNMENT IN NORTHERN IRELAND

Introduction

1. This Part sets out the Government's understanding of potentially acceptable elements for improving local accountability in Northern Ireland, as part of a comprehensive political settlement embracing relationships within Northern Ireland, between Northern Ireland and the Republic of Ireland, and between the two Governments.

2. The British and Irish Governments committed themselves in the Joint Declaration to seeking, along with the Northern Ireland constitutional parties through a process of political dialogue, to create institutions and structures which, while respecting the diversity of the people of Ireland, would enable them to work together in all areas of common interest. The two Governments recognised that such structures would include institutional recognition of the special links that exist between the peoples of Britain and Ireland as part of the totality of relationships, while taking account of newly forged links with the rest of Europe.

3. It is the Government's aim to see the creation in Northern Ireland of local institutions of government that are directly accountable to the people—all the people—and to which they can give their wholehearted commitment and support. With this in mind, and taking account of Northern Ireland's position as part of the United Kingdom and its relationship with the Republic of Ireland, it is possible to identify certain characteristics which should underlie any new political institutions in Northern Ireland. Such institutions should be—

- based on democratic principles and reflecting the wishes of the electorate
- widely acceptable, in particular in the sense of providing an appropriate and equitable role for both sides of the community, such that both the main parts of the Northern Ireland community should be able to identify with them and feel that their representatives had a meaningful function to perform
- stable and durable in the sense of not being dependent on a particular election result or political deal. The system should, so far as possible, be self-sustaining
- capable of development, in response to changing political realities, with the agreement of all concerned
- workable, in the sense of being as straightforward to operate as possible
- such as to avoid any entrenchment of the main community division and to encourage the development of a society in which both main traditions would be respected
- such as to provide all the constitutional political parties with the opportunity to achieve a role at each level of responsibility, and to have a position proportional to their electoral strength in broad terms
- able to function effectively, efficiently, and decisively within clearly defined areas of responsibility
- innovative, in the sense of learning from and not merely modelled on any previous arrangements
- established within a defined relationship with UK institutions
- competent to manage any relationship between Northern Ireland and the Republic of Ireland developed in political Talks
- capable of securing public endorsement
- consistent with the maximum possible delegation of authority
- such as to ensure the greatest possible degree of Parliamentary scrutiny of and public accountability for the exercise of powers of government within Northern Ireland.

*I can
see why
this
will
work*

4. The Government believe that there would also be strong support for the propositions that each individual and community in Northern Ireland has the right to define their own identity; that that right and identity should be respected; and that any new political institutions should be such as to give expression to the identity and validity of each main tradition.

Possible Arrangements: Outline

5. Based on its discussions with the Northern Ireland parties and bearing in mind the preferred characteristics mentioned above, the Government believe that there would be a broad measure of agreement for an outline framework for political institutions in Northern Ireland to include:

- Province-wide executive responsibilities
- a single unicameral Assembly of about 90 members elected for a fixed 4 or 5 year term
- elections to the Assembly by a form of proportional representation
- a separate Panel, probably of 3 people elected within Northern Ireland, to complement the working of the Assembly. The Panel could be elected from a single Northern Ireland constituency by a system of proportional representation
- a system of Assembly Committees, constituted broadly in proportion to party strengths in the Assembly, to oversee the work of the Northern Ireland Departments and other functions
- legislative and executive responsibility over as wide a range of subjects as in 1973. If there were agreement it would be open to the Government to consider with the new institutions the scope for further transfers. Certain functions, including matters relating to the Crown, foreign affairs and defence, would remain at Westminster. It would be for consideration whether new institutions were given full legislative responsibility from day one or whether such responsibility would be assumed progressively
- a system of detailed checks and balances intended to sustain confidence in the institutions. These might include powers for the Panel to nominate Assembly Committee Chairmen and Deputy Chairmen, to scrutinise and if necessary block legislation, and to arbitrate on public expenditure disputes; and a Code of Practice to specify the relationships between the Assembly, its Committees, Committee Chairmen and Departments
- Mechanisms will need to be in place to ensure adequate compliance with the UK's EU and other international obligations.

Possible arrangements: detail

Transferred Matters: Executive Responsibilities

6. Executive responsibilities in the transferred field would be discharged through Northern Ireland Departments, subject to the powers and roles of the Assembly and Panel. The Chairman of the relevant Assembly Departmental Committee would be the Head of Department. These Committees would be established from among the members of the Assembly on a basis providing an appropriate, fair and significant role for representatives of all main traditions in Northern Ireland. Departmental estimates, policies and actions would be subject to scrutiny by the relevant Committee, which would have the power to compel attendance and to call for papers. The Assembly would debate reports from, and call for the minutes of, each Committee.

Assembly Committees: Appointment

7. The Chairmanships and Deputy Chairmanships of Assembly Committees would be allocated from among the members of the Assembly by the Assembly, acting by weighted majority, on the nomination of the Panel, acting by consensus. This procedure might operate as follows:

- the Panel, acting unanimously and after consultation with the Assembly party leaders, would draw up a list of nominations broadly reflecting proportional party strengths in the Assembly, and having regard to the likely ability of nominees to command the confidence of the Assembly

- the Assembly would vote on the list of nominations as a whole, approval requiring a weighted majority of Assembly members
- if the nominations were not approved, the Panel would draw up a revised list of nominations. The fact that a particular nomination had been rejected as part of a list would not prevent it being proposed again on a revised list
- if a vacancy occurred during the life of the Assembly, this procedure would be repeated, with the Panel (after consultation with the Assembly party leaders) making a nomination for Assembly approval, by weighted majority, for each such vacancy
- appointments would be held for the whole term of the Assembly, subject only to dismissal on the proposal of the Panel, acting unanimously, and with the approval, by weighted majority, of both the relevant Committee and the Assembly as a whole.

Transferred Matters: Legislation

8. The Northern Ireland Assembly would be the legislature in respect of transferred matters in Northern Ireland, subject to the powers and role of the Panel. All legislation would require the support of at least a majority of both the relevant Committee and the full Assembly. Legislation would be dealt with by majority decision unless a Business Committee (see paragraph 16) decided that the proposal was contentious, thus requiring weighted majority approval (at a level to be determined), or unless a petition to that effect secured a certain threshold support (at a level to be determined). Examples of measures which might be deemed contentious might include some financial measures or those with constitutional implications or significant implications for community relations.

Financial Arrangements

9. During future talks the participants would need to consider how the quantum of public expenditure would continue to be determined in the event of devolution, sources of funding, the role of the Secretary of State in any new arrangements, and the degree of discretion available to a local administration to allocate resources according to its own priorities. The Government would be ready to table ideas for consideration.

Non-transferred Matters

10. The Secretary of State would remain accountable to the Westminster Parliament for matters not transferred. These might include matters relating to law and order, including firearms and explosives (but see paragraphs 13 and 14), as well as the criminal law. The Secretary of State would also have a continuing responsibility for securing public expenditure for Northern Ireland and would be Co-Chairman of the Intergovernmental Conference established under a new Agreement. The Talks participants would need to give further consideration to the relationship in the longer term between new political institutions and the Westminster Parliament, and the role of the Secretary of State. The Government would be prepared to table ideas to assist discussions.

11. Under its terms of reference the Northern Ireland Affairs Select Committee at Westminster would no longer be entitled to scrutinise any matters for which new political institutions became accountable.

Rights

12. Protection for specified civil, political, social and cultural rights would be reinforced in respect of a range of matters including those for which the new political institutions would have responsibility, on a basis arrived at in consultation with the parties. The means of such protection would accord with the constitutional arrangements of the United Kingdom, and could build on existing safeguards. The aim will be to ensure that under any political settlement legislation and executive action will operate fairly and impartially so as to ensure the protection of these agreed rights and to inspire the confidence of everyone in Northern Ireland.

Law and Order

13. The Government wish to see the maintenance and development of a police service in Northern Ireland that is effective, operationally independent and accountable to the community which it serves. It must be capable of maintaining law and order, and of responding to any renewed terrorist threat should that prove necessary. Subject to these requirements, the Government are open to the consideration of proposals designed to enhance the extent to which the community at large in Northern Ireland can identify with and give full support to the police service.

14. The role of the new local institutions in policing and security matters will depend to a large extent on the level of the terrorist threat. So long as the threat is such that the active support of the armed services is necessary and emergency legislation is required, the Government's direct responsibility for these matters will continue, although there could be a consultative role for the local institutions. As that threat diminishes, so the likelihood increases that responsibility for policing matters, principally funding and the setting and monitoring of police objectives, could be transferred to the appropriate Assembly Committee.

Assembly

15. The Assembly would be presided over by a Speaker, elected by weighted majority.

16. Non-departmental committees of the Assembly would include a Business Committee to co-ordinate Assembly business; a General Purposes Committee (to include the Chairmen of Departmental Committees) to assist in co-ordinating the interests of the relevant Committees on issues crossing departmental boundaries; a Public Accounts Committee; and other Committees to act as a focus for the Assembly interest in particular areas such as non-transferred matters, cultural expression and diversity.

17. A Code of Practice would be drawn up to specify the respective roles, responsibilities and decision-making powers of Departments, Committee Chairmen, Assembly Committees and the Assembly at large. The Code would be reflected in the Standing Orders of the Assembly, which would be subject to weighted majority approval. The Code and Standing Orders would have particular regard to means of promoting cross-community consensus and securing an appropriate, fair and significant role for representatives of all main traditions.

The Panel

18. The Panel, whose role would complement the work of the Assembly, might undertake important consultative, monitoring, referral and representational functions. Decisions would be taken by consensus. Procedures would be devised for what, if anything, should happen were consensus not to be reached. The Panel could have a general duty to liaise, formally and informally, with the Assembly and the Secretary of State, and to give advice.

19. The Panel's role, powers, rights, duties and responsibilities would need to be carefully specified, including in legislation where appropriate, and could include:

- a role in the nomination of Chairmen and Deputy Chairmen of Assembly Committees (see paragraph 7);
- the consideration of proposed legislation specifically referred to it under Assembly procedures (with power to accept, reject, give an opinion or propose amendments)
- the ability to refer any proposed legislation for appropriate judicial consideration, eg, of whether it might be discriminatory or *ultra-vires*;
- liaising with the Secretary of State on the overall level of expenditure allocated to Northern Ireland Departments;
- arbitrating public expenditure allocation disputes between Departments, where these had not been resolved by the Finance Committee;
- the approval of designated public appointments in respect of transferred matters;
- advising the Secretary of State on appointments within his responsibility;

- the consideration of actions or proposals referred to it under Assembly procedures (with the power to give an opinion on or to make recommendations on such actions, and to refer them for any appropriate judicial consideration);
- preparation for the Assembly and the Secretary of State of regular (annual) reports on the activities of the Panel and their view of the operation of the new political institutions.

20. The Panel could have an important representational and promotional role, with a special commitment to the economic development of Northern Ireland through participation in joint promotional activities in collaboration with other interests.

21. The Panel would secure its share of resources from the Secretary of State independently from the rest of the transferred block, in order to ensure that it had financial independence and its resources were sufficient to carry out the full range of its statutory functions.

22. Arrangements for replacing Panel members who could not continue to discharge their duties would need to be considered.

Checks and Balances

23. The preceding paragraphs contain number of checks and balances intended to give reassurance that new institutions would command the confidence of both main sections of the Northern Ireland community without prejudicing workability. In summary they are—

- elections to an Assembly by a system of proportional representation
- separate elections to a Panel, also by a system of proportional representation
- a balance of responsibility between the Assembly, Assembly Committees and the Panel (which could intervene on legislation or executive actions)
- Panel decisions to be unanimous
- Assembly Committees established to give an appropriate, fair and significant role for all main traditions in Northern Ireland
- Heads of Department/Chairmen of Committees (and Deputy Chairmen) to be approved by joint action involving the Assembly and Panel and to require weighted majority approval in the Assembly
- legislation to require majority support both in the relevant Committee and the Assembly, with provision for contentious legislation to require weighted majority approval.

24. The preceding paragraphs also contain ideas on the use of weighted majority voting in the Assembly as a means of ensuring cross-party support for—

- the appointment (or dismissal) of the Chairmen or Deputy Chairmen of the Assembly Committees (paragraph 7)
- contentious legislation (paragraph 8)
- the election of the Assembly Speaker (paragraph 15)
- Assembly /Standing Orders on the roles, responsibilities and decision-taking powers of Departments, Committee Chairmen, Assembly Committees and the Assembly at large (paragraph 17).

25. Weighted majority voting might also be used in the Assembly Committees to ensure that minorities were not continually outvoted. The weighted majority required in these different circumstances would ultimately be for agreement by the parties in the Assembly but could be in the order of 65 to 75%.

26. Minimum threshold votes also offer a mechanism for protecting minority rights. Paragraph 8 suggests that if a petition in the Assembly secured a specified threshold of support it could require a particular piece of contentious legislation to be dealt with by weighted majority voting. The procedures in the Assembly might also be devised in such a way as to allow draft legislation or other actions or proposals to

be referred to the Panel if they secured a threshold vote (paragraph 19). Again, the precise quota required in each circumstance would be for determination by the parties in the Assembly but might be in the range of 25 to 35%.

Relationships With Other Institutions

27. The New Framework for Agreement envisages that relevant members of the Assembly would play a significant role in any new North/South institutions and could also have involvement in any new intergovernmental arrangements. Paragraphs 24 to 38 and 39 to 49 of that document refer. Annex B lists possible arrangements for co-ordination between institutions in Northern Ireland, between Northern Ireland and the Republic and between the two Governments.

Relationships with the European Union

European Union aspects

28. New institutions in Northern Ireland would be responsible for implementing EC legislation and programmes in the transferred field. They would also be responsible for developing Northern Ireland's views on EU issues and representing them to the UK Government and in any new North/South institutions. Further consideration would need to be given, with the British Government, to the arrangements which will be necessary for this purpose. These arrangements must respect the British Government's responsibility for the whole of the UK in the European Union and before the European Court of Justice.

PART I

ANNEX A

THE GOVERNMENT'S APPROACH TO A POLITICAL SETTLEMENT

1. The Government's primary interest is to see peace, stability and reconciliation established by agreement among all the people who inhabit the island of Ireland and it has committed itself, in the Joint Declaration, to working with the Irish Government to achieve such an agreement, which will embrace the totality of relationships. The Government has defined its role as being to encourage, facilitate and enable the achievement of agreement over a period through a process of dialogue and co-operation based on full respect for the rights and identities of both traditions in Ireland.
2. The Government believe that if there is to be lasting peace, stability and reconciliation any new arrangements for the governance of Northern Ireland must take account of various political realities. These include—
 - that any new arrangements for the governance of Northern Ireland must be acceptable to the people and give appropriate expression to the identity of each of the two main parts of the community. They should uphold and apply the principles of equality of opportunity, equity of treatment and parity of esteem already established by the Government
 - that any political agreement must address all the relevant relationships, not only those between the two main parts of the community within Northern Ireland, including the relationship between any new political institutions there and the Westminster Parliament, but also those between Northern Ireland and the Republic and between the United Kingdom and Irish Governments
 - the compelling need for the people of Northern Ireland to be given a greater say over their own affairs and for that to be reflected to greater political power, authority and responsibility being transferred to locally elected representatives within a framework of agreed relationships
 - that there can be no going back to a system of government in Northern Ireland which has the allegiance of, and is operated by, only one part of the community
 - the present reality, in fact and in international law, of the Union of Great Britain and Northern Ireland, affirmed in the Northern Ireland Constitution Act 1973. It is the clear position, as set out in the 1973 Act and the Anglo-Irish Agreement, that the current constitutional status of Northern Ireland as part of the United Kingdom will not change, save with the consent of a majority of the people of Northern Ireland, clearly expressed. This guarantee is reaffirmed in the Joint Declaration
 - the widespread acknowledgment that Northern Ireland's constitutional status as part of the United Kingdom is unlikely to change for the foreseeable future
 - that a significant minority of the people of Northern Ireland aspire to a sovereign united Ireland achieved by peaceful means and consent
 - that the right of a section of the Northern Ireland community to aspire to a sovereign united Ireland, achieved by peaceful means and through agreement, is no less legitimate than the wish of a present majority to retain Northern Ireland's status within the United Kingdom
 - that any change in Northern Ireland's constitutional status as part of the United Kingdom should come about only in accordance with the democratic wishes of the people of Northern Ireland, freely given and without coercion
 - that while any settlement is bound to require some compromise, success in obtaining an agreement should not in the Government's view require any of the participants to abandon their basic political principles or aspirations.
3. Bearing these realities in mind the Government is firmly of the view that the basis for a lasting settlement can only be achieved by dialogue between political representatives. It remains of the view, which has been supported by the main constitutional parties and the Irish Government since 1990, that the best chance of securing a comprehensive political accommodation lies through a process of dialogue

involving the key political interests, is based on a comprehensive agenda, and addresses all three of the underlying relationships—those between the two main parts of the community in Northern Ireland, between the two parts of Ireland and between the two Sovereign States. The Government also remains of the view, which is accepted by the other participants, that agreement on one part of the process would in practice depend on agreement on the others.

4. The Government would therefore like to see further dialogue take place involving themselves, the Irish Government and all the main parties in Northern Ireland with a democratic mandate that have established a commitment to exclusively peaceful means. The fundamental interest of the British Government would be to secure an outcome broadly acceptable to the participants. Because it is essential that any outcome should attract widespread support the Government has undertaken to hold a referendum on any agreement that emerges from the Talks process.

5. The ideas contained in Part I of this paper and the New Framework for Agreement represent an outline package which, in the Government's view, has the potential for securing general agreement. For its part, the Government would accept an outcome from further Talks along the lines described in these papers. It would also, in principle, accept a range of other outcomes provided that any outcome was broadly acceptable to the other participants.

PART I

ANNEX B

AN OUTLINE OF A COMPREHENSIVE SETTLEMENT

1. Drawing on the ideas on local accountability in Part I and on the New Framework for Agreement it is possible to identify the main elements of where a possible settlement might be found. There might be public support for the following—

- *new political institutions in Northern Ireland* with a wide range of executive and legislative responsibilities. Such institutions would disperse executive responsibilities broadly in proportion to party strengths. There would be two main institutions, an elected Assembly and a separate, complementary body perhaps comprised of 3 people—a Panel. There would be checks and balances within and between the Assembly and Panel, and a division of functions between them. There would be greater formal protection for civil rights;
- to cater for the North/South relationship there would be *a new North/South body or bodies*, an interparliamentary forum, an administrative forum, an administrative support unit to service the body (or bodies) and the forum, and day-to-day North/South co-operation and communication between Departments, and between counterparts with relevant executive authority at the political level. The source of their authority would stem from the administrations in Belfast and Dublin. All decisions of the North/South body or bodies would be by agreement between the two sides. There would be appropriate political and financial accountability. The new North/South arrangements would be of sufficient strength and quality to further co-operation, mutual understanding and working together in the interests of both parts of the island;
- the Anglo-Irish Agreement would be replaced by *a new and more broadly based agreement* between the two Governments reflecting the totality of relationships, and with provision for bilateral liaison, through an Intergovernmental Council. There would be a formal Intergovernmental Conference, with suitable rights of attendance and consultation for appropriate representatives of the new Northern Ireland political institutions. There would be a Secretariat to support the Conference and provide a channel of communication. The new agreement would be arrived at through direct discussion between the two Governments and the other Talks participants, and Northern Ireland political representatives would play a greater part in it than at present;
- there would be a shared understanding of the constitutional issues, which achieved a balanced accommodation of the differing positions of the two main traditions;
- the overall outcome would be subject to popular endorsement in the form of a referendum in Northern Ireland and an appropriate test of opinion in the Republic.

Relationship Between the Different Elements of an Overall Accommodation

2. If a settlement is achieved which addresses all the relevant relationships there would need to be co-ordination between the various structures. The Government envisage that any acceptable overall accommodation could include linkages of the following kinds:

- liaison between representatives of new Northern Ireland institutions such as the Assembly and the Panel and the British Government over transferred matters with implications for non-transferred responsibilities, and vice versa
- liaison between new North/South institutions and the British Government over transferred matters with implications for the British Government's remaining responsibilities
- ad hoc attendance by representatives of HMG at new North/South institutions at their request (eg where the Northern Ireland side have raised matters of concern about non-transferred matters with their Republic of Ireland counterparts, which in turn have implications for HMG)

- attendance by relevant Northern Ireland Heads of Department, and by Panel members, by invitation, at relevant parts of meetings of the successor to the Intergovernmental Conference
- liaison outside the successor to the Intergovernmental Conference on non-transferred Northern Ireland matters between representatives of the new Northern Ireland institutions and members of the British and Irish Governments
- attendance by representatives of the new Northern Ireland political institutions at meetings held under the Anglo-Irish Intergovernmental Council framework, where matters relevant to the new Northern Ireland institutions might arise.

3. This list is not exhaustive. The following possible further linking arrangements could be considered:

- permanent observer status for the British Government at meetings of the new North/South body, provided HMG representatives were not involved in decision taking
- an umbrella institution for the new Strand 2 and Strand 3 institutions. These would normally meet separately, but could come together for periodic co-ordination or review sessions.

4. The Government, for its part, would be ready to consider linking arrangements of this sort provided the key distinctions between transferred and non-transferred matters, and between Northern Ireland and wider matters, were preserved. Any agreed overall accommodation is unlikely to be able to hold its shape if these distinctions are set aside.

A
New Framework
for Agreement

A NEW FRAMEWORK FOR AGREEMENT

A shared understanding between the British and Irish Governments to assist discussion and negotiation involving the Northern Ireland parties

1. The Joint Declaration acknowledges that the most urgent and important issue facing the people of Ireland, North and South, and the British and Irish Governments together, is to remove the causes of conflict, to overcome the legacy of history and to heal the divisions which have resulted.
2. Both Governments recognise that there is much for deep regret on all sides in the long and often tragic history of Anglo-Irish relations, and of relations in Ireland. They believe it is now time to lay aside, with dignity and forbearance, the mistakes of the past. A collective effort is needed to create, through agreement and reconciliation, a new beginning founded on consent, for relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands. The Joint Declaration itself represents an important step towards this goal, offering the people of Ireland, North and South, whatever their tradition, the basis to agree that from now on their differences can be negotiated and resolved exclusively by peaceful political means.
3. The announcements made by the Irish Republican Army on 31 August 1994 and the Combined Loyalist Military Command on 13 October 1994 are a welcome response to the profound desire of people throughout these islands for a permanent end to the violence which caused such immense suffering and waste and served only to reinforce the barriers of fear and hatred, impeding the search for agreement.
4. A climate of peace enables the process of healing to begin. It transforms the prospects for political progress, building on that already made in the Talks process. Everyone now has a role to play in moving irreversibly beyond the failures of the past and creating new relationships capable of perpetuating peace with freedom and justice.
5. In the Joint Declaration both Governments set themselves the aim of fostering agreement and reconciliation, leading to a new political framework founded on consent. A vital dimension of this three-stranded process is the search, through dialogue with the relevant Northern Ireland parties, for new institutions and structures to take account of the totality of relationships and to enable the people of Ireland to work together in all areas of common interest while fully respecting their diversity.
6. Both Governments are conscious of the widespread desire, throughout both islands and more widely, to see negotiations underway as soon as possible. They also acknowledge the many requests, from parties in Northern Ireland and elsewhere, for both Governments to set out their views on how agreement might be reached on relationships within the island of Ireland and between the peoples of these islands.
7. In this Framework Document both Governments therefore describe a shared understanding reached between them on the parameters of a possible outcome to the Talks process, consistent with the Joint Declaration and the statement of 26 March 1991. Through this they hope to give impetus and direction to the process and to show that a fair and honourable accommodation can be envisaged across all the relationships, which would enable people to work constructively for their mutual benefit, without compromising the essential principles or the long-term aspirations or interests of either tradition or of either community.
8. Both Governments are aware that the approach in this document presents challenges to strongly-held positions on all sides. However, a new beginning in relationships means addressing fundamental issues in a new way and inevitably requires significant movement from all sides. This document is not a rigid blueprint to be imposed but both Governments believe it sets out a realistic and balanced framework for agreement which could be achieved, with flexibility and goodwill on all sides, in comprehensive negotiations with the relevant political parties in Northern Ireland. In this spirit, both Governments offer this document for consideration and accordingly strongly commend it to the parties, the people in the island of Ireland and more widely.

9. The primary objective of both Governments in their approach to Northern Ireland is to promote and establish agreement among the people of the island of Ireland, building on the Joint Declaration. To this end they will both deploy their political resources with the aim of securing a new and comprehensive agreement involving the relevant political parties in Northern Ireland and commanding the widest possible support.

10. They take as guiding principles for their co-operation in search of this agreement:

- (i) the principle of self-determination, as set out in the Joint Declaration;
- (ii) that the consent of the governed is an essential ingredient for stability in any political arrangement;
- (iii) that agreement must be pursued and established by exclusively democratic, peaceful means, without resort to violence or coercion;
- (iv) that any new Political arrangements must be based on full respect for, and Protection and expression of, the rights and identities of both traditions in Ireland and even-handedly afford both communities in Northern Ireland Parity of esteem and treatment, including equality of opportunity and advantage.

11. They acknowledge that in Northern Ireland, unlike the situation which prevails elsewhere throughout both islands, there is a fundamental absence of consensus about constitutional issues. There are deep divisions between the members of the two main traditions living there over their respective senses of identity and allegiance, their views on the Present status of Northern Ireland and their vision of future relationships in Ireland and between the two islands. However, the two Governments also recognise that the large majority of people, in both parts of Ireland, are at one in their commitment to the democratic process and in their desire to resolve Political differences by peaceful means.

12. In their search for political agreement, based on consent, the two Governments are determined to address in a fresh way all of the relationships involved. Their aim is to overcome the legacy of division by reconciling the rights of both traditions in the fullest and most equitable manner. They will continue to work towards and encourage the achievement of agreement, so as to realise the goal set out in the statement of 26 March 1991 of "a new beginning for relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands".

13. The two Governments will work together with the parties to achieve a comprehensive accommodation, the implementation of which would include interlocking and mutually supportive institutions across the three strands, including:

- (a) *structures within Northern Ireland* (paragraphs 22 and 23)—to enable elected representatives in Northern Ireland to exercise shared administrative and legislative control over all those matters that can be agreed across both communities and which can most effectively and appropriately be dealt with at that level;
- (b) *North/South institutions* (paragraphs 24–38)—with clear identity and purpose, to enable representatives of democratic institutions, North and South, to enter into new, co-operative and constructive relationships; to promote agreement among the people of the island of Ireland; to carry out on a democratically accountable basis delegated executive, harmonising and consultative functions over a range of designated matters to be agreed; and to serve to acknowledge and reconcile the rights, identities and aspirations of the two major traditions;
- (c) *East-West structures* (paragraphs 39–49)—to enhance the existing basis for co-operation between the two Governments, and to promote, support and underwrite the fair and effective operation of the new arrangements.

Constitutional Issues

14. Both Governments accept that agreement on an Overall settlement requires, *inter alia*, a balanced accommodation of the differing views of the two main traditions on the constitutional issues in relation to the special position of Northern Ireland.

15. Given the absence of consensus and depth of divisions between the two main traditions in Northern Ireland, the two Governments agree that such an accommodation will involve an agreed new approach to the traditional constitutional doctrines on

both sides. This would be aimed at enhancing and codifying the fullest attainable measure of consent across both traditions in Ireland and fostering the growth of consensus between them.

16. In their approach to Northern Ireland they will apply the principle of self-determination by the people of Ireland on the basis set out in the Joint Declaration: the British Government recognise that it is for the people of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish; the Irish Government accept that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland.

17. New arrangements should be in accordance with the commitments in the Anglo-Irish Agreement and in the Joint Declaration. They should acknowledge that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of the people of Northern Ireland. If in future a majority of the people there wish for and formally consent to the establishment of a united Ireland, the two Governments will introduce and support legislation to give effect to that wish.

18. Both Governments recognise that Northern Ireland's current constitutional status reflects and relies upon the present wish of a majority of its people. They also acknowledge that at present a substantial minority of its people wish for a united Ireland. Reaffirming the commitment to encourage, facilitate and enable the achievement of agreement over a period among all the people who inhabit the island, they acknowledge that the option of a sovereign united Ireland does not command the consent of the unionist tradition, nor does the existing status of Northern Ireland command the consent of the nationalist tradition. Against this background, they acknowledge the need for new arrangements and structures—to reflect the reality of diverse aspirations, to reconcile as fully as possible the rights of both traditions, and to promote co-operation between them, so as to foster the process of developing agreement and consensus between all the people of Ireland.

19. They agree that future arrangements relating to Northern Ireland, and Northern Ireland's wider relationships, should respect the full and equal legitimacy and worth of the identity, sense of allegiance, aspiration and ethos of both the unionist and nationalist communities there. Consequently, both Governments commit themselves to the principle that institutions and arrangements in Northern Ireland and North/South institutions should afford both communities secure and satisfactory political, administrative and symbolic expression and protection. In particular, they commit themselves to entrenched provisions guaranteeing equitable and effective political participation for whichever community finds itself in a minority position by reference to the Northern Ireland framework, or the wider Irish framework, as the case may be, consequent upon the operation of the principle of consent.

20. The British Government reaffirm that they will uphold the democratic wish of a greater number of the people of Northern Ireland on the issue of whether they prefer to support the Union or a sovereign united Ireland. On this basis, they reiterate that they have no selfish strategic or economic interest in Northern Ireland. For as long as the democratic wish of the people of Northern Ireland is for no change in its present status, the British Government pledge that their jurisdiction there will be exercised with rigorous impartiality on behalf of all the people of Northern Ireland in their diversity. It will be founded on the principles outlined in the Previous Paragraph with emphasis on full respect for, and equality of, civil, political, social and cultural rights and freedom from discrimination for all citizens, on parity of esteem, and on just and equal treatment for the identity, ethos and aspirations of both communities. The British Government will discharge their responsibilities in a way which does not prejudice the freedom of the people of Northern Ireland to determine, by peaceful and democratic means, its future constitutional status, whether in remaining a part of the United Kingdom or in forming part of a united Ireland. They will be equally cognizant of either option and open to its democratic realisation, and will not impede the latter option, their Primary interest being to see peace, stability and reconciliation

established by agreement among the people who inhabit the island. This new approach for Northern Ireland, based on the continuing willingness to accept the will of a majority of the people there, will be enshrined in British constitutional legislation embodying the principles and commitments in the Joint Declaration and this Framework Document, either by amendment of the Government of Ireland Act 1920 or by its replacement by appropriate new legislation, and appropriate new provisions entrenched by Agreement.

21. As part of an agreement confirming the foregoing understanding between the two Governments on constitutional issues, the Irish Government will introduce and support proposals for change in the Irish Constitution to implement the commitments in the Joint Declaration. These changes in the Irish Constitution will fully reflect the Principle of consent in Northern Ireland and demonstrably be such that no territorial claim of right to jurisdiction over Northern Ireland contrary to the will of a majority of its people is asserted, while maintaining the existing birthright of everyone born in either jurisdiction in Ireland to be part, as of right, of the Irish nation. They will enable a new Agreement to be ratified which will include, as part of a new and equitable dispensation for Northern Ireland embodying the principles and commitments in the Joint Declaration and this Framework Document, recognition by both Governments of the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its constitutional status, whether they prefer to continue to support the Union or a sovereign united Ireland.

Structures in Northern Ireland

22. Both Governments recognise that new political structures within Northern Ireland must depend on the co-operation of elected representatives there. They confirm that cross-community agreement is an essential requirement for the establishment and operation of such structures. They strongly favour and will support provision for cross-community consensus in relation to decisions affecting the basic rights, concerns and fundamental interests of both communities, for example on the lines adumbrated in Strand 1 discussions in the 1992 round-table talks.

23. While the principles and overall context for such new structures are a recognised concern of both Governments in the exercise of their respective responsibilities, they consider that the structures themselves would be most effectively negotiated, as part of a comprehensive three-stranded process, in direct dialogue involving the relevant political parties in Northern Ireland who would be called upon to operate them.

North/South Institutions

24. Both Governments consider that new institutions should be created to cater adequately for present and future political, social and economic inter-connections on the island of Ireland, enabling representatives of the main traditions, North and South, to enter agreed dynamic, new, co-operative and constructive relationships.

25. Both Governments agree that these institutions should include a North/South body involving Heads of Department on both sides and duly established and maintained by legislation in both sovereign Parliaments. This body would bring together these Heads of Department representing the Irish Government and new democratic institutions in Northern Ireland, to discharge or oversee delegated executive, harmonising or consultative functions, as appropriate, over a range of matters which the two Governments designate in the first instance in agreement with the parties or which the two administrations, North and South, subsequently agree to designate. It is envisaged that, in determining functions to be discharged or overseen by the North/South body, whether by executive action, harmonisation or consultation, account will be taken of:

- (i) the common interest in a given matter on the part of both parts of the island; or
- (ii) the mutual advantage of addressing a matter together; or
- (iii) the mutual benefit which may derive from it being administered by the North/South body; or
- (iv) the achievement of economies of scale and the avoidance of unnecessary duplication of effort.

In relevant posts in each of the two administrations participation in the North/South body would be a duty of service. Both Governments believe that the legislation should provide for a clear institutional identity and purpose for the North/South body. It would also establish the body's terms of reference, legal status and arrangements for political, legal, administrative and financial accountability. The North/South body could operate through, or oversee, a range of functionally-related subsidiary bodies or other entities established to administer designated functions on an all-island or cross-border basis.

26. Specific arrangements would need to be developed to apply to EU matters. Any EU matter relevant to the competence of either administration could be raised for consideration in the North/South body. Across all designated matters and in accordance with the delegated functions, both Governments agree that the body will have an important role, with their support and co-operation and in consultation with them, in developing on a continuing basis an agreed approach for the whole island in respect of the challenges and opportunities of the European Union. In respect of matters designated at the executive level, which would include all EC programmes and initiatives to be implemented on a cross-border or island-wide basis in Ireland, the body itself would be responsible, subject the Treaty obligations of each Government, for the implementation and management of EC policies and programmes on a joint basis. This would include the preparation, in consultation with the two Governments, of joint submissions under EC programmes and initiatives and their joint monitoring and implementation, although individual projects could be implemented either jointly or separately.

27. Both Governments envisage regular and frequent meeting of the North/South body:

- to discharge the functions agreed for it in relation to a range of matters designated for treatment on an all-Ireland or cross-border basis;
- to oversee the work of subsidiary bodies.

28. The two Governments envisage that legislation in the sovereign Parliaments should designate those functions which should, from the outset, be discharged or overseen by the North/South body; and they will seek agreement on these, as on other features of North/South arrangements, in discussion with the relevant political parties in Northern Ireland. It would also be open to the North/South body to recommend to the respective administrations and legislatures for their consideration that new functions should be designated to be discharged or overseen by that body; and to recommend that matters already designated should be moved on the scale between consultation, harmonisation and executive action. Within those responsibilities transferred to new institutions in Northern Ireland, the British Government have no limits of their own to impose on the nature and extent of functions which could be agreed for designation at the outset or, subsequently, between the Irish Government and the Northern Ireland administration. Both Governments expect that significant responsibilities, including meaningful functions at executive level, will be a feature of such agreement. The British Government believe that, in principle, any function devolved to the institutions in Northern Ireland could be so designated, subject to any necessary savings in respect of the British Government's powers and duties, for example to ensure compliance with EU and international obligations. The Irish Government also expect to designate a comparable range of functions.

29. Although both Governments envisage that representatives of North and South in the body could raise for discussion any matter of interest to either side which falls within the competence of either administration, it is envisaged, as already mentioned, that its designated functions would fall into three broad categories:

consultative: the North/South body would be a forum where the two sides would consult on any aspect of designated matters on which either side wished to hold consultations. Both sides would share a duty to exchange information and to consult about existing and future policy, though there would be no formal requirement that agreement would be reached or that policy would be harmonised or implemented jointly, but the development of mutual understanding or common or agreed positions would be the general goal;

this is absolutely in line with the Irish view. I am not saying it is wrong but it is v. difficult to square with the Unionist view.

harmonising: in respect of these designated responsibilities there would be, in addition to the duty to exchange information and to consult on the formulation of policy, an obligation on both sides to use their best endeavours to reach agreement on a common policy and to make determined efforts to overcome any obstacles in the way of that objective, even though its implementation might be undertaken by the two administrations separately;

executive: in the case of these designated responsibilities the North/South body would itself be directly responsible for the establishment of an agreed policy and for its implementation on a joint basis. It would however be open to the body, where appropriate, to agree that the implementation of the agreed policy would be undertaken either by existing bodies, acting in an agency capacity, whether jointly or separately, North and South, or by new bodies specifically created and mandated for this purpose.

30. In this light, both Governments are continuing to give consideration to the range of functions that might, with the agreement of the parties, be designated at the outset and accordingly they will be ready to make proposals in that regard in future discussions with the relevant Northern Ireland parties.

31. By way of illustration, it is intended that these proposals would include at the executive level a range of functions, clearly defined in scope, from within the following broad categories:

- sectors involving a natural or physical all-Ireland framework;
- EC programmes and initiatives;
- marketing and promotion activities abroad; and
- culture and heritage.

32. Again, by way of illustration, the Governments would make proposals at the harmonising level for a broader range of functions, clearly defined in scope (including, as appropriate, relevant EU aspects), from within the following categories:

aspects of —

- agriculture and fisheries;
- industrial development;
- consumer affairs;
- transport;
- energy;
- trade;
- health;
- social welfare;
- education; and
- economic policy.

33. By way of example, the category of agriculture and fisheries might include agricultural and fisheries research, training and advisory services, and animal welfare; health might include co-operative ventures in medical, paramedical and nursing training, cross-border provision of hospital services and major emergency/accident planning; and education might include mutual recognition of teacher qualifications, co-operative ventures in higher education, in teacher training, in education for mutual understanding and in education for specialised needs.

34. The Governments also expect that a wide range of functions would be designated at the consultative level.

35. Both Governments envisage that all decisions within the body would be by agreement between the two sides. The Heads of Department on each side would operate within the overall terms of reference mandated by legislation in the two sovereign Parliaments. They would exercise their powers in accordance with the rules for democratic authority and accountability for this function in force in the Oireachtas and in new institutions in Northern Ireland. The operation of the North/South body's functions would be subject to regular scrutiny in agreed political institutions in Northern Ireland and the Oireachtas respectively.

36. Both Governments expect that there would be a Parliamentary Forum, with representatives from agreed political institutions in Northern Ireland and members of the Oireachtas, to consider a wide range of matters of mutual interest.

37. Both Governments envisage that the framework would include administrative support staffed jointly by members of the Northern Ireland Civil Service and the Irish Civil Service. They also envisage that both administrations will need to arrange finance for the North/South body and its agencies on the basis that these constitute a necessary public function.

38. Both Governments envisage that this new framework should serve to help heal the divisions among the communities on the island of Ireland; provide a forum for acknowledging the respective identities and requirements of the two major traditions; express and enlarge the mutual acceptance of the validity of those traditions; and promote understanding and agreement among the people and institutions in both parts of the island. The remit of the body should be dynamic, —enabling progressive extension by agreement of its functions to new areas. Its role should develop to keep pace with the growth of harmonisation and with greater integration between the two economies.

East-West Structures

39. Both Governments envisage a new and more broadly based Agreement, developing and extending their co-operation, reflecting the totality of relationships between the two islands, and dedicated to fostering co-operation, reconciliation and agreement in Ireland at all levels.

40. They intend that under such a new Agreement a standing Intergovernmental Conference will be maintained, chaired by the designated Irish Minister and by the Secretary of State for Northern Ireland. It would be supported by a Permanent Secretariat of civil servants from both Governments.

41. The Conference will be a forum through which the two Governments will work together in pursuance of their joint objectives of securing agreement and reconciliation amongst the people of the island of Ireland and of laying the foundations for a peaceful and harmonious future based on mutual trust and understanding between them.

42. The Conference will provide a continuing institutional expression for the Irish Government's recognised concern and role in relation to Northern Ireland. The Irish Government will put forward views and proposals on issues falling within the ambit of the new Conference or involving both Governments, and determined efforts will be made to resolve any differences between the two Governments. The Conference will be the principal instrument for an intensification of the co-operation and partnership between both Governments, with particular reference to the principles contained in the Joint Declaration, in this Framework Document and in the new Agreement, on a wide range of issues concerned with Northern Ireland and with the relations between the two parts of the island of Ireland. It will facilitate the promotion of lasting peace, stability, justice and reconciliation among the people of the island of Ireland and maintenance of effective security co-operation between the two Governments.

43. Both Governments believe that there should also be provision in the Agreement for developing co-operation between the two Governments and both islands on a range of "East-West" issues and bilateral matters of mutual interest not covered by other specific arrangements, either through the Anglo-Irish Intergovernmental Council, the Conference or otherwise.

44. Both Governments accept that issues of law and order in Northern Ireland are closely intertwined with the issues of political consensus. For so long as these matters are not devolved, it will be for the Governments to consider ways in which a climate of peace, new institutions and the growth of political agreement may offer new possibilities and opportunities for enhancing community identification with policing in Northern Ireland, while maintaining the most effective possible deployment of the resources of each Government in their common determination to combat crime and prevent any possible recourse to the use or threat of violence for political ends, from any source whatsoever.

45. The Governments envisage that matters for which responsibility is transferred to new political institutions in Northern Ireland will be excluded from consideration in the Conference, except to the extent that the continuing responsibilities of the Secretary of State for Northern Ireland are relevant, or that cross-border aspects of transferred issues are not otherwise provided for, or in the circumstances described in the following paragraph.

46. The Intergovernmental Conference will be a forum for the two Governments jointly to keep under review the workings of the Agreement and to promote, support and underwrite the fair and effective operation of all its provisions and the new arrangements established under it. Where either Government considers that any institution, established as part of the overall accommodation, is not properly functioning within the Agreement or that a breach of the Agreement has otherwise occurred, the Conference shall consider the matter on the basis of a shared commitment to arrive at a common position or, where that is not possible, to agree a procedure to resolve the difference between them. If the two Governments conclude that a breach has occurred in any of the above circumstances, either Government may make proposals for remedy and adequate measures to redress the situation shall be taken. However, each Government will be responsible for the implementation of such measures of redress within its own jurisdiction. There would be no derogation from the sovereignty of either Government; each will retain responsibility for the decisions and administration of government within its own jurisdiction.

47. In the event that devolved institutions in Northern Ireland ceased to operate, and direct rule from Westminster was reintroduced, the British Government agree that other arrangements would be made to implement the commitment to promote co-operation at all levels between the people, North and South, representing both traditions in Ireland, as agreed by the two Governments in the Joint Declaration, and to ensure that the co-operation that had been developed through the North/South body be maintained.

48. Both Governments envisage that representatives of agreed political institutions in Northern Ireland may be formally associated with the work of the Conference, in a manner and to an extent to be agreed by both Governments after consultation with them. This might involve giving them advance notice of what is to be discussed in the Conference, enabling them to express views to either Government and inviting them to participate in various aspects of the work of the Conference. Other more structured arrangements could be devised by agreement.

49. The Conference will also be a framework for consultation and co-ordination between both Governments and the new North/South institutions, where the wider role of the two Governments is particularly relevant to the work of those institutions, for example in a co-ordinated approach on EU issues. It would be for consideration by both Governments, in consultation with the relevant parties in the North, or with the institutions after they have been established, whether to achieve this through formal or ad hoc arrangements.

Protection of Rights

50. There is a large body of support, transcending the political divide, for the comprehensive protection and guarantee of fundamental human rights. Acknowledging this, both Governments envisage that the arrangements set out in this Framework Document will be complemented and underpinned by an explicit undertaking in the Agreement on the part of each Government, equally, to ensure in its jurisdiction in the island of Ireland, in accordance with its constitutional arrangements, the systematic and effective protection of common specified civil, political, social and cultural rights. They will discuss and seek agreement with the relevant political parties in Northern Ireland as to what rights should be so specified and how they might best be further protected, having regard to each Government's overall responsibilities including its international obligations. Each Government will introduce appropriate legislation in its jurisdiction to give effect to any such measure of agreement.

51. In addition, both Governments would encourage democratic representatives from both jurisdictions in Ireland to adopt a Charter or Covenant, which might reflect and endorse agreed measures for the protection of the fundamental rights of everyone living in Ireland. It could also pledge a commitment to mutual respect and to the civil rights and religious liberties of both communities, including:

- the right of free political thought,
- the right to freedom and expression of religion,
- the right to pursue democratically national and political aspirations,
- the right to seek constitutional change by peaceful and legitimate means,
- the right to live wherever one chooses without hindrance,
- the right to equal opportunity in all social and economic activity, regardless of class, creed, gender or colour.

52. This Charter or Covenant might also contain a commitment to the principle of consent in the relationships between the two traditions in Ireland. It could incorporate also an enduring commitment of behalf of all the people of the island to guarantee and protect the rights, interests, ethos and dignity of the unionist community in any all-Ireland framework that might be developed with consent in the future, to at least the same extent as provided for the nationalist community in the context of Northern Ireland under the structures and provisions of the new Agreement.

53. The Covenant might also affirm on behalf of all traditions in Ireland a solemn commitment to the exclusively peaceful resolution of all differences between them including in relation to all issues of self-determination, and a solemn repudiation of all recourse to violence between them for any political end or purpose.

Conclusion

54. Both Governments agree that the issues set out in this Framework Document should be examined in the most comprehensive attainable negotiations with democratically mandated political parties in Northern Ireland which abide exclusively by peaceful means and wish to join in dialogue on the way ahead.

55. Both Governments intend that the outcome of these negotiations will be submitted for democratic ratification through referendums, North and South.

56. Both Governments believe that the present climate of peace, which owes much to the imagination, courage and steadfastness of all those who have suffered from violence, offers the best prospect for the Governments and the parties in Northern Ireland to work to secure agreement and consent to a new political accommodation. To accomplish that would be an inestimable prize for all, and especially for people living in Northern Ireland, who have so much to gain from such an accommodation, in which the divisions of the past are laid aside for ever and differences are resolved by exclusively political means. Both Governments believe that a new political dispensation, such as they set out in this Framework Document, achieved through agreement and reconciliation and founded on the principle of consent, would achieve that objective and transform relationships in Northern Ireland, in the island of Ireland and between both islands.

57. With agreement, co-operation to the mutual benefit of all living in Ireland could develop without impediment, attaining its full potential for stimulating economic growth and prosperity. New arrangements could return power, authority and responsibility to locally-elected representatives in Northern Ireland on a basis acceptable to both sides of the community, enabling them to work together for the common welfare and interests of all the community. The diversity of identities and allegiances could be regarded by all as a source of mutual enrichment, rather than a threat to either side. The divisive issue of sovereignty might cease to be symbolic of the domination of one community over another. It would instead be for decision under agreed ground-rules, fair and balanced towards both aspirations, through a process of democratic persuasion governed by the principle of consent rather than by threat, fear or coercion. In such circumstances the Governments hope that the relationship

between the traditions in Northern Ireland could become a positive bond of further understanding, co-operation and amity, rather than a source of contention, between the wider British and Irish democracies.

58. Accordingly the British and Irish Governments offer for consideration and strongly commend these proposals, trusting that, with generosity and goodwill the peoples of these islands will build on them a new and lasting agreement.

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