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1. CONSTITUTIONAL CHANGE

- 1.1 The participants commit themselves to the principle of consent in all its aspects, reflected in:
 - a draft of a new agreement on constitutional issues between the British and Irish Governments to replace Article 1 of the 1985 Agreement (Annex A);
 - (ii) draft changes to the Irish Constitution (Annex B [Irish side to draft]);
 - (iii) draft changes to British constitutional legislation, including repeal of section 75 of the Government of Ireland Act 1920 (Annex C [not attached - in preparation with lawyers]).

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2. DEMOCRATIC INSTITUTIONS IN NORTHERN IRELAND

- 2.1 A 90-seat Assembly with 5 members elected by PR/STV from each of the 18 parliamentary constituencies.
- 2.2 Devolution of executive and legislative functions covering the responsibilities of the six Northern Ireland departments.

Safeguards

- 2.3 Safeguards to ensure all sections of the community can participate and work together successfully in the operation of these institutions and that all sections of the community are protected, including:
 - allocation of chairs, deputy chairs and committee membership in proportion to party strengths;
 - (ii) the ECHR and any Bill of Rights for Northern Ireland supplementing it which neither the Assembly nor public bodies can infringe;

arrangements to ensure key decisions (eg budget allocations, employment equality, cultural issues) are taken on the basis of cross-community consensus, requiring:

- either a majority of members voting who also between them represent a majority of both the unionist and nationalist communities in Northern Ireland;
- · or the support of at least 70% of members voting;
- (iv) a right of petititon, requiring the support of at least 30% of Assembly members, to trigger the requirement for cross-community consensus;

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(v) an agreed Code of Practice specifying the respective roles of the Assembly, its committees, committee chairs and deputy chairs;

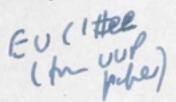
(vi) an Equality Commission to monitor a statutory obligation to promote equality of opportunity in specified areas and parity of esteem between the two main communities, and investigate individual complaints against public bodies.

Legislation

- Assembly to pass primary legislation for Northern Ireland in devolved areas, 2.4 subject to:
 - the ECHR and any Bill of Rights for Northern Ireland supplementing it which, if the courts found to be breached, would render the relevant April legislation null and void;
 - decisions by simple majority of members voting except when requirement for cross-community consensus invoked;
 - (iv) detailed scrutiny and approval in the relevant departmental committee;
 - mechanisms, based on arrangements proposed for the Scottish Parliament, to ensure suitable co-ordination, and avoid disputes, between the Assembly and the Westminster Parliament;
 - (vi) option of Assembly supporting UK-wide legislation in Westminster Parliament on devolved issues where parity normally maintained (eg social security, company law).

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Committees



- 2.5 Assembly to establish departmental committees to cover each of the Northern Ireland departments. Membership, chairs and deputy chairs to be allocated proportionally, using the d'Hondt procedure subject to chairs and deputy chairs being drawn from separate parties.
- 2.6 A Budget and Executive Co-ordination/General Purposes Committee to bring together the chairs of the subject committees. Other non-departmental committees (eg Business Committee, Accounts Committee, Security Committee) at Assembly's discretion.
- 2.7 Parties and individuals could decline to take up posts. Those accepting a post to undertake to fulfil all responsibilities and duties connected with it. Casual vacancies to be filled by a member of the same party.

Executive authority

- 2.8 Executive authority to be administered by the chair of each departmental committee, acting as head of department, supported by a deputy chair, subject to:
 - abiding by the ECHR and any Bill of Rights for Northern Ireland supplementing it;
 - (ii) a statutory obligation, monitored by an Equality Commission, on all public bodies including each department to promote equality of opportunity in specified areas and parity of esteem;
 - (iii) scrutiny by the relevant departmental committee;

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(iv) in cases of dispute between the relevant chair and committee, the Assembly as a whole having a power of override, exercisable only on the meaning? basis of cross-community consensus.

Funding for Assembly's responsibilities to be determined primarily on basis of existing comparability and block arrangements.

Budget and Executive Co-ordination/General Purposes Committee to table an 2.9 agreed budget, linking resources with objectives, policy and legislative proposals, in advance of each financial year. For approval by Assembly, after scrutiny in departmental committees, by cross-community consensus. In-year changes by the same procedure.

Relations with other institutions

Relations with other institutions

- An Executive Panel, comprised of the first five appointments to committee 2.10 chairs, to represent the Assembly at summit level, when necessary in relations with his other institutions. Otherwise, representation to be by the chair of the relevant departmental committee. The Executive Panel to operate by consensus requiring the Whe too. agreement of at least four members. Does 5 = SF ?
- Concordat to be agreed between Executive Panel and UK Government to 2.11 ensure effective co-ordination and input by Assembly chairs to national policy-making, including on EU issues. EU - NO Sudtish example

Role of Secretary of State: 2.12

- to remain responsible for NIO matters not devolved to Assembly, subject (i) to regular consultation with Executive Panel and the Assembly;
- to approve and lay before the Westminster Parliament any Assembly (ii) legislation which goes beyond its devolved responsibilities;

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- (iii) to represent Northern Ireland interests in the United Kingdom Cabinet;
- (iv) to monitor the meeting of the United Kingdom's international obligations, including those under a new British-Irish Agreement;
- (v) to monitor the operation of the Assembly and to report annually to the Westminster Parliament on its working.

2.13 Westminster Parliament to:

- (i) legislate for non-devolved issues, other than where Assembly legislates with approval of Secretary of State and subject to endorsement by Parliament;
- (ii) reserve powers to legislate to ensure United Kingdom's international obligations are met in respect of Northern Ireland;
- (iii) scrutinise the responsibilities of the Secretary of State and the overall workings of the various new institutions established.

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3. INTERGOVERNMENTAL COUNCIL

- 3.1 A British-Irish Intergovernmental Council to be established under a new British-Irish Agreement to deal with the totality of relationships.
- 3.2 Intergovernmental Council to include representatives of the British and Irish Governments and devolved institutions in Northern Ireland, Scotland, Wales and (if appropriate) elsewhere in the United Kingdom, when established.
- 3.3 Intergovernmental Council to meet twice a year at Summit level, with devolved institutions in Northern Ireland represented by the Executive Panel.
- 3.4 Other meetings on sectoral issues to be convened as necessary and to comprise relevant representatives of each of the member institutions.
- 3.5 Remit of the Intergovernmental Council to include:
 - (i) totality of relationships among these islands;
 - (ii) consideration of issues of mutual interest;
 - (iii) promotion of co-operation at all levels among the countries and regions represented;
 - (iv) facilitation of bilateral and other contacts, including any suitable mechanisms to enable consultation, co-operation and joint decisionmaking on matters of mutual interest with the agreement of all sides concerned.
- 3.6 Suitable issues for early discussion in the Intergovernmental Council include: transport links; protection of rights; cultural issues; minority languages; approaches to EU issues.

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- 3.7 Intergovernmental Council to operate by consensus. A secretariat to be provided by British and Irish Governments.
- 3.8 Implementation mechanisms to be for agreement among the relevant institutions.

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NORTH/SOUTH MINISTERIAL COUNCIL

- 4.1 A North/South Ministerial Council to be established under a new British-Irish Agreement to bring together those with executive responsibilities in Northern Ireland and the Irish Government in particular areas.
 - 4.2 Northern Ireland to be represented by relevant Assembly chairs and deputy chairs; the Irish Government by relevant Ministers. The Council to meet:
 - (i) in general format twice a year with Northern Ireland represented by the Executive Panel and the Irish Government led by the Taoiseach/Tanaiste;
 - (ii) in different sectoral formats as business requires with the relevant Assembly chairs, deputy chairs and Irish Ministers attending.

All Council decisions to be by agreement between both sides, North and South. Each side to participate within the mandate of, and accountable to, the Northern Ireland Assembly and the Oireachtas respectively.

The Council to be a forum for the relevant executive authorities on each side to:

(i) discuss with each other any matter relevant to the interests of either side;

 (ii) consult with each other on a wide range of issues so as to promote mutual understanding;

(iii) co-operate with each other in specified areas with a view to taking a common approach to policy;

take decisions together in further specified meaningful areas so as to take common or joint action at an all-island or cross-border level.

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- Implementation of decisions to be for each side, operating within the 4.5 requirements of the relevant democratic institutions. But, by agreement between each side, suitable implementation bodies and mechanisms at a cross-border or all-island level to be established for policies agreed by the Council.
- Initial list of areas for co-operation and decision-taking respectively by each 4.6 side within the Council at Annex D, for incorporation in the new British-Irish Agreement. Westminster legislation to enable Assembly representatives to participate in co-operation and decision-taking in the Council in respect of such areas.
- Council's remit, range of specified functions, together with implementation 4.7 bodies and mechanisms, to be capable of change and development by agreement between each side and endorsement by the Assembly and Oireachtas.

Standing secretariat, consisting of officials from the Irish Civil Service and the Who close but had to will not like, 4.8 Northern Ireland Civil Service, to service the Council.

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5. INTERGOVERNMENTAL MACHINERY Anall intramit to the distragal to (to distragal to All cas't)

- 5.1 Intergovernmental Conference to be established under a new British-Irish Agreement replacing the IGC under the 1985 Agreement.
- 5.2 Intergovernmental Conference to comprise British and Irish Governments, each represented by appropriate Ministers. Advisers, including police and security advisers, to attend as appropriate.
- 5.3 Intergovernmental Conference to be a forum for each Government to:
 - discuss any matter of mutual interest within competence of either Government (devolved issues to be excluded);
 - (ii) promote co-operation at all levels between the two Governments and among the peoples of these islands;
 - (iii) make determined efforts to resolve disagreements between the two Governments;
 - (iv) keep under review the workings of the new British-Irish Agreement and institutions established under it;
- Agreement.

 (v) consider any proposals for action in response to any breach of the Bit close
 - 5.4 When non-devolved issues for Northern Ireland raised, Executive Panel or other Assembly chairs to participate.
 - 5.5 All decisions by agreement between both Governments. No derogation of sovereignty of either Government.

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5.6 Conference to be supported by officials of British and Irish Governments.

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RIGHTS AND SAFEGUARDS 6.

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- The institutional and other arrangements established in this agreement will be 6.1 set in a clear framework of entrenched rights and safeguards. The people of Northern Ireland, individually and collectively, must benefit from the certainty that the existence in law of such rights, and the means to enforce them independently and effectively, confers.
- The democratically elected institutions in Northern Ireland will include, as 6.2 described earlier, arrangements to safeguard the interests of all sides of the community, and to ensure that a simple electoral majority cannot administer Northern Ireland without restraint. by are padition dane.
- In addition, legislation at Westminster will continue to safeguard many 6.3 fundamental protections including:
 - the independence of the Judiciary and the integrity of the system of justice;
 - arrangements for fair, effective and accountable policing;

- the application in Northern Ireland law of the European Convention on Human Rights which, under current legislative proposals before Parliament, will enable the Courts to strike down subordinate legislation, including any measures passed by the Assembly, incompatible with Convention Rights and to provide remedies to any person where a public authority has acted unlawfully by failing to comply with the Convention.
- As part of this agreement there will be further measures, either incorporated in 6.4 Westminster legislation or in the new British-Irish Agreement or both to safeguard specified rights in Northern Ireland. Such incorporation will mean that these rights will be entrenched as respects the new institutions in Northern Ireland. As in the case of the European Convention, these rights will be enforceable in the High Court or Court of

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- Appeal. Accordingly the courts will be required to interpret legislation passed by the Northern Ireland Assembly so as to uphold these entrenched rights or, where that is not possible, to strike down the offending legislation. The courts will similarly be able to grant redress to any person whose entrenched rights have been compromised by a public authority which has acted unlawfully by failing to comply with the provisions for entrenched rights. The rights to be entrenched in this way, supplementary to those in the European Convention on Human Rights will be such as to ensure:
 - individual rights to equity of treatment, equality of opportunity and freedom from discrimination on grounds of race, religion, gender or political opinion;
 - · collective rights to equality of treatment and parity of esteem.

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6.5 A new Northern Ireland Commission on Human Rights with statutory locus to initiate or support actions in court where they believe there is a clear public interest in establishing whether legislation by the Assembly or the action of a public authority may be in breach of Convention rights or the new specified entrenched rights.

6.6 The Irish Government will be taking appropriate steps to ensure an equivalent level of protection of individual and collective rights in its jurisdiction.

Equality of Opportunity

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- 6.7 The British Government will also establish, through legislation at Westminster, a statutory obligation on public authorities in Northern Ireland to provide equality of opportunity in relation to:
 - religion and political opinion;
 - gender;
 - race;
 - disability;
 - age;

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dependents;
sexual orientation.

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- Statutory schemes to be published and adopted by the relevant public 6.8 authorities, will set out the procedures by which this obligation is to be implemented.
- A statutory Equality Commission will provide guidance on the content of these 6.9 schemes, advise public authorities on the detail of each scheme, validate adopted schemes, monitor their implementation and investigate any complaints.

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BUILDING A PEACEFUL SOCIETY

Decommissioning of illegal arms

- Don't show to
- Independent Commission on Decommissioning to secure identification of 7.1 liaison officers with relevant paramilitary organisations.
- Decommissioning schemes introduced in both jurisdictions providing for 7.2 decommissioning of illegal arms, together with an amnesty for offences committed in connection with decommissioning, over the next year.
- Independent Commission to monitor, review and verify progress on 7.3 decommissioning of illegal arms, with reports to both Governments at regular intervals.
- Commitment by all participants to the requirement for decommissioning of 7.4 illegally-held arms during the course of the implementation of the overall settlement and this we clear it of our that within the next year.

Security issues

- British Government to set out overall strategy and indicative timescale, with 7.5 implementation subject to professional advice on the level of threat, paramilitary activity and illegal arms holdings, for security de-escalation including:
 - the reduction of the numbers and role of the Army deployed in Northern Ireland to levels compatible with a normal peaceful society; 1, 5.5

(iii) the removal of emergency powers in Northern Ireland.

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7.6 Secretary of State to consult regularly on progress, and the response to continuing paramilitary activity, with an Assembly Security and Policing Committee and, as appropriate through the Intergovernmental Conference, with Irish Government.

Policing and justice

- 7.7 Independent Commission to be established by Secretary of State to recommend proposals for future policing and justice arrangements in Northern Ireland.
- 7.8 Commission to consult widely and report to Secretary of State before the establishment of new institutions and no later than [Spring 1999].
- 7.9 Commission to make proposals within an agreed framework of principles, set out at Annex E.
- 7.10 Commission's recommendations to be discussed with the Assembly and devolution of responsibilities in the area of policing and justice considered in the light of them.

Prisoners

- 7.11 Legislation in place by [June] to establish Sentence Review Commission to take decisions on early release of prisoners convicted of scheduled offences, serving life sentences or fixed sentences of 10 years or more.
- 7.12 Secretary of State to identify organisations that have not established a complete and unequivocal ceasefire. The Sentence Review Comission to be excluded from giving any benefit to prisoners affiliated to those organisations.
- 7.13 Prisoners to be given a provisional release date, which may lapse if their organisation returns to terrorist activity. Early release to be on licence, subject to power of recall in individual cases.

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7.14 Secretary of State to issue guidelines to Commission on extent of early release. Eg fixed term prisoners to be released after [25-40]% of sentence; life sentence prisoners to serve within a broad tariff band of 7-15 years (instead of the current 10-20 years band).

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Annex A

DRAFT BRITISH VERSION

POSSIBLE REVISED ARTICLE 1 OF A NEW BRITISH/IRISH AGREEMENT

Both Governments:

- of the people of Northern Ireland with regard to its constitutional status, whether they prefer to continue to support the Union with Great Britain or a sovereign United Ireland and acknowledge that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people voting in a poll for this purpose;
- agreement between the two parts respectively and without external impediment, exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a United Ireland, then it will be a binding obligation on both Governments to introduce and support in the respective Parliaments legislation to give effect to that wish;
 - (iii) recognise that, while a substantial minority of the people of Northern Ireland wish for a United Ireland, the present wish, freely exercised, of a majority of the people of Northern Ireland is to maintain the Union and, accordingly, that Northern Ireland's constitutional status as part of the United Kingdom reflects and relies upon that wish;
 - (iv) affirm that whether the democratic wish of the people of Northern Ireland is for no change in its present status, or for a United Ireland, the power of each sovereign Government in its jurisdiction within the island of Ireland shall be

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exercised with rigorous impartiality on behalf of all the people there its jurisdiction on the island of Ireland in the diversity of their identities and traditions and shall be founded on full respect for the principles of equity of treatment and freedom from discrimination, and the cultural identity and ethos of both communities;

- [(v) recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the constitutional status of Northern Ireland;]
- (vi) affirm that the consent of the governed is an essential ingredient for stability in any political arrangement and that political institutions and structures to be established now, pursuant to this Agreement, or in the future, can only operate successfully, if they receive and retain widespread public support within and between both traditions.

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(27 February 1998) NORTH/SOUTH MINISTERIA Areas for co-operation with a view to taking a conot there: tax, sor. senty, Teacher qualifications Medical emergency/accident planning Development and support of indigenous industries and the small business sector Management development services to industry Trading standards Promotion of industrially and commercially based research Establishment of university and industry-based centres of research excellence Public purchasing Common Fisheries Policy Fish Health Fisheries education, research and training Marine matters **Energy projects**

2. Areas for decision-taking on common or joint action

Support for the Irish language

All-Ireland school competitions

Exchanges of teaching staff

Joint cultural promotions abroad

Environmental protection

Waste management

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Transport matters including roads

Pollution control

Regional development strategies

Mapping

Wildlife conservation

EU initiatives including the North/South INTERREG programme, the Special Programme for Peace and Reconciliation and LEADER II (or its successor)

General hospital services

Disease registries

Medical teaching and training

Public health and health promotion

Clinical waste disposal

Clinical trials

Food safety

North/South trade

Promotion and marketing of exports of food, manufactured goods and services

Inward investment

Tourism promotion, marketing and research

Aquaculture

Inland waterways

Action against welfare fraud

Support and promotion of sport

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Annex E

POLICING

- 1. It is essential that there is a police service in Northern Ireland which is professionally effective and efficient, free from partisan political control; and accountable both under the law for its actions and to the community which it serves. It must be capable of maintaining law and order including responding effectively to any terrorist threat. Subject to that, the British Government is ready in principle to devolve responsibilities for policing matters by agreement with the Assembly. For the present, though, responsibilities for policing issues and arrangements will remain with the Secretary of State who will, after the election of the Assembly, establish an independent deliberative Commission to undertake a wide-ranging review of policing arrangements in Northern Ireland.
- 2. The Commission will be charged to bring forward proposals for future policing arrangements in Northern Ireland. The membership and terms of reference of the Commission will be determined in consultation with the Aseembly. Its task will be to bring forward recommendation which ensure that:]/[such action will be designed to ensure that:
 - the police service is so structured, managed and resourced as to ensure that it can be effective in discharging its full range of functions;
 - that the legislative and constitutional framework is such as to ensure that the service maintain, as a safeguard for the impartial discharge of police functions operational independence, subject to the appropriate arrangements for their accountability in a democratic society;
 - that the police operate within a clear framework of accountability to the law and the community they serve in that:

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- the police must be constrained by, accountable to and act only within,
 the law;
- the powers and procedures of the police, like the law they enforce, must be clearly established and publicly available;
- there must be open, accessible and independent means of investigating and adjudicating upon complaints against the police;
- there must be clear arrangements enabling local people, and their political representatives, to articulate concerns about policing and, subject to protection to ensure police impartiality and freedom from partisan political control to influence policing priorities and policies;
- there must be arrangements for accountability for the effective, efficient and economic use of resources in achieving publicly established policing objectives;
- there must be a means to ensure independent professional scrutiny and inspection of the police service to ensure that proper standards of effectiveness are maintained.
- policing arrangements must be such that the police are acceptable to, enjoy widespread support from and seen as representative of, all responsible sections of the community.
- 3. The British Government intends that once agreed policing arrangements have been established, in close consultation with the Assembly, responsibilities for policing arrangements should be devolved to the appropriate Northern Ireland institutions.