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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. Arrangements for filling casual vacancies which ensures community balance is preserved.

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:

- (i) allocation of chairs, Assembly Secretaries 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 together with a Human Rights Commission union to help enforce it;
- (iii) arrangements to ensure key decisions are taken on a cross-community basis. This might require the support of:
 - either a majority of members voting who also between them represent a majority of both those members of the Assembly identifying themselves as Unionist or Nationalist respectively;
 - or a weighted majority of members voting, perhaps 70%;

SECRET & PERSONAL

SECRET & PERSONAL

- (iv) key decisions requiring cross-community support might either be designated in legislation in advance (eg election of presiding officer, standing orders, budget allocations, employment equality, cultural issues) and/or be triggered by a right of petition exercised by a significant minority of Assembly members, perhaps 30%;
- (v) an agreed Code of Practice specifying the respective roles of the Assembly, Assembly Secretaries, its committees, and committee 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.

Operation of Assembly

2.4 Assembly to elect Presiding Officer on a cross-community basis.

2.5 Assembly to establish departmental committees to cover each of the Northern Ireland departments. Membership, chairs and Assembly Secretaries chairs to be allocated proportionally, using the d'Hondt procedure subject to chairs and Assembly Secretaries being drawn from separate parties.

2.6 The relevant chairman, under the Code of Practice, would clearly have access, on behalf of the Committee, to departmental papers. He would have the right to accompany the Assembly Secretary in dealings with other institutions.

2.7 A Budget and Executive Co-ordination/General Purposes Committee to bring together the Assembly Secretaries of the subject committees. The chair either to be selected by the members of the Committee or fall automatically to

SECRET & PERSONAL

SECRET & PERSONAL

the first Assembly Secretary to be selected through the d'Hondt procedure. Other non-departmental committees (eg Business Committee, Audit Committee, EU Committee, Justice and Home Affairs Committee) at Assembly's discretion, members, chairs and Assembly Secretaries appointed according to procedure in 2.4.

2.8 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

2.9 Executive authority to be administered by the chair relevant Assembly Secretary (eg Secretary for Agriculture) acting as head of department, subject to:

- (i) abiding by the ECHR, existing anti-discrimination provisions 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;
- (iv) in cases of dispute between the relevant Assembly Secretary and committee, the Assembly as a whole having a power of override, exercisable only on a cross-community basis.

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

SECRET & PERSONAL

SECRET & PERSONAL

2.11 Budget and Executive Co-ordination/General Purposes Committee to table an 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, on a cross-community basis. In-year changes by the same procedure.

Legislation

2.12 Assembly to pass primary legislation for Northern Ireland in devolved areas, subject to:

- (i) the ECHR and any Bill of Rights for Northern Ireland supplementing it which, if the courts found to be breached, would render the relevant legislation null and void;
- (ii) decisions by simple majority of members voting except when decisions on a cross-community basis required;
- (iii) detailed scrutiny and approval in the relevant departmental committee;
- (iv) mechanisms, based on arrangements proposed for the Scottish Parliament, to ensure suitable co-ordination, and avoid disputes, between the Assembly and the Westminster Parliament;
- (v) option of Assembly seeking inclusion of Northern Ireland provisions in UK-wide legislation in Westminster Parliament especially on devolved issues where parity normally maintained (eg social security, company law).

SECRET & PERSONAL

SECRET & PERSONAL

2.13 Assembly able to legislate in reserved area with the approval of the Secretary of State and subject to Parliamentary control.

2.14 Disputes over legislative competence to be decided by the Courts.

Relations with other institutions

2.15 The first five appointments as Assembly Secretaries, who could be termed an Assembly Commission, to represent the Assembly at summit level, when necessary in relations with other institutions. The Assembly Commission to operate by consensus requiring the agreement of at least four members. Otherwise, representation to be by the Assembly Secretary of the relevant departmental committee accompanied by the committee Chair.

2.16 Concordats to be agreed between appropriate Assembly representatives and UK Government to ensure effective co-ordination and input by Assembly Secretaries to national policy-making, including on EU issues.

2.16 Role of Secretary of State:

- (i) to remain responsible for NIO matters not devolved to Assembly, subject to regular consultation with Assembly Commission and the Assembly;
- (ii) to approve and lay before the Westminster Parliament any Assembly legislation which goes beyond its devolved responsibilities;
- (iii) to represent Northern Ireland interests in the United Kingdom Cabinet;

SECRET & PERSONAL

SECRET & PERSONAL

- (iv) to monitor the meeting of the United Kingdom's international obligations, including those under a new British-Irish Agreement;
- (v) to keep the arrangements for devolved administration in Northern Ireland under review.
- (VI) to be accountable to Parliament for the overall workings of the various institutions set up under the agreement.

2.17 Westminster Parliament to:

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

SECRET & PERSONAL

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4: NORTH/SOUTH MINISTERIAL COUNCIL

- 4.1 Under a new British/Irish Agreement and in the context of the establishment of an Intergovernmental Council to deal with the totality of relationships a North/South Ministerial Council to be established 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 Secretaries and chairs; the Irish Government by relevant Ministers. The Council to meet:
- (i) in general format twice a year with Northern Ireland represented by the Assembly Commission and the Irish Government led by the Taoiseach/Tanaiste;
 - (ii) in different formats to consider specific sectoral issues (e.g environmental issues, agricultural issues) as business requires with the relevant Assembly secretaries and chairs, and Irish Ministers attending.
- 4.3 All Council decisions to be by agreement between both sides, North and South. Each side to take decisions in the Council only within the delegated authority of those in attendance. Other decisions to require the explicit approval of the Assembly and the Oireachtas. Each side to remain accountable to the Assembly and the Oireachtas respectively.
- 4.4 The Council to be a forum for those with executive responsibility on each side to:

SECRET & PERSONAL

SECRET & PERSONAL

- (i) discuss with each other any matter relevant to the interest of either side;
- (ii) consult with each other on all such matters with a view to co-operating with each other where that would be in the mutual interest of both sides;

and in accordance with paragraph 3 above

- (iii) co-operate with each other in specified areas;
- (iv) take decisions together in further specified meaningful areas with a view to action at an all-island or cross-border level.

4.5 Implementation of decisions to be for each side, working through existing democratically accountable machinery. 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.

4.6 Legislation, as necessary, to enable the Council and agreed implementation bodies and mechanisms to function. Initial list of areas for co-operation and decision-taking, together with relevant implementation bodies, at Annex X.

4.7 These arrangements to be capable of development, by agreement between each side and after endorsement by the Assembly and Oireachtas.

4.8 Standing secretariat, consisting of officials from the Irish Civil Service and the Northern Ireland Civil Service, to service the Council.

SECRET & PERSONAL

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3. INTERGOVERNMENTAL COUNCIL

- 3.1 A British-Irish Intergovernmental Council [British/Irish Forum] to be established under a new British/Irish Agreement to deal with the totality of relationships.
- 3.2 Intergovernmental Council (British/Irish Forum) to include representatives of the British and Irish Governments and devolved institutions in Northern Ireland, Scotland, Wales, the Isle of Man, the Channel Isles and (if appropriate) elsewhere in the United Kingdom, when established.
- 3.3 Intergovernmental Council [British/Irish Forum] to meet twice a year at Summit level, with devolved institutions in Northern Ireland represented by an Assembly Commission.
- 3.4 Other meetings on sectoral issues to be convened as necessary and to comprise relevant representatives of each of the relevant member institutions.
- 3.5 Remit of the Intergovernmental Council [British/Irish Forum] 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 decision-

SECRET & PERSONAL

SECRET & PERSONAL

making on matters of mutual interest with the agreement of relevant participants.

- 3.6 Suitable issues for early discussion in the Intergovernmental Council could include: transport links; protection of rights; cultural issues; minority languages; approaches to EU issues.
- 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.

SECRET & PERSONAL

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5. INTERGOVERNMENTAL MACHINERY

- 5.1 Intergovernmental Conference to be established under a new British-Irish Agreement subsumes both the Anglo/Irish Intergovernmental Council and the IGC established 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 enable each Government to:
- (i) 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, including a formal published review three years after the Agreement comes into effect;
- 5.4 When non-devolved issues for Northern Ireland raised, the Northern Ireland Assembly Commission to participate.
- 5.5 All decisions by agreement between both Governments. No derogation of sovereignty of either Government.
- 5.6 Conference to be supported by officials of British and Irish Governments.

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