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(25 March 1998)

1. CONSTITUTIONAL CHANGE

BRITISH TEXT

1.1 The participants commit themselves to the principle of consent in all its aspects, reflected in:

- (i) 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);
- (iii) draft changes to British constitutional legislation, including repeal of section 75 of the Government of Ireland Act 1920 (Annex C).

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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 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;

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- or a weighted majority of members voting, perhaps 70%;
- (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

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either to be selected by the members of the Committee or fall automatically to 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 relevant Assembly Secretary (eg Assembly 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.

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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).

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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;

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- (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.

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3. INTER-GOVERNMENTAL 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;

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- (iv) facilitation of bilateral and other contacts, including any suitable mechanisms to enable consultation, co-operation and joint decision-making on matters of mutual interest with the agreement of relevant participants.

3.6 Suitable issues for early discussion in the Intergovernmental Council [British/Irish Forum] could include: transport links; protection of rights; cultural issues; minority languages; approaches to EU issues.

3.7 Intergovernmental Council [British/Irish Forum] 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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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:

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- (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) cooperate 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 D.

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

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

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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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6. RIGHTS AND SAFEGUARDS

6.1 The institutional and other arrangements established in this agreement will be set in a clear framework of entrenched rights and safeguards.

6.2 Democratically elected institutions in Northern Ireland will include 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.

6.3 Legislation at Westminster will continue to provide many fundamental protections including:

- the independence of the judiciary and integrity of the system of justice.
- arrangements for fair, effective and accountable policing whether or not the relevant responsibilities are devolved
- the application in Northern Ireland law of the European Convention on Human Rights.

6.4 Further measures, either in Westminster legislation, or in the new British-Irish Agreement, or both, to safeguard specified rights in Northern Ireland. These entrenched rights will be enforceable in the Courts. They will be designed to secure individual and collective rights in the particular circumstances of Northern Ireland.

[We are still working on identifying additional rights for Northern Ireland going beyond those in the ECHR, so far without success. We would welcome suggestions. One option, if such additional rights cannot be

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agreed between now and a settlement, would be to invite the new Northern Ireland Commission on Human Rights (paragraph 6.9 below) or an independent Commission appointed separately for the purpose to undertake the task of drawing up a statement of additional rights.]"

6.5 A new Northern Ireland Commission on Human Rights with statutory powers to promote awareness and enforcement of human rights and in particular to initiate action through the Courts. It would also have an advisory role submitting that of the Standing Advisory Commission on Human Rights.

6.6 The Irish Government to take appropriate steps to ensure equivalent protection of individual and collective rights in its jurisdiction.

Equality of Opportunity

6.7 The British Government propose to establish, through legislation at Westminster, a statutory obligation on public authorities in Northern Ireland to promote equality of opportunity in relation to religion and political opinion; gender; race; disability; age; marital status; dependants; sexual orientation.

6.8 A statutory Equality Commission is proposed.

New Institutions

6.9 The new Northern Ireland Commission on Human Rights and the proposed Equality Commission to replace the Standing Advisory Committee on Human Rights, the Fair Employment Commission, the Equality Opportunities Commission (NI), the Commission for Racial Equality (NI), and the Disability Council.

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7. BUILDING A PEACEFUL SOCIETY

Decommissioning of illegal arms

7.1 Independent Commission on Decommissioning to secure identification of liaison officers with relevant paramilitary organisations.

7.2 Decommissioning schemes introduced in both jurisdictions providing for decommissioning of illegal arms, together with an amnesty for offences committed in connection with decommissioning, over the next year.

7.3 Independent Commission to monitor, review and verify progress on decommissioning of illegal arms, with reports to both Governments at regular intervals.

7.4 Commitment by all participants to the requirement for decommissioning of illegally-held arms during the course of the implementation of the overall settlement and within the next year.

Security issues

7.5 As professional security advice on the level of threat, paramilitary activity and illegal arms holdings permits, the British Government to make progress to its desired objective of security de-escalation, as set out in a published overall strategy, with indicative timescale, dealing with:

- (i) the reduction of the numbers and role of the Army deployed in Northern Ireland to levels compatible with a normal peaceful society;
- (ii) the removal of security installations;

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

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.

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7.12 Secretary of State to identify organisations that have not established a complete and unequivocal ceasefire. The Sentence Review Commission 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.

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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