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Joint Working Paper

Status of Paper

1. British and Irish officials were instructed at the meeting of the Anglo-Irish Intergovernmental Conference on 10 September to use their best endeavours to draft a joint illustrative working paper, without commitment on either side and ad referendum to Ministers, whose object was to seek to identify, as a basis for discussion, aspects of a possible outcome, consistent with the agreed statement of 26 March 1991, likely to prove acceptable to all parties to talks. They were also instructed to submit their conclusions for discussion at the next meeting of the Intergovernmental Conference.
2. The Secretary of State informed the Conference that Michael Ancram would be continuing, within the same time frame, his bilateral discussions with the NI political parties.
3. The following joint paper represents the outcome of discussions within the Liaison Group for consideration by Ministers in the Conference. It has been prepared without prejudice to the process agreed by the Taoiseach and the Prime Minister on 29 October, that their two Governments must continue to work together in their own terms on a framework for peace, stability and reconciliation consistent with their international obligations and their wider responsibilities to both communities. It is accepted on both sides that this joint paper and the discussions related to it will not be the subject of discussion, still less negotiation with the Northern Ireland parties unless both Governments agree beforehand whether and how this should be done.

General Considerations

4. The British and Irish Governments are partners together in a unique relationship. Each is the other's closest neighbour. They are both members of the European Community.
5. Both Governments are deeply affected by continuing conflict in Northern Ireland, and the legacy of their difficult historical relationship. They share a deep concern to find a solution to this tragic problem. They are committed to the search for a new beginning for relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands. They accordingly look forward to further developing the partnership that already closely links both countries towards this end.
6. The two Governments agreed in 1980 that the best prospect of achieving peace, reconciliation and stability and of improving relations between the peoples of their two countries was to address the totality of relationships within these islands. The Anglo-Irish Intergovernmental Council was established in 1981 with this purpose in view.
7. In the Anglo-Irish Agreement, signed in 1985, the two Governments established a structure, within the framework of the Anglo-Irish Intergovernmental Council, for dealing on a regular basis with a range of issues concerned with Northern Ireland and with relations between the two parts of the island of Ireland.
8. The Agreement reflects their common desire to work together to achieve the aims of promoting peace and stability in Northern Ireland; helping to reconcile the two major traditions in Ireland; creating a new climate of friendship and co-operation between the people of the two countries; and improving co-operation in combating terrorism.

9. The preamble to the Agreement sets out a number of principles which the two Governments hold in common and on which the Agreement is based:
- recognition of the major interest of both countries and, above all, of the people of Northern Ireland in diminishing the divisions there and achieving lasting peace and stability;
 - recognition of the need for continuing efforts to reconcile and to acknowledge the rights of the two major traditions that exist in Ireland, represented on the one hand by those who wish for no change in the present status of Northern Ireland and on the other hand by those who aspire to a sovereign united Ireland achieved by peaceful means and through agreement;
 - their total rejection of any attempt to promote political objectives by violence or the threat of violence and their determination to work together to ensure that those who adopt or support such methods do not succeed;
 - recognition that a condition of genuine reconciliation and dialogue between unionists and nationalists is mutual recognition and acceptance of each other's rights;
 - recognition of and respect for the identities of the two communities in Northern Ireland, and the right of each to pursue its aspirations by peaceful and constitutional means;
 - their commitment to a society in Northern Ireland in which all may live in peace, free from discrimination

and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government.

10. The Agreement established an Intergovernmental Conference in which the Irish Government puts forward views and proposals concerning stated aspects of Northern Ireland affairs; in which the promotion of cross-border co-operation is discussed; and in which determined efforts are made to resolve any differences between the two Governments. Both Governments agree that these elements of the present Agreement, and the institutional expression it provides for a legitimate concern and role for the Irish Government in relation to Northern Ireland, must be fully provided for in any new and more broadly based agreement.
11. Both Governments re-affirm their full commitment to all the provisions of the Agreement and to its shared understandings and purposes set out in the preamble and in the Agreement itself as well as in the Hillsborough Communique of 15 November 1985. As its signatories, they are also prepared to consider a new and more broadly based agreement or structure if such an agreement can be arrived at through direct discussion and negotiation between all the parties concerned. They agree that any new agreement should enhance the structures of co-operation established between the two Governments under the Agreement.

Principles for a new approach

12. The search for agreement must build on a package of key principles, including the following, which are already encapsulated or implicit in the Anglo-Irish Agreement:
 - The people living in Ireland, North and South, without coercion and without violence, should be free to

determine their own future.

- That freedom can be expressed in the development of new structures for the governing of Northern Ireland, for relations between North and South and between the two islands, based on respect for the rights and identities of both traditions.
- No agreement can be reached in respect of any change in the present status of Northern Ireland without the freely expressed consent of a majority of the people of Northern Ireland.
- The foregoing principle implies also a clear recognition of the right of a majority of the people in Northern Ireland to withhold consent for any such change, unless and until they are persuaded by democratic political means only, free from coercion and violence.
- As an integral part of a democratic approach to peace, the Irish Government is prepared at the right time and in the right circumstances to seek to have the principle of consent, as defined in the Anglo-Irish Agreement, expressed in Irish fundamental law.
- Negotiations on a political settlement should take place only among those committed exclusively to constitutional methods and not with organisations who use, threaten or support violence for political ends; However those who have demonstrably expressed their commitment to the democratic process by renouncing violence are entitled to a role in negotiations and both Governments would wish to respond imaginatively and positively to the new situation which would arise in such circumstances.

13. The two Governments will apply these principles in a joint approach based on the following elements and agreed policy considerations:
14. Northern Ireland is sui generis. Unlike the situation which prevails elsewhere throughout both islands, there is an absence of constitutional consensus among the people there. There are deep divisions between the members of the two main Irish traditions living in Northern Ireland in terms of 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.
15. Both Governments accept that this unique and complex reality is not adequately reflected in their respective constitutional doctrines, at least in their strict construction, since in their different ways these presume a consensus where there is none, whether in terms of membership of the United Kingdom or Irish unity. Both Governments are open to change in this area, so as to reflect more accurately the realities of the situation and to encourage the process of agreement among all the people who inhabit the island.
16. Both Governments agree to take as fundamental the equal respect for the legitimacy of the two major traditions that exist in Ireland, represented on the one hand by those who wish for no change in the present status of Northern Ireland and on the other hand by those who wish for a sovereign united Ireland achieved by peaceful means and by agreement. Their objective is to reconcile them, on a basis of mutual respect and in a manner which will contribute to the ending of divisions and can be accepted and endorsed by all the people living in Ireland.

17. Both Governments will aim for a shared understanding of the constitutional issues so as to achieve a balanced accommodation of the differing positions of the two main traditions. A shared understanding should involve the fullest possible degree of endorsement by each Government of the constitutional position of the other. It is accepted that such reciprocal endorsement would not be possible for an Irish constitutional position which failed to reflect without reservation the commitment subscribed to in Article 1 of the Anglo-Irish Agreement. Neither would it be possible in respect of a British position which failed to acknowledge the full legitimacy and value of the goal of Irish unity by agreement, cherished by the greater number of people living in Ireland, and the consequential need for practical provisions to give that objective equally meaningful operational expression and opportunity, including in any future structures within Northern Ireland and between North and South.

18. Both Governments accordingly commit themselves to create and sustain structures which will afford both the nationalist and unionist identities equally satisfactory, secure and durable political administrative and symbolic expression and protection. They will co-operate to secure for them the necessary consent and allegiance of all the people of Ireland. They agree these structures must adequately reflect all the relationships involved.

Relationships within Northern Ireland

19. The governance and administration of Northern Ireland will be founded on full respect for, and equality of, human rights, as well as fundamental social, economic and cultural rights and on freedom from discrimination for all citizens, and on parity of esteem and equality of treatment for the

identity, ethos and allegiance of both communities. Both Governments agree that these basic rights will be guaranteed and entrenched in a new Agreement.

20. Both Governments wish to see new structures in Northern Ireland, which would assume executive and legislative responsibilities over a wide range of subjects. Such structures must provide for the equitable and effective participation in the discharge of these responsibilities by the elected representatives of both communities, and they must secure widespread acceptance throughout both communities. They should incorporate significant measures to promote consensual approaches and the mutual acceptance by representatives of both communities of each other's rights, identities and ethos.

Relationships between North and South

21. Both Governments agree that new North-South institutions should be created in the context of a comprehensive new agreement. These will have clear institutional identity and purpose and will be mandated by legislation in both Parliaments to discharge or oversee a range of executive functions on matters which, by virtue of such legislation, the two Governments decide will be administered uniformly throughout the island, or which the two administrations, North and South, subsequently agree are to be so administered.
22. These new structures will provide an institutional framework for practical and effective North-South cooperation and coordination for mutual benefit in the areas designated, and in particular will be the instrument for developing an integrated approach for the whole island in respect of the challenges and opportunities of the EC. They will operate on the basis of agreement between the two sides,

appropriately mandated. The discharge of their mandates will be subject to regular parliamentary scrutiny, including in any inter-parliamentary forum which may be set up by agreement between elected representatives North and South.

23. Both Governments furthermore agree that this North/South framework must operate in such a way so as to help heal divisions and promote reconciliation between the two traditions on the island of Ireland, provide a forum for acknowledging and accommodating their respective rights and identities and strengthening mutual respect between them, and have a mandate from the sovereign Governments to promote cooperation, understanding and agreement among the institutions and people in both parts of the island.

Intergovernmental Relations

24. Both Governments have made clear their readiness to consider a new and more broadly based agreement, if it can be arrived at through direct discussion and negotiation between all the parties concerned.
25. They envisage that under such a new Agreement a standing Intergovernmental Conference would be maintained involving, but not always attended only by, the Secretary of State for Northern Ireland and the designated representative of the Irish Government. It would continue to be supported by a permanent secretariat staffed by British and Irish civil servants.

26. 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 to be agreed by both Governments after consultation with them.
27. The two Governments envisage that matters for which responsibility is transferred to new political institutions in Northern Ireland will be excluded from consideration by the Conference, except to the extent that continuing responsibilities of the Secretary of State for Northern Ireland are relevant, or matters are brought to the attention of both Governments by the proposed new framework.
28. The Intergovernmental Conference will be the forum for both Governments to jointly guarantee and monitor the commitment, to be enshrined in the mandate of any new local institutions and entrenched in a new Agreement, that such institutions will provide for the equitable and effective participation in power of representatives of both communities and will ensure full equality of rights and freedom from discrimination for all those governed by them, as well as parity of esteem for the identity, ethos and allegiance of the two communities. The Conference will have contingency powers of intervention and redress in the event that devolved institutions fail demonstrably to meet their obligations in this respect, or fail altogether to survive or to discharge their designated functions.
29. The Conference may also monitor and guarantee the effective discharge of its mandate by any new North-South body. Subject to the agreement of both Governments, such a body may also be associated in appropriate ways with the work of the Conference, where the wider role of the British Government is particularly relevant, for example in relation to developing an integrated North-South approach to the EC.

Endorsement

30. Both Governments are agreed that any new agreement reflecting these principles would need to be acceptable to the people.