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Draft-proposal for a Joint Memorandum of
the Irish and British Governments on North-South Institutions

1. In the Joint Declaration the British and Irish Governments made a solemn commitment to promote cooperation between the people of Ireland, North and South, at all levels. They are determined accordingly to enhance North-South and cross-border cooperation in all areas where this would be of benefit.
2. They would wish this objective to be achieved as far as possible under the direction of elected representatives from North and South. That approach would secure the broadest possible support for, and partnership in, the process of cooperation in both parts of the island.
3. The two Governments agree that this partnership should be expressed in the form of new North-South institutions. These could take various forms. Those aspects involving the Northern Ireland parties will in any case have to be elaborated and agreed in negotiations. However, if new institutions are to cater satisfactorily and constructively for present and future interconnections on the island, both Governments agree they must meet certain requirements:

Mandate

4. A new institutional framework for North-South cooperation must be established and mandated by legislation in both sovereign parliaments. Its mandate should be

- to promote agreement at all levels among the people of Ireland and to develop cooperation between them across a wide range of interests;
 - to serve to acknowledge and reconcile the rights, identities and aspirations of the two major traditions; and
 - to exercise executive, harmonising and consultative functions over an agreed range of matters for the benefit of the island as a whole.
5. New structures should include a North-South body, involving political Heads of Departments from North and South, with a secretarial support unit drawing elements from both administrations. This could be complemented by a North-South Parliamentary Forum, comprising elected representatives from both parts of the island.
6. The legislation establishing new arrangements would
- provide a clear institutional identity, authority and purpose for the body;
 - establish its legal status and arrangements for political, legal, administrative and financial accountability;
 - establish provisions for the financing of the body as a necessary public function by the two administrations;
 - designate the initial executive, harmonising and consultative functions of the body;

- make participation in the body a duty of service in the relevant posts of the two administrations.
7. The remit given to the body should be dynamic, ensuring that it will develop to facilitate and keep pace with the progress of agreement between North and South, the growth of an island economy, and the development of cooperation under the aegis of the European Union.
 8. The legislation should accordingly enable the future enlargement of the body's competences, by agreement between North and South, with appropriate saving clauses in respect of both Governments' powers and obligations, e.g. to ensure compliance with commitments under international agreements.
 9. The body would have overall responsibility for all forms of cooperation between the two administrations and could operate both directly and through a series of functional bodies responsible to it.
 10. The body would meet on a regular and frequent basis to discharge its duties and functions and to oversee the work of any subsidiary bodies. The Heads of Department on each side would operate within the overall terms of reference mandated by the legislation of the two Governments, and under the rules for democratic accountability agreed by local institutions in Northern Ireland and the Oireachtas respectively.
 11. The body will operate by consensus of the participants, thereby ensuring that decisions are made on the basis of equality and guaranteeing complete protection for the rights and interests of both sides.

12. The operation of the body will be subject to regular scrutiny in the new institutions in Northern Ireland and in the Oireachtas respectively.

Categories of competence

13. Both Governments envisage that, as a general principle, representatives of North and South in the body should be able to raise for discussion and consideration any matter of interest to either side which falls within the competence of either administration.
14. However there would be specific provisions designating areas where the body would exercise consultative, harmonising or executive functions respectively. These would be as follows:

Consultative:

15. 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. There would be no formal commitment that agreement would be reached or that policy would be harmonised or implemented jointly, but the development of mutual understanding and common or agreed positions would be the general goal.

Harmonising:

16. In respect of matters designated for this category, 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. The two administrations would retain their separate responsibilities in respect of these matters, but would be committed to take the necessary action within their powers to give effect to the body's decisions.

Executive:

17. In the case of these designated functions, the body itself would be directly and exclusively responsible for the establishment of an agreed policy and for its implementation on behalf of both parts of the island, whether through its own staff, through subordinate agencies or subgroups, or through other designated agencies (for example the existing Government Departments, acting in an agency capacity, in the two jurisdictions).

18. In determining the functions to be discharged by the body, whether by consultation, harmonisation or executive action, account would be taken of:
 - The common interest in a given matter on the part of both parts of the island; or
 - The mutual advantage of addressing a matter together; or
 - The intrinsic benefit which may derive from it being administered by the body; or
 - The achievement of economies of scale and the avoidance of unnecessary duplication of effort; or
 - The overall objective of maximising economic growth across the economy of the island as a whole.

19. As envisaged in the Joint Framework Document, the two administrations could elect, by agreement, to upgrade the body's initial competence in a particular matter along the scale from consultative to executive action.

Functions

20. Against the background of the commitments in the Joint Declaration, and applying these criteria, both Governments agree that a range of areas should be dealt with on an island-wide basis. They therefore jointly propose that the initial competences of the body in the various categories should be on the following lines, and they will seek in negotiations to secure the agreement of the parties to this proposal:

Consultative functions

21. The consultative remit of the body should embrace all policies, decisions or actions of either administration, which, in the view of either side, might have actual or potential repercussions or might find application in the other jurisdiction. It should also include consideration of external or international developments with significant implications for one or both jurisdictions, or for the relationships between them. The body might choose to designate certain matters for particular scrutiny and to engage, if so desired, in joint studies.

Harmonising functions

(a) European Union Matters

22. The body in its harmonising role would, in particular, determine the response in both parts of the island to all aspects of EU policy-making, legislation and implementation having an impact on the activities of the two

administrations, except those designated specifically for executive action. The body would:

- identify common all-Ireland interests across the range of relevant EU competences;
 - develop appropriate agreed positions in response to specific EU proposals for action or legislation, after formal advance consideration of the relevant drafts of the Commission or other EU institutions;
 - formulate and represent these agreed positions in EU fora, in conjunction with, or through, British and/or Irish representatives, as appropriate;
 - harmonise the implementation of EU legislation, recommendations, policies and programmes in such a way as to maximise their benefit for the whole island.
23. The British Government will support and enable the exercise of the North-South harmonising functions of the body in relation to all EU matters, save in exceptional circumstances where they formally determine the proposed approach would be in irreconcilable conflict with their national position.
24. The meetings of the body or its subgroups would be scheduled to allow adequate and regular consideration and preparation of key EU meetings.

(b) Other matters for harmonisation

25. In addition to the key EU function, the harmonising remit of the body would cover a wide range of activities where the criteria listed in paragraph 18 above, or the human, social and economic interactions between both parts of the island

make a harmonised approach in both jurisdictions desirable.

26. An indicative list of matters which the two Governments believe to be appropriate for inclusion in the body's harmonising remit is annexed (Annex 1).

Executive functions:

27. The two Governments agree that the body should exercise full executive powers on the lines set out in paragraph 17 in relation to a number of areas where they consider the case for a single decision-making capacity for the whole island is particularly compelling:

28. These areas include in particular:

- (1) Initiatives and programmes of the European Union specifically aimed at the development of border areas or at ensuring integrated planning and economic and social development across borders.

This category would embrace most or all of the Community Initiatives under the Structural Funds relevant to Ireland, since even in cases where the cross-border element is not explicit, the similarity of geographic, social and cultural conditions in both parts of the island makes their joint administration the appropriate course.

It would also include present and future trans-frontier initiatives, such as the EU Trans-European Networks in the transport, telecommunications and energy sectors.

- (2) Preparation of a single all-Ireland Development Plan in the context of the anticipated post-1999 Structural Funds, and negotiation of a Community Support

Framework, or Frameworks, with the Commission, and implementation of agreed Operational Programmes.

- (3) Sectors involving a physical or natural all-Ireland framework, which call for a correspondingly integrated approach in policy and administrative terms.
 - (4) Marketing and promotional activity abroad in all sectors where the projection of Ireland as a single entity would be most effective from a marketing point of view or would maximise returns for the island as whole.
 - (5) Cultural and heritage issues, reflecting the continuity and diversity of the social and artistic culture of the island as a whole.
29. An indicative list of areas for full executive action by the body under each of these headings is annexed at Annex II.
 30. In any area where both sides agree that discussions in the body or the implementation of any of its decisions would be enhanced by, or require the involvement of the British Government, the British Government is prepared to participate, on a basis and in circumstances to be agreed between them and the representatives of North and South.
 31. This dimension might also be addressed through formal or ad-hoc arrangements agreed between the body and East-West institutions involving the Irish and British Governments.

Parliamentary Forum

32. Both Governments believe that the body should be complemented by the establishment of a North-South parliamentary forum, drawn from the Oireachtas and new local

institutions in Northern Ireland. This forum would scrutinise the body's actions on a regular basis. It might also have an advisory and consultative role in relation to the work of the body and to North-South relations in general. The composition and function of such a forum would be for consideration between the participating parliamentarians in the first instance.

33. In the event that it should prove impossible to engage or sustain the process of cooperation in the form outlined above, both Governments will seek to implement their commitments on this issue in the Joint Declaration through the intergovernmental channels open to them, including in particular through the mechanisms of the Anglo-Irish Agreement.

Annex I

Harmonisation

The following list of matters is envisaged for harmonising treatment:

Agriculture

- Agricultural training and advisory services
- Agricultural research
- Co-operative development of the bloodstock industry
- Animal welfare legislation

Sea Fisheries

- Fisheries education and training
- Fisheries research, including management of research stations and research vessels

Industrial Development

- Formulation of joint industrial policy
- Policies relating to
 - the development and support of indigenous industry
 - the development of the services sector (including financial services)
 - the development and support of the small business sector
- Science and technology policy
- Company law (patents, company registration, etc.)

- Regulation of the insurance industry
- Competition policy (including mergers/takeovers)

Labour Affairs

- Policies and programmes to assist the unemployed (particularly the long-term unemployed)
- Industrial relations support machinery
- Employment training policy
- Employee protection policy (inc. occupational health and safety)

Consumer Affairs

- Consumer protection

Transport

- Planning of national road routes
- Rail development policy
- Regional airports development policy
- Regulation/licensing of air traffic
- Regulation/licensing of road haulage
- Road safety

Energy

- Promotion and regulation of oil, gas and minerals exploration
- Geological surveying
- Energy research and alternative energy
- Joint energy projects (eg electricity interconnection)

Communications

- Telecommunications policy and regulation
- Postal sector regulation
- Regulation of radio spectrum

Trade

- Market development and product testing programmes
- Public purchasing policy (eg creation of all-Ireland data base)

Health

- Purchasing of medical equipment and supplies
- Training of medical, paramedical and nursing personnel
- Provision of integrated health care in border regions through closer co-ordination of Health Board resources

- Health promotion
- Major emergency/accident planning
- Amalgamated disease registries
- Medical product approval procedures

Social Welfare

- Action to combat fraud
- Policies and programmes to combat socio-economic disadvantage
- Development of greater structural assimilation between social welfare systems North and South

Education

- Development of greater assimilation between third-level education systems (e.g. an all-Ireland admissions system, joint management of student mobility, pooling of some resources, shared provision of courses)
- Single certification system for third-level non-degree courses
- Single system of training, both initial and in-career, for first and second-level teachers
- Mutual recognition of teacher qualifications
- Joint school curricula in certain subjects

- All-Ireland programme on lines of Education for Mutual Understanding
- Exchange of teachers and administrative staff
- Single approach to special education
- All-Ireland apprenticeship and other school competitions

Economic Policy

- Joint advisory body on social and economic policy for whole island (NESC/NIEC)
- Co-ordination of statistical policy
- Joint planning of regional development

Annex II

Executive Action

The following list of matters is envisaged for executive treatment:

(1) EU Programmes and Initiatives

- Community Initiatives under the Structural Funds
- Trans-European Networks (transport, energy and communications sectors)

(2) Single All-Ireland Development Plan for post-1999 Structural Funds

(3) Sectors Involving a Natural or Physical All-Ireland Framework

- Animal and plant health
- Environment protection and pollution management
- Inland waterways
- Wildlife management and conservation
- Marine and freshwater fishery issues, including aquaculture
- Joint management of cross-border river/lake systems
- Single transport planning authority for the island as a whole

- Physical communications to and from the island, including the creation of a single aviation authority and a single ports authority

(4) Marketing and promotional activity abroad

- Tourism promotion, marketing, and product research and development
- Export promotion and assistance to exporters of food, manufactured goods and services from North and South
- Promotion of inward investment
- Marketing of public and private sector consultancy expertise (inc. civil service, health sector)

(5) Cultural and heritage issues

- Support and promotion of the arts
- Support and management of museums
- Heritage protection and restoration
- Irish language
- Development of film industry on an all-Ireland basis
- Youth affairs
- Support and promotion of sport
- Promotion of Irish culture abroad
- Broadcasting.