



**An Chartlann Náisiúnta**  
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Ad Referendum[20.10.94]DRAFT FRAMEWORK DOCUMENTELEMENTS OF A SHARED UNDERSTANDINGAdditions to previous version of 28.9.94 in bold and underlined

1. This joint paper describes a shared understanding, reached between the two Governments on the parameters of a possible outcome to the Talks process, consistent with the Joint Declaration and the statement of 26 March 1991.
  
2. The primary objective of both Governments in their approach to Northern Ireland is to promote and establish agreement among the people of the island of Ireland, building on the Joint Declaration. To this end they will both deploy their political resources with the objective of securing a new and comprehensive agreement involving the relevant political parties in Northern Ireland and commanding the widest possible support.
  
3. They take as guiding principles for their cooperation in search of agreement:
  - (i) the principle of self-determination, as set out in the Joint Declaration;
  
  - (ii) that the consent of the governed is an essential ingredient for stability in any political arrangement;
  
  - (iii) that agreement in [BRITISH: the island of] Ireland must be pursued and established by exclusively democratic, peaceful means, without resort to violence or coercion;
  
  - (iv) that any new political arrangements must be based on full respect for, and protection and expression of, the rights and identities of both traditions in Ireland and

even-handedly afford both communities in Northern Ireland parity of esteem and equity of treatment, including equality of opportunity and advantage.

4. They acknowledge that in Northern Ireland, unlike the situation which prevails elsewhere throughout both islands, there is a fundamental absence of consensus about constitutional issues. There are deep divisions between the members of the two main traditions living there over 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. However, the two Governments also recognise that the large majority of people, in both parts of Ireland, are as one in their commitment to the democratic process and in their desire to resolve political differences by peaceful means.
5. In their search for political agreement, based on consent, the two Governments are determined to address in a fresh way all of the relationships involved. Their aim is to overcome the legacy of division by reconciling the rights of both traditions in the fullest and most equitable manner. They will continue to work towards and encourage the achievement of agreement, so as to realise the goal of the "new beginning for relationships in Northern Ireland, within the island of Ireland and between the peoples of these islands".
6. The two Governments will work together to achieve a comprehensive accommodation, the implementation of which would include interlocking and mutually supportive institutions across the three strands, including:
  - (a) Structures within Northern Ireland - to enable elected representatives there to exercise shared administrative and legislative control over all those matters that can be agreed across both communities and which can most effectively and appropriately be dealt with at that level.

- (b) North/South institutions - with clear identity and purpose, to enable representatives of North and South to enter into new, cooperative and constructive relationships; to promote agreement among the people of the island of Ireland; to carry out [BRITISH: delegated] [IRISH: designated] executive, harmonising and consultative functions over an agreed range of matters, where this would be to the overall benefit of the people of the island as a whole; and to serve to acknowledge and reconcile the rights, identities and aspirations of the two major traditions.
- (c) East-West structures - to enhance the existing basis for cooperation between the two Governments, and to promote, support and underwrite the fair and effective operation of the new arrangements.

[BRITISH: Paragraph 7, together with paragraphs 9-15 are a revised version of the 'non-paper' tabled by the British side on 4 August.

7. The two Governments would hope that such a comprehensive accommodation could be achieved with the relevant political parties in Northern Ireland in a climate where the issue of sovereignty ceases for ever to be seen as symbolic of the domination of one community and the denial of the other. There would be far-reaching and entrenched protection for the rights and dignity of [BRITISH: members of] both communities; and sovereignty in Northern Ireland would be decided, under agreed ground-rules, by persuasion and consent rather than through threat or coercion. In this way the two Governments hope that the relationship between the two communities in Northern Ireland could become bonds of understanding and union, rather than a source of contention, between the wider Irish and British democracies.]

Constitutional Issues

8. Both Governments accept that agreement on an overall settlement requires, inter alia, a balanced accommodation of the differing views of the two main traditions on constitutional issues in relation to the special position of Northern Ireland.
  
9. [BRITISH: Given the absence of consensus and depth of divisions between the two main traditions in Northern Ireland, the two Governments agree that such an accommodation will involve an agreed new approach to the traditional constitutional doctrines on both sides. This would be aimed at enhancing and codifying the fullest attainable measure of consent across both traditions in Ireland and fostering the growth of consensus between them.
  
10. In their approach to Northern Ireland they will apply the principle of self-determination by the people of Ireland on the basis set out in the Joint Declaration: the British Government recognise that it is for the people of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish. The Irish Government accept that the right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland.
  
11. New arrangements should therefore build on the commitments in the Anglo-Irish Agreement and in the Joint Declaration, 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 the people of Northern Ireland. If in future a majority of the people there wish for and formally consent to the establishment of a united Ireland the two Governments will introduce and support legislation to give effect to that wish.



12. Both Governments recognise that Northern Ireland's current constitutional status reflects and depends upon the present wish of a majority of its people that it should be part of the United Kingdom; they also acknowledge that a substantial minority of its people wish for a united Ireland. Against this background, they acknowledge a need for new arrangements and structures - to reflect the reality of diverse aspirations, to reconcile as fully as possible the rights of both traditions and to promote cooperation between them, so as to foster the process of developing agreement and consensus between all the people of Ireland.
  
13. They agree that future arrangements relating to Northern Ireland should respect the full and equal legitimacy and worth of the identities, allegiance and ethos of the unionist and nationalist communities there. Consequently, both Governments commit themselves to the principle that institutions in Northern Ireland should afford both communities secure and satisfactory political, administrative and symbolic expression and protection. In particular they commit themselves to entrenched provisions guaranteeing equitable and effective political participation for whichever community finds itself in a minority position by reference to the Northern Ireland framework, or the wider Irish framework, as the case may be.
  
14. For as long as the democratic wish of the people of Northern Ireland is for no change in its present status, the British Government pledges that its jurisdiction there will be exercised with rigorous impartiality on behalf of all the people of Northern Ireland in their diversity. It will be founded on the principles outlined in paragraph 13 with emphasis on freedom from discrimination for all citizens and on parity of esteem and equity of treatment for both communities. In discharging its responsibilities, the British Government will do so in a way which does not prejudice the freedom of the

people of Northern Ireland to determine, by peaceful and democratic means, its future constitutional status, whether in remaining an integral part of the United Kingdom or in forming part of a united Ireland. It will be equally cognizant of and open to either option. This approach would be reflected in British constitutional legislation, either by amendments to that legislation including the Government of Ireland Act or in appropriate new provisions entrenched by Agreement.

15. As part of an agreement confirming the foregoing understanding between the two Governments on constitutional issues, the Irish Government will introduce and support proposals for change in the Irish Constitution to implement the commitments in the Joint Declaration including those set out in paragraphs 10, 11 and 12 above. These changes will remove the claim of right for the Irish Government or State to exercise jurisdiction over Northern Ireland and be such that there is demonstrably no territorial claim on Northern Ireland. They will fully reflect the principle of consent in Northern Ireland. They will ensure that the Constitution is consistent with recognition on the Irish Government's part of the new dispensation, including Northern Ireland being legitimately part of the United Kingdom, that being the wish of a majority of its people.]

#### Structures in Northern Ireland

16. Both Governments recognise that new political structures within Northern Ireland must depend on the cooperation of elected representatives there. They confirm that cross-community agreement is an essential requirement for the establishment and operation of such structures. They strongly favour and will support provision for cross-community consensus in relation to decisions affecting the basic rights, concerns and fundamental interests of both communities, for example on the lines adumbrated in Strand 1 discussions in 1992.

17. While the principles and overall context for such new structures are properly the concern of the two Governments in the exercise of their wider responsibilities, they consider that their precise shape would be most effectively developed in direct dialogue involving the relevant political parties in Northern Ireland who would be called upon to operate them.

#### North/South Institutions

18. Both Governments consider that new institutions should be created to cater adequately for present and future political, social and economic inter-connections on the island of Ireland, enabling representatives of the main traditions, North and South, to enter into dynamic, new, cooperative and constructive relationships.
19. Both Governments agree that these institutions should include a North/South body, involving Heads of Department on both sides, duly established and mandated by legislation in both sovereign Parliaments. This would bring together representatives of the Irish Government and representatives of new agreed political institutions in Northern Ireland, to discharge or oversee [BRITISH: delegated] [IRISH: designated] executive, harmonising or consultative functions, as appropriate, over a range of matters which the two Governments designate or which the two administrations, North and South, subsequently agree to designate. Participation in the North/South body would accordingly be a duty of service in relevant posts in the two administrations. Both Governments believe that the legislation should provide for a clear institutional identity and purpose for the North/South body. It would also establish the body's terms of reference, legal status and arrangements for political, legal, administrative and financial accountability. The North/South body could operate through, or oversee, a range of functionally-related subsidiary bodies, for example the Foyle Fisheries Commission, or other entities established to



administer designated functions on an all-island or cross-border basis.

20. [BRITISH:

The North/South body should be an instrument, with the support and co-operation of both Governments, contributing to planning and managing a common approach to the challenges and opportunities of the EU for the economic benefit of the people of the whole island.]

[IRISH:

The North/South body will develop, with the support and cooperation of both Governments, a fully integrated approach for the whole island in respect of the challenges and opportunities of the EU.]

21. Both Governments envisage regular and frequent meetings of the North/South body:

- to discharge the functions agreed for it in relation to a range of matters designated for treatment on an all-Ireland or cross-border basis;
- to oversee the work of subsidiary bodies.

22. It is envisaged that, in determining functions to be discharged or overseen by the North/South body, whether by executive action, harmonisation or consultation, account will be taken of:

- i. the common interest in a given matter on the part of both parts of the island; or
- ii. the mutual advantage of addressing a matter together; or

- iii. the mutual benefit which may derive from it being administered by the North/South body; or
- iv. the achievement of economies of scale and the avoidance of unnecessary duplication of effort.

Against that background, the two Governments envisage that legislation in the sovereign Parliaments would from the outset designate matters to be discharged or overseen by the North/South body. It would also be open to the North/South body to recommend to the respective administrations and legislatures that new functions should be designated to be discharged or overseen by that body; and that matters already designated should be shifted on the scale from consultation to harmonisation to executive action. It would be open to institutions in Northern Ireland to designate any function devolved to them, subject to any necessary savings in respect of the British Government's powers and duties, for example to ensure compliance with international obligations. The Governments have identified a range of functions that might be designated and will seek agreement on the nature and extent of designation in discussions with the parties in Northern Ireland.

[Para 22A tabled by British; accepted in principle by Irish but subject to possible textual amendments by them.]

22A. Although both Governments envisage that representatives of North and South in the body could raise for discussion any matter of interest to either side which falls within the competence of either administration, it is envisaged, as already mentioned, that its designated functions would fall into three broad categories:

consultative: 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, though there would be no formal expectation that agreement would be reached or that policy would be harmonised or implemented jointly;

harmonising: in respect of these designated responsibilities 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, even though its implementation might be undertaken by the two administrations separately;

executive: in the case of these designated responsibilities the North/South body would itself be responsible for the establishment of an agreed policy and for its implementation on a joint basis. (It would however be open to the body, where appropriate, to agree that the implementation of the agreed policy would be undertaken by existing or specially created mandated bodies, whether jointly or separately North and South.)]

23. Both Governments envisage that all decisions within the body would be by agreement between the two sides, appropriately authorised by new local institutions in Northern Ireland and the Oireachtas respectively. The discharge of the North/South body's functions would be subject to regular scrutiny in agreed political institutions in Northern Ireland and the Oireachtas respectively.
24. Both Governments expect that the North/South body will fashion appropriate linkages with other bodies established under a comprehensive new agreement, and with the British Government.

25. Both Governments also expect that there would be a Parliamentary Forum, with representatives from agreed political institutions in Northern Ireland and members of the Oireachtas, to consider a wide range of matters of mutual interest.
26. Both Governments envisage that the framework would include administrative support staffed jointly by members of the Northern Ireland Civil Service and the Irish Civil Service. They also envisage that both administrations will need to arrange finance for the North/South body and its agencies on the basis that these constitute a necessary public function.
27. Both Governments envisage that this new framework should serve to help heal the divisions among the communities on the island of Ireland; provide a forum for acknowledging the respective identities and requirements of the two traditions; express and enlarge the mutual acceptance of the validity of those traditions; and promote understanding and agreement among the people and institutions in both parts of the island taking account of the criteria in paragraph 22. The remit of the body should be dynamic, facilitating progressive extension of its functions to new areas. Its role should develop to keep pace with the growth of harmonisation and with greater integration between the two economies.

#### East-West Structures

28. Both Governments envisage a new and more broadly based Agreement, developing and extending their cooperation, reflecting the totality of relationships between the two islands, and dedicated to fostering cooperation, reconciliation and agreement in Ireland at all levels.
29. They intend that under such a new Agreement a standing Intergovernmental Conference will be maintained, chaired by the designated Irish Minister and by the Secretary of State for

Northern Ireland. It would be supported by a Permanent Secretariat of Irish and British civil servants.

30. The Conference will be a forum through which the two Governments will work together in pursuance of their joint objectives of securing agreement and reconciliation amongst the people of the island of Ireland and of laying the foundations for a peaceful and harmonious future based on mutual trust and understanding between them.
  
31. The Conference will provide a continuing institutional expression for the Irish Government's [IRISH: legitimate] concern and role in relation to Northern Ireland. It will be the principal instrument for an intensification of the cooperation and partnership between both Governments, with particular reference to the principles contained in the Joint Declaration and in the new Agreement, on a wide range of issues concerned with Northern Ireland and with the relations between the two parts of the island of Ireland. It will facilitate the promotion of lasting peace, stability, justice and reconciliation among the people of the island of Ireland and maintenance of effective security cooperation between the two Governments. The Irish Government will put forward views and proposals on issues falling within the ambit of the new Conference or involving both Governments and determined efforts will be made to resolve any differences between the two Governments.
  
32. Both Governments believe that there should also be general provision in the Agreement for liaison between them on bilateral matters not covered by other specific arrangements, either through the Anglo-Irish Intergovernmental Council, the Conference or otherwise.
  
33. Both Governments accept that issues of law and order in Northern Ireland are closely intertwined with the issues of



political consensus. For so long as these matters are not devolved to new local institutions, it will be for the Governments to consider ways in which new institutions and the growth of political agreement may offer new possibilities and opportunities for enhancing community identification with policing in Northern Ireland, while maintaining the most effective possible deployment of the resources of each Government in their common fight against terrorism and crime, from whatever source they may come.

34. The Governments envisage that matters for which responsibility is transferred to new political institutions in Northern Ireland will be excluded from consideration in the Conference, except to the extent that the continuing responsibilities of the Secretary of State for Northern Ireland are relevant, or that cross-border aspects of transferred issues are not otherwise provided for, [IRISH: or a breach arises of the fundamental undertakings and commitments established between the Governments, whether in the new Agreement or otherwise] [BRITISH: or that the issues concerned are relevant to consideration of the overall workings of the Agreement].

35. [IRISH:

The Intergovernmental Conference will be the forum for both Governments to jointly monitor the implementation of the commitments and guarantees given in the Agreement to both communities in Northern Ireland, and the due discharge of their functions by all of the institutions covered by the Agreement in line with its provisions and in a manner free from abuse and discrimination. In the event of abuse, or manifest incapacity to discharge the designated functions, the Conference will have contingency powers of intervention and redress, according to procedures to be agreed between the two Governments.]

## [BRITISH:

The Intergovernmental Conference will be a forum for the two Governments jointly to keep under review the workings of the Agreement and to promote, support and underwrite the fair and effective operation of the new arrangements. Where one or both Governments consider that institutions, established in accordance with the settlement, are not properly functioning within its terms, the Conference may discuss the situation and determined efforts will be made to reach a common position. If the two Governments conclude that there has been a breach in the terms of the comprehensive settlement, or that any of the institutions established under it is operating in a manner at substantive variance with that prescribed in its mandate, either Government may make proposals for remedy, and each Government shall make appropriate measures of redress within its own jurisdiction. However, there would be no derogation of sovereignty of either Government; each will retain responsibility for the decisions and administration of government within its own jurisdiction.]

36. 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 and to an extent to be agreed by both Governments after consultation with them. This might involve giving them advance notice of what is to be discussed in the Conference enabling them to express views to either Government and inviting them to attend parts of meetings of the Conference. Other more structured arrangements could be devised by agreement.
37. The Conference will also be a framework for consultation and co-ordination between both Governments and the new North-South institutions, where the wider role of the two Governments is particularly relevant to the work of those institutions, for example in a co-ordinated approach on European Union issues.

It would be for consideration by both Governments, in consultation with the constitutional parties in the North, or with the institutions after they have been established, whether to achieve this through formal or ad hoc arrangements.

Instrument of Rights and Covenant

[Para 38 tabled by British, but Irish warned that it may be subject to further revision.

38. Both Governments envisage that these arrangements would be complemented and underpinned by an Instrument of Rights, binding and enforceable in respect of each jurisdiction, and entrenched by virtue of the Agreement, to provide for the full and equal protection for the basic human, political, social and cultural rights of all citizens in [IRISH: Northern] Ireland as reflected in the international obligations accepted by each Government including the rights -

- \* of free political thought,
- \* to freedom and expression of religion,
- \* to pursue democratically national and political aspirations,
- \* to seek constitutional change by peaceful and legitimate means,
- \* to live wherever one chooses without hindrance,
- \* to equal opportunity in all social and economic activity, regardless of class, creed, sex or colour,

set out in the Joint Declaration.]

39. There might also be a Charter or Covenant adopted on behalf of the people of Ireland. The Covenant would enshrine a solemn dedication to mutual respect between the two traditions in Ireland, [BRITISH: and acknowledge] entrenched and enforceable guarantees of rights for all persons living in Ireland, and a

binding commitment to protection for the rights, interests, ethos and dignity of the unionist community in any future all-Ireland framework that might be developed to no less extent than that provided for the nationalist community in the context of Northern Ireland under the structures of the new Agreement.

40. The Covenant might also contain a collective commitment on behalf of all the people of Ireland to the exclusively peaceful resolution of all differences between them, including in relation to the exercise of their right to self-determination, an affirmation of their right to determine also the conditions in which this right will be exercised, and in particular their solemn repudiation of all recourse to violence between them for this or any political end.

#### Conclusion

41. Both Governments agree that these issues [IRISH: , other than those which are for decision by the two Governments themselves,] will be examined in the most comprehensive attainable negotiations with the democratically mandated political parties in Northern Ireland which abide exclusively by peaceful means and wish to join in dialogue on the way ahead.
42. They intend that the outcome of their work will be submitted for democratic ratification by referenda, both North and South.