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Draft.

Agreement Establishing Independent Commission for the Location of Victims' Remains

1. The Minister for Justice, Equality and Law Reform, Mr. John O'Donoghue, on behalf of the Government of Ireland, and the Secretary of State for Northern Ireland, Dr. Mo Mowlam, on behalf of the Government of the United Kingdom, today signed an Agreement establishing an Independent Commission for the Location of Victims' Remains.

2. The objective of the Independent Commission will be to facilitate the location of the remains of the victims of violence. In fulfilment of this objective it will receive information relating to the location of such remains and disclose that information in order to facilitate the location of remains to which the information relates.

3. Membership of the Commission will consist of at least two members who shall be appointed jointly by the two Governments. Legislation in both jurisdictions to make provision in relation to the Commission will be published shortly.

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4. The two Governments view this Agreement as representing another important development in the process flowing from the Good Friday Agreement. The return of the remains of those who were killed and buried in secret during the period of violence in Northern Ireland will represent the closing of another tragic chapter in the lives of the families of those who lost loved ones and whose burial place has not yet been revealed. Of course it does not, and cannot ever, compensate for the loss they have suffered. However, we recognise that the process of grieving is greatly assisted by being able to visit the grave of loved ones. The Agreement puts in place a means whereby those families can afford to their relatives the dignity of a proper burial which has been denied them for so long.

5. The revealing of the burial places of those who were buried in secret must also be seen in the context of an on-going process of healing between and within communities. The Commission established under this Agreement will play a significant part in that process by enabling those with information about the location of victims' remains to make known that information in the knowledge it will be used solely for the purpose of facilitating the recovery of those remains. The families of the victims can have confidence that the recovery of remains will be done in a proper manner with due regard to the dignity of the person whose remains are being recovered.

6. Both Governments welcome the indications which have been given so far that information about the location of the burial places of [9] [10] victims will be forthcoming. The relatives of those who were killed and buried secretly have suffered enough. The time has now come to for them to be permitted to grieve as any family would wish to grieve over the loss of a loved one. They deserve it no less than the rest of us.

7. We must remember also all the victims and all the relatives of those who died as a result of the conflict in Northern Ireland. Their pain is no less for having been able to bury their loved ones.

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8. Finally, we hope that the Agreement signed today and the legislation to follow will allow anyone who may have information about the burial places of other victims to make that information known to the Independent Commission for the Location of Victims' Remains.

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BACKGROUND NOTE

The participants in the negotiations which led to the Good Friday Agreement stated in the Agreement their belief that it is essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation. The Agreement recognises that victims have a right to remember as well as to contribute to a changed society. The victims of violence which the Agreement recognises include the families of the disappeared. [It is now generally recognised that these families - as victims - have the right to mourn, to have a proper funeral for their loved ones and to know how they died.]

The Agreement also states that the provision of services that are supportive and sensitive to the needs of victims will be a critical element in the achievement of a peaceful and just society.

The Agreement looked forward to the results of the work of the Northern Ireland Victims Commission. In his report the Commissioner, Sir Ken Bloomfield voiced a fervent appeal, "on behalf of those whose loved ones have disappeared without trace, that those who can offer information about their fate and where bodies may lie should now do so". He said that it was one of the most fundamental of human instincts to seek certain knowledge of a dead relation. He also said that he was sure that arrangements could be made so that those in possession of information could pass it on without their inculpating themselves. He therefore included in his recommendations a recommendation that every effort should be made to persuade and enable those with information about the disappeared to disclose it.

The International Body in its report of January, 1996 (the Mitchell Report) suggested a number of confidence-building measures. The report's view was that the provision of information on the status of missing persons would demonstrate a commitment to peaceful methods by paramilitary organisations and so build trust among other parties and alleviate the fears and anxieties of the general population.

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DEPARTMENT OF FOREIGN AFFAIRS
80 ST STEPHENS GREEN
DUBLIN 2
IRELAND
TEL: (01) 4780822
FAX: (01) 4785949

COVER SHEET FAX

To: D/JSLR

For: Ken O'Leary

From: George Hegarty

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MESSAGE:

Amended Draft

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AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ESTABLISHING THE INDEPENDENT COMMISSION FOR THE LOCATION OF VICTIMS' REMAINS

The Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland;

Recalling the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland done at Belfast on 10th April 1998 and the Multi-Party Agreement reached at Belfast on 10th April 1998;

Reaffirming their total commitment to the principle of non-violence and to a new beginning in relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands;

Remembering the victims of violence and the suffering of the families of those victims;

Recognizing that the location of the remains of the victims of violence is essential to reconciliation and a new beginning in relationships;

Have agreed as follows:

ARTICLE 1

The Independent Commission for the Location of Victims' Remains (hereinafter "the Commission") is hereby established.

ARTICLE 2

1. The Commission shall be independent in the performance of its functions.

2. The Commission shall have the legal capacity of a body corporate.

ARTICLE 3

1. The objective of the Commission is to facilitate the location of the remains of victims of violence.

2. The Commission shall have the following functions:

(a) to receive information relating to the location of remains of such victims;

(b) to disclose the above information for the purpose of facilitating the location of remains to which the information relates;

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(c) to report on its activities to both Governments no later than one year after its establishment and annually thereafter.

In addition, the Commission may, subject to the provisions of Article 7 below, provide or arrange for the provision of such information as it considers appropriate to the families of victims of violence.

3. For the purposes of this Agreement:

(a) "victims of violence" means persons killed before 10th April 1998 as the result of acts committed on behalf of, or in connection with, an unlawful organization;

(b) "unlawful organization" means:

(i) an unlawful organization within the meaning of an Act of the Oireachtas entitled the Offences against the State Act 1939 in respect of which a suppression order has been made under that Act; or

(ii) an organization proscribed for the purposes of the Act of Parliament of the United Kingdom entitled the Northern Ireland (Emergency Provisions) Act 1996.

ARTICLE 4

1. The Commission shall have not less than two members. The members shall be appointed jointly by the two Governments who may also appoint additional members from time to time. The two Governments may jointly appoint one of the members as Chairperson. The members of the Commission shall serve on terms and conditions to be determined by the two Governments.

2. The Commission may appoint such staff as may be required to assist it in the discharge of its functions on such terms and conditions as the Commission may, subject to the approval of both Governments, determine.

ARTICLE 5

The Commission, its members, staff, property and premises, and any agents of or persons carrying out work for or giving advice to, the Commission shall have such privileges, immunities and inviolabilities as may be conferred or provided by orders made in accordance with the relevant legislation of Ireland and of the United Kingdom.

ARTICLE 6

Such moneys, premises, facilities and services as may be necessary for the proper functioning of the Commission shall be provided by the two Governments on a basis to be determined by them.

ARTICLE 7

Members and staff of the Commission, any persons carrying out work for or giving advice to the

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Commission and any agents of the Commission shall be bound not to disclose any information obtained in the course of the performance of their functions except in accordance with the provisions of the relevant legislation of Ireland and of the United Kingdom.

ARTICLE 8

The Commission shall keep proper accounts and proper records of all moneys received or expended by it and shall, at the joint request of the two Governments, appoint auditors who shall audit the accounts of the Commission. The reports of the auditors shall be submitted to both Governments.

ARTICLE 9

This Agreement shall enter into force on the date on which the two Governments exchange notifications of their acceptance of it.

ARTICLE 10

The Agreement shall continue in force until terminated by mutual agreement of the two Governments and shall thereafter cease to have effect save in so far as and to the extent necessary for meeting any liabilities or disposing in an orderly manner of any remaining assets of the Commission.

In witness whereof, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in two originals at Dublin on the th day of April 1999.

For the Government
of Ireland

For the Government
of the United Kingdom of
Great Britain and
Northern Ireland

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