

NORTH/SOUTH COUNCIL

An indicative sketch

1. Responsibility for the particular functions which are specified in the Agreement (and therefore in the legislation reflecting that Agreement at Westminster and in Dublin) would be exercised by a North/South Ministerial Council.
2. In respect of any such function, the Council would consist of the relevant Minister(s) in each jurisdiction.
3. Decisions would be taken within the Council on the basis of unanimity.
4. The Council would make such arrangements as it deemed appropriate to discharge its responsibilities, whether through existing Departments/agencies in both jurisdictions or otherwise.
5. The Council's proposals would have to be approved - and the monies for the implementation of those proposals voted - by the legislatures in both Belfast and Dublin.
6. The Council would be held accountable for the proper and effective use of voted monies by a Public Accounts Committee comprising equal numbers of members of both legislatures.
7. In circumstances where the Government either in Belfast or Dublin felt that good faith efforts were not being made to operate the arrangements or that the arrangements were being unreasonably breached, that Government could refer the matter for adjudication by the European Court. The "breadth of functions" process in para 10 beneath would not be subject to the jurisdiction of the Court.
8. In the event of failure by the Government of Northern Ireland to comply with the Court's ruling, a Commissioner would be appointed by the UK Government to discharge all the functions of a Minister and with the same powers and responsibilities. Monies for the discharge of the Commissioner's functions would be a first charge on monies voted by Westminster for the Government of Northern Ireland. The role of the Commissioner would cease immediately upon compliance with the Court's ruling.
9. In the event of failure by the Government of the Republic to comply with the Court's ruling, the arrangements for the Council of Ministers in respect of the function(s) in question would be suspended pending compliance.
10. The Council of Ministers, consisting in this instance of such Ministers as each administration might deem appropriate, would meet at least once a year (or more frequently by agreement) to review the operation of the Council. The Council, so constituted, would be able to decide (again, on the basis of unanimity) that, where it was considered that it would be to the benefit of both jurisdictions, functions should be added to - or removed from - those specified in the Agreement. Any such decision would have to be ratified by both legislatures. The above arrangements would apply to any additional functions.

Notes

1. Care has been taken to avoid the language in which the issue is usually discussed.
2. If anyone wished to do so, the above arrangements could be regarded as 'free-standing', in the sense that they would depend on the originating Agreement and its related legislation. Any development of the scope of the arrangements would be by subsequent agreement.
3. Thereafter, in their operation, the arrangements are democratically accountable. Otherwise, the existing democratic deficit in Northern Ireland would merely be extended to the whole island.
4. In their operation, there is absolute symmetry between North and South. Both are equal partners.
5. Failure by either party to operate the arrangements in good faith or unreasonable breach by either party would be subject to independent adjudication and would be subject to sanctions. It is difficult to devise symmetrical sanctions but the sanctions proposed in points 8 and 9 would be likely to provide an equivalence of deterrent effect.