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IRISH DRAFT

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Elements of a shared understanding

1. The primary objective of both Governments in their approach to the Northern Ireland problem is to promote and establish agreement among the Irish people, on the basis set out in the Joint Declaration of 15 December 1993.

2. To this end they will both deploy their political resources to draw up, and secure the widest possibly support for, a new and comprehensive agreement. This will build on the fundamental principles enshrined in the Joint Declaration and in the Anglo-Irish Agreement and on the other agreements, obligations and undertakings to which they have committed themselves.

3. They take as guiding principles for their co-operation 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, whether in a Northern Ireland or an all-Ireland context, or in any combination of the two;

   (iii) that agreement in Ireland must be pursued and established by exclusively democratic, peaceful means, without resort to violence or coercion;

   (iv) that new political arrangements must be based on full respect for the rights and identities of both traditions in Ireland and afford both communities in Northern Ireland parity of esteem, equality of treatment, and equally satisfactory political, administrative and symbolic expression and protection.

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4. They acknowledge that Northern Ireland is sui generis: Unlike the situation which prevails elsewhere throughout both islands, there is a fundamental absence of constitutional consensus among the people there. There are deep divisions between the members of the two main Irish traditions living there 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.

5. The search for political agreement and the need for consent accordingly require the two Governments to address in a radically new way all of the relationships involved - those within Northern Ireland, between North and South and between the two islands. Their aim will be to overcome the legacy of division, to reconcile the rights of both traditions in the fullest and most equitable manner that can be achieved at present, and to encourage progress towards full consensus in the future in whatever form the people of the island alone may decide, by agreement between the two parts alone may decide, by agreement between the two parts respectively and without external impediment.

6. The two Governments will co-operate to promote or create interlocking and mutually supportive institutions across the three strands, including:

(a) Structures within Northern Ireland, to allow elected representatives there to exercise shared administrative and legislative control over all those matters which can be agreed across both communities and which can most effectively and appropriately be dealt with at that level.

(b) "North/South" institutions, with a mandate for continuing efforts to acknowledge and reconcile the rights, identities and aspirations of the two major traditions, to promote agreement between them and to carry out executive,

harmonising and consultative functions over a wide range of matters where this would be to the benefit of the people of the island as a whole.

(c) "East-West" structures, to enhance the existing structures of co-operation between the two Governments, and to promote and guarantee the fair and effective operation of the new arrangements.

Structures within Northern Ireland

7. Both Governments recognise that new political structures within Northern Ireland must depend on the co-operation 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 either community, for example on the lines adumbrated in Strand one discussions in 1992.

8. While the principles, parameters and overall context for such new structures and properly the concerns of the two Governments in the exercise of their wider mandates, they consider that the precise shape of such institutions would be most effectively developed within the three-stranded framework in direct dialogue with and between the political parties who would be called upon to operate these institutions.

North-South Institutions

9. Both Governments consider that new institutions are needed to cater adequately for the political, social and economic interconnections on the island of Ireland, to further the process of co-operation and understanding and promote agreement between both parts. They agree these institutions should include a North/South body, on the lines of a Council of

Ministers, duly mandated by legislation in both sovereign Parliaments to discharge executive and harmonising functions over a range of matters which 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.

10. Within the overall mandate of the new Agreement, the Council's remit will include designated functions across a broad range of fields. A number of such areas were identified in the Sunningdale Agreement:

(a) exploitation, conservation and development of natural resources and the environment;

(b) agricultural matters (including agricultural research, animal health and operational aspects of the Common Agricultural Policy), forestry and fisheries;

(c) co-operation ventures in the fields of trade and industry;

(d) electricity generation;

(e) tourism;

(f) roads and transport;

(g) advisory services in the field of public health;

(h) sport, culture and the arts.

11. The Council will also be responsible for the exploitation of new opportunities in joint marketing and promotion, North-South economic development and regenerations in the border areas. It will oversee the pooling, development and optimum use on an

island-wide basis of scarce skills and assets in areas such as research and development, science and technology and human resources.

12. The Council will in particular be the instrument for development, with the support and co-operation of both Governments, a fully integrated approach for the whole island in respect of the challenges and opportunities of the European Union.

13. The Council will operate on the basis of consensus, and the discharge of its mandate will be subject to regular parliamentary scrutiny, including in any North-South interparliamentary body which may be established. Its remit should be dynamic, empowering it to progressively extend its functions to new areas wherever it can be established that economies of scale or other mutual benefit would ensue from an island-wide approach. It should be designed to develop its role to keep peace with the growth of harmonisation and with greater integration between the two economies.

14. Both Governments accept that issues of law and order in Northern Ireland are closely intertwined with the issues of political consensus. They will consider ways in which new North-South 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.

<u>East-West Structures</u>

15. Both Governments envisage a new Agreement, deepening and extending the structures of co-operation between them, reflecting the totality of relationships between the two

islands, and dedicated to fostering co-operation, reconciliation and agreement in Ireland at all levels.

16. 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 and supported by a permanent secretariat of Irish and British civil servants.

17. Both Governments agree 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.

18. The two Governments agree 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 that cross-border aspects of transferred issues are not otherwise provided for, or a breach arises of the fundamental undertakings and commitments established between the Governments, whether in the new Agreement of otherwise.

19. 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.

20. 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.

21. The Conference will also be a framework for consultations and co-ordination between both Governments and a new North-South Council, where the wider role of the two Governments is a particularly relevant to the work of such a Council, for example in operating an integrated North-South approach to the European Union. It will be for consideration by both Governments whether the Council might best be formally associated with the work of the Conference, or operate on the basis of ad-hoc consultation and co-ordination.

Constitutional Issues

22. Both Governments accept that an overall settlement requires a balanced accommodation of the differing positions of the two main traditions on constitutional issues.

23. Both Governments also accept that the central political reality in Northern Ireland, which is the absence of constitutional consensus among the people there, is not adequately reflected in the constitutional doctrines on either side, at least in their strict construction. Both Governments are open to change in their respective constitutional positions, so as to reflect more accurately the realities of the situation, the need for consent at all levels and to encourage the healing of divisions and to promote agreement among the Irish people.

24. The Irish Government will, as part of a balanced constitutional accommodation, put forward and support proposals for change in the Irish Constitution which would fully reflect the principle of consent, in particular the commitment that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland.

25. The British Government for its part accepts that the requirement of consent, thus affirmed in relation to any future all-Ireland framework, is equally valid and necessary in the context which will obtain for as long as the wish of a majority of the people

of Northern Ireland is for no change in its status. Neither of the framework set out in Article 1 of the Anglo-Irish Agreement at present commands consensus across both traditions in Ireland. It is common ground between both Governments that agreement must be sought in an open-ended accommodation between the two traditions, which transcends minority and majority categories, or concepts or victory and defeat.

26. The British Government accordingly accepts the need for new constitutional provisions for Northern Ireland which would

(i) Incorporate and reaffirm the key principles of the Joint Declaration.

(ii) As regards the status of Northern Ireland, reaffirm the criterion of respect for the democratic wish of a greater number of the people of Northern Ireland on the issue of whether they prefer to support the Union or a sovereign united Ireland.

(iii) At the same time confirm that the British Government are also open and welcoming towards the option of change, provided it is agreed freely and without coercion, and that their role in Northern Ireland will be balanced to ensure that the option of change has equal operational weight and opportunity and in particular that the impact of their administration will not constitute actively or passively a barrier or disincentive to that option.

(iv) Enshrine and safeguard, as a fundamental principle of governance and administration in Northern Ireland, the equal validity of the identities, allegiances and aspirations of both communities there, and the right of each to parity of esteem, equality of treatment, and to equally satisfactory political, administrative and symbolic expression and protection.

(v) Provide for the transfer of functions to local institutions in Northern Ireland, and for the establishment on the British side of North-South institutions, mandate to carry out designated functions as set out above.

27. Both Governments envisage that these arrangements would be complemented and underpinned by

(i) A Bill of Rights, justiciable 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 Northern Ireland.

(ii) A Charter of Covenant between the elected representatives of all the people of Ireland.

28. The Covenant would enshrine a solemn dedication to mutual respect between the two traditions in Ireland, 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 to no less extent than that provided for the nationalist community in the context of Northern Ireland under the structures of the new Agreement.

29. The Covenant would 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 of 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.

30. Both Governments agree that these issues will be examined in the most comprehensive attainable negotiations with the

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democratically mandated political parties in Northern Ireland which abide exclusively by peaceful means and wish to join in dialogue on the way ahead.

31. They intend the outcome of their work will be submitted for democratic ratification by referendum, both North and South.