

PROPOSALS BY THE BRITISH AND IRISH GOVERNMENTS FOR A COMPREHENSIVE AGREEMENT

The documents presented here constitute the proposed agreement which the British and Irish Governments sent to Sinn Féin and the DUP. Despite intensive efforts over a number of months and very considerable progress, not all elements were agreed.

We hope the people of Northern Ireland will reflect on what has been achieved and on the opportunity which this agreement, if accepted in its entirety, represents. For our part, we intend to press ahead to find ways of bridging the remaining gaps.

Proposals by the British and Irish Governments for a Comprehensive Agreement

1. Following intensive discussions at Leeds Castle and subsequently involving all the parties represented in the Northern Ireland Assembly, a basis for agreement has now been reached on the key issues identified by the Prime Minister, the Taoiseach and the parties at Lancaster House in June. These include the need to bring all forms of paramilitary activity to an end; the need to decommission all paramilitary weapons; the need for a clear commitment on all sides to the stability of the political institutions; and for the achievement of support for policing from all sides of the community.

2. Together with the fulfilment of the commitments of the two Governments relating to the full implementation of the Agreement, all of these issues have been addressed satisfactorily. There is now a basis on which we can look forward to the early restoration of the Assembly, with the prospect of stable and inclusive power-sharing government in Northern Ireland and the full operation of the North-South and East-West arrangements. The enabling steps to achieve these objectives are outlined in the annexed timetable.

3. The Governments have made clear consistently that they remain committed to the fundamentals of the Agreement reached in 1998, including the need for consent to constitutional change, for absolute commitment to exclusively peaceful and democratic means, for stable inclusive partnership government, for a balanced institutional accommodation of the key relationships within Northern Ireland, between North and South and between these islands and for equality and human rights to be at the heart of the new dispensation in Northern Ireland. None of the parties in the review of the operation of the Agreement conducted this year have dissented from these fundamental elements.

Paramilitary activity and decommissioning

4. We are confident that steps will now be taken to provide for an immediate, full and permanent cessation of all paramilitary activity by the IRA. As regards IRA weapons, the Independent International Commission on Decommissioning will issue a report later today which sets out the way forward in terms of a definitive programme to ensure that the process is completed by the end of December 2004. These developments are momentous. The prospect of a new era of lasting peace and stability, involving the ending of all paramilitary activity and other illegal activity, requires all sides to respond positively. For their part, the Governments are determined to ensure that this unprecedented opportunity for peace is secured and sustained. This major step forward by the IRA underlines the need for rapid progress in regard to the decommissioning of all paramilitary weapons from all sources. We urge all parties and relevant groups to use their influence now to address the question of arms in the possession of loyalist paramilitaries.

Political Institutions

5. The Governments and the parties have been anxious to see the earliest possible ending of the suspension of the Northern Ireland Institutions. In addition, based on the extensive discussions in the Review, the Governments have made an assessment of what changes to the operation of certain aspects of the Agreement would be broadly acceptable to the parties. Based on this assessment, the British Government will lift suspension in February 2005 once legislation has been introduced in the British Parliament to amend a number of aspects of the Northern Ireland Act 1998 and related legislation. This legislation will also provide for the removal of the power of suspension. This will enable the institutional changes outlined in the attached annex to come into effect before the formation of the new Executive.

6. To allow the parties to prepare adequately for the re-establishment of the political institutions, the British Government will also introduce legislation in December to allow the formation of a shadow Assembly. This shadow period will take effect on the completion of IRA decommissioning, at the beginning of January. Prior to this shadow period, following the IICD statement that the decommissioning process has commenced, it is envisaged that names of candidates for First and Deputy First Minister will be made public by the appropriate parties.

Policing and Justice

7. There have been extensive discussions about prospects for extending support across all sections of the community for the new policing arrangements in Northern Ireland. On the basis of these discussions, including on the key related issue of the devolution of justice and policing, we have a strong expectation that this process of decision making by Sinn Féin will be undertaken quickly. If required, the British Government will make appropriate arrangements to facilitate Sinn Féin membership of the new Policing Board once this decision making process has concluded. The Governments expect that Sinn Féin will be in a position to join the Policing Board no later than the date on which the Bill enabling devolution of policing and justice is enacted.

8. The prospects for the devolution of responsibility for policing and justice will be influenced by the effective implementation of all the developments listed in this document. Against that background, the British Government will initiate discussions with the parties on the modalities of devolution as soon as the IICD has confirmed the completion of IRA decommissioning, with the aim of agreement by the time the Executive is established. On that basis the British Government will commit to introducing into Parliament by the summer of 2005 the legislation necessary to permit devolution to take place. Such legislation will come into force as soon as possible, once sufficient confidence exists across the community, as expressed in a cross-community vote in the Assembly, proposed by the First Minister and Deputy First Minister. The British Government will work to promote the necessary confidence to allow such a vote to take place within two years.

Conclusion

9. All this represents major progress towards our goal of securing peace and political stability in Northern Ireland. There is a great deal of work to do in implementing the various commitments referred to here. The Governments expect that all the parties involved will carry out their commitments in this agreement in good faith and will make every effort to build the confidence and trust necessary for a stable and lasting accommodation. In addition to the verification mechanisms outlined above, both Governments will keep implementation of the agreement under close scrutiny with a view to ensuring that each and all of the commitments are fully implemented and that any default is identified and challenged. The Governments are determined that default by any one of the parties to this agreement would not be allowed to hinder the progress made by others in good faith.

TIMETABLE

The Agreement would unfold as follows:

Tuesday 7 December

- ❖ **by 18:00** DUP and Sinn Féin confirm their agreement to the Governments. IICD confirms to Governments that it can proceed on the basis of Annex D.

Wednesday 8 December

- ❖ **09:00** Joint Government Statement issued.
- ❖ **10:00** IRA Statement released (**Attached C**).
- ❖ **11:00** IICD Statement released (**Attached D**).
- ❖ **12:00** DUP Statement (**Attached E**).
- ❖ **13:00** Sinn Féin Statement on policing released (**Attached F**).
- ❖ **14:30** Prime Ministers hold press conference in Belfast.

December

- British Government announces legislative changes
- Emergency legislation to enable a Shadow Assembly
- IICD announces commencement of decommissioning process
- Secretary of State for Northern Ireland convenes meeting of all MLAs
- Secretary of State engages in consultations with parties and announces arrangements for an infrastructure investment seminar involving parties to be represented in the Executive
- Parties indicate who their candidates for FM/DFM will be
- Secretary of State further consults with parties and announces arrangements for an independently facilitated forum on a Bill of Rights for Northern Ireland including details of independent facilitator
- IICD report confirms 100% (end-month) of IRA arms decommissioned
- IMC Interim Report

January

- Shadow Assembly established
- Secretary of State for Northern Ireland arranges meetings with prospective First Minister and Deputy First Minister
- Establishment of shadow Assembly committees to consider modalities for devolution of Criminal Justice and Policing and preparations for government (including the draft Ministerial Code, draft Programme for Government and other preparatory issues needing discussion).
- Enactment of necessary legislation on Strands 1-3

February

- IMC report
- British Government lifts suspension
- Agreement reached on modalities for devolution of Criminal Justice and Policing

March

- FM/DFM and Executive confirmed by the Assembly
- Plenary meeting of NSMC

Early Summer

- Plenary meeting of BIC
- British Government introduces legislation giving effect to devolution of criminal justice and policing. Legislation to come into effect once sufficient confidence has been established, as expressed in a cross-community vote in the Assembly, proposed by First and Deputy First Minister.

Proposals by the British Government for changes in Strand One institutions following the review

Introduction

1. **Enhancing collectivity and accountability.** There has been general agreement that underpinning collectivity and accountability is important. Key features of existing arrangements are:
 - The Executive must agree a draft Programme for Government and Budget, which must be approved by the Assembly on a cross-community vote.
 - In most cases legislative proposals that require Assembly approval derive from Ministerial decisions. Where a Petition of Concern is invoked in respect of such legislation, the Assembly's decision must be on the basis of a cross-community vote;
 - The Pledge of Office requires Ministers to act in accordance with Executive and Assembly decisions. In the case of the NSMC and BIC, this is an explicit statutory duty, as is the report to the Assembly which Ministers must make after such meetings;
 - The current ministerial code requires Ministers to bring to the Executive for consideration and agreement certain matters (including those cutting across ministerial responsibilities, requiring agreement on prioritisation or adoption of a common position, or having implications for the Programme for Government);
 - Committees of the Assembly have a right to summon and question Ministers on any aspect of their responsibilities.
 - It was also the practice in the former Executive that Ministers brought for consideration there all proposals for public consultation on significant issues, primary and secondary legislation, significant policy proposals and announcements and decisions which were likely to be controversial. Ministers also circulated all papers which it was proposed to table at NSMC/BIC meetings in advance to other Ministers to enable any matter of concern to be brought to an Executive meeting for consideration.

Proposals

2. The following are proposals by the British Government, in the light of consideration in the review of Strand One issues.
3. **A statutory ministerial Code.** An amendment to the Northern Ireland Act 1998 would require there to be a ministerial Code, and place a duty upon Ministers (including junior Ministers), notwithstanding their executive authority in their areas of responsibility as defined in the Agreement, to act in accordance with the provisions on ministerial accountability of the Code. The Code would reflect a requirement for safeguards to ensure that all sections of

the community could participate and work together successfully in the operation of these institutions and that all sections of the community were protected. There would be arrangements to ensure that, where a decision of the Executive could not be achieved by consensus and a vote was required, any three members of the Executive could require it to be taken on a cross-community basis.

4. The 1998 Act would be amended to require inclusion in the Code of agreed provisions in relation to ministerial accountability. Consistent with paragraphs 19 and 20 of the Agreement, this would provide for the Executive to be the forum for:
 - (i) the discussion of, and agreement on, issues which cut across the responsibilities of two or more Ministers, including in particular those that are the responsibility of the Minister of Finance and Personnel.
 - (ii) prioritising executive proposals;
 - (iii) prioritising legislative proposals;
 - (iv) recommending a common position where necessary – for instance, on matters which concern the response of the Northern Ireland administration to external relationships;
 - (v) agreement each year on (and review as necessary of) a programme incorporating an agreed budget linked to policies and programmes (Programme for Government);

- (vi) discussion of and agreement on any issue which is significant or controversial and is clearly outside the scope of the agreed Programme for Government or which the First Minister and Deputy First Minister agree should be brought to the Executive.
5. The new Code would be discussed by the parties and agreed by the Executive when formed. The First Minister and Deputy First Minister would propose the Code to the Assembly. It would have effect once endorsed by cross-community support there. Any amendments to the Code would require cross-community support in the Assembly.
 6. **Assembly referrals for Executive review.** An amendment to the 1998 Act would provide for referrals from the Assembly to the Executive of important ministerial decisions. Thirty members of the Assembly might initiate such a referral, within seven days of a ministerial decision or notification of the decision where appropriate. Before he could pass the referral to the Executive, the Presiding Officer, following consultation with the parties in the Assembly, would be required to certify that it concerned an issue of public importance. The Executive would consider the issue within seven days. A second referral could not be made by the Assembly in respect of the same matter. Only matters covered by the Ministerial Code, as set out above, would require a collective decision by the Executive.
 7. Reflecting the Pledge of Office, the 1998 Act would be amended to require a Minister to act in accordance with any relevant decisions of the Executive and/or Assembly.
 8. **Amendments to the Pledge of Office.** The 1998 Act would be amended to include a requirement in the Pledge of Office that Ministers would participate fully in the Executive and NSMC/BIC, and would observe the joint nature of the office of First Minister and Deputy First Minister.
 9. **Assembly approval of Ministers in the Executive.** An amendment would be made to the 1998 Act on appointment of Ministers in the Executive. The Nominating Officer of the largest party in the largest designation in the Assembly would first make a nomination to the Assembly Presiding Officer for the post of First Minister. The Nominating Officer of the largest party in the second largest designation in the Assembly would similarly nominate for the post of Deputy First Minister. The d'Hondt procedure would then run, as already set out in the 1998 Act, to fill the Ministerial posts in the Executive. The Presiding Officer would put to the Assembly an Executive Declaration listing the entire resulting Executive (FM, DFM and Ministers). The Executive Declaration would require approval by the 50:50:50 criterion. In order to uphold the right of every party, so entitled by its electoral strength, to nominate an MLA of its choice for ministerial office, only one Executive Declaration could be tabled by the Presiding Officer. If approval was not achieved within six weeks from the date on which the Assembly first met, there would, as under the present procedures, be a new Assembly election. No minister would be allowed to remain in the Executive if he or she had not voted in favour of the Executive Declaration, and if the nominating officer of his or her party did not nominate another MLA who had done so, d'Hondt

would be re-run excluding that party. Where a vacancy arose later in the office of the FM or DFM, the nominating officers of the parties entitled to nominate as above for the two offices would do so, following which the Presiding Officer would put to the Assembly a partial Executive Declaration, for approval by the 50:50:50 criterion. Where a vacancy arose in another ministerial office, it would be filled as at present. It will be a matter for the standing Institutional Review Committee referred to in paragraph 12 to consider whether the new procedures should continue beyond the life of the present Assembly.

10. **Functions of Office of First Minister and Deputy First Minister.** The First Minister and Deputy First Minister would reach agreement as to whether any functions of the current OFMDFM should be transferred to other departments, and would put proposals to the Executive and Assembly accordingly.
11. **Committee of the Centre.** An amendment to the 1998 Act would provide for the existing Assembly Committee of the Centre to be placed on a statutory footing like that of other departmental scrutiny committees.
12. **Reviews.**
 - An amendment to the 1998 Act would provide for the Assembly to appoint a standing Institutional Review Committee, to examine the operational aspects of the Strand One institutions. Matters to be reviewed in this way would be agreed among the parties. The Committee's reports would be considered by the Executive and Assembly, and, where agreed changes required legislative steps outside the scope of the devolved institutions, by the British Government in consultation as appropriate with the Irish Government.
 - The First Minister and Deputy First Minister would appoint an Efficiency **Review Panel**, to examine efficiency and value for money of aspects of the Strand One institutions. The FM/DFM would put to the Assembly for approval proposals for the panel's remit, which might include the size of the Assembly and the departmental structure. The Panel would take into account as appropriate the work of the Review of Public Administration. The Panel's report would be considered by the Executive and Assembly, and, where agreed changes required legislative steps outside the scope of the devolved institutions, by the British Government in consultation as appropriate with the Irish Government.
13. **Repeal of the Northern Ireland Act 2000.** In accordance with the Government's earlier commitments in the context of acts of completion, it would propose to Parliament the repeal of the 2000 Act, which provides for suspension.
14. **Community designation.** An amendment to the 1998 Act would provide that an Assembly Member would not be able to change community designation for the whole of an Assembly term from that expressed at the time of nomination for election, except in the case of a change of membership of political party.

Proposals by the British and Irish Governments for changes in Strands Two and Three institutions following the review

The following are proposals by the British and Irish Governments, following consideration in the review of Strands Two and Three issues.

1. **Executive role in preparation for NSMC and BIC meetings.** The amendment to the Northern Ireland Act 1998 on a ministerial Code, described in the British Government's Strand One proposals, would bear on Executive proceedings relating to the North-South Ministerial Council and British-Irish Council.
2. The Code would provide that draft NSMC and BIC decision papers would be circulated to all Executive members within a period (to be decided by the Executive) in advance of a scheduled NSMC or BIC meeting. Any member of the Executive would have the right to seek an Executive discussion on such a paper. Notwithstanding the lead Minister's executive authority in his/her area of responsibility as defined in the Agreement, where the Code provided that certain matters should be considered/agreed in the Executive Committee (see paragraphs 3 to 5 of the British Government's Strand One proposals), this would apply to any draft NSMC/BIC decision papers falling within those agreed provisions.
3. **Attendance at NSMC and BIC.** Amendments to the 1998 Act would provide for a minister with lead departmental interest in an issue under consideration at an NSMC/BIC meeting to be entitled to attend (with a power for a minister so entitled, by consent, to arrange for another minister attending to discharge his/her responsibilities), and a power for the FM/DFM to adjudicate where a Minister's lead departmental interest was disputed. There would also be a statutory obligation on FM/DFM to nominate for attendance at NSMC/BIC a replacement for a lead Minister if that Minister was not proposing to attend the meeting in question, and had not arranged for a replacement Minister to discharge his/her responsibilities. There would be a statutory power for the FM/DFM to require such relevant information from the lead department as would be necessary for the NSMC/BIC meeting in question. Finally, reflecting the existing requirement for representation of the Executive on a cross-community basis at meetings of the NSMC/BIC, there would be a statutory obligation on the FM/DFM to nominate the other Minister whose presence is necessary to fulfil that requirement.
4. **NSMC/BIC agendas.** The relevant legislation would be amended as necessary to make clear that where a matter on the agenda for a meeting of the NSMC or BIC was one outside the responsibilities of a Minister due to attend, because it was outside his or her departmental responsibilities and not covered by a transfer of authority from another Minister, it would be subject to a decision of the Assembly.
5. **Review.** The Northern Ireland Executive and Irish Government, under the auspices of the NSMC, would appoint a Review Group to examine objectively (1) the efficiency and value for money of existing implementation bodies and

(2) the case for additional bodies and areas of co-operation within the NSMC where mutual benefit would be derived. The Group would also input into the work commissioned by the NSMC in June 2002 on the identification of a suitable substitute for the proposed Lights Agency of the Foyle, Carlingford and Irish Lights Commission. The Group would report with recommendations to the NSMC. Any changes to the existing arrangements would require the specific endorsement of the Assembly and Oireachtas. In the meantime, the NSMC would continue to oversee the ongoing work of the Implementation Bodies and work in the areas of co-operation.

6. **Assembly/Oireachtas scrutiny of implementation bodies.** Chairs and Chief Executives of North/South bodies, when called upon and at least yearly, would appear before relevant Assembly Committees. There is provision in the South for similar arrangements in relation to the Oireachtas.
7. **North-South Parliamentary Forum.** The Northern Ireland Executive would encourage the parties in the Assembly to establish a North-South parliamentary forum bringing together equal numbers from the Oireachtas and the Assembly, and operating on an inclusive basis.
8. **Independent Consultative Forum.** The Northern Ireland Executive would support the establishment of an independent North/South consultative forum appointed by the two Administrations and representative of civil society.
9. **Secretariat of British-Irish Council.** Following consultation with its other members, and with a view to giving further impetus to its work, the two Governments would facilitate the establishment of a standing secretariat for the British-Irish Council, if members agree.
10. **East-West Interparliamentary Framework.** Following appropriate consultation with the British-Irish Interparliamentary Body, the two Governments would encourage the Oireachtas, the British Parliament and the relevant elected institutions to approve an East-West Interparliamentary Framework which would embrace all their interests. The framework would operate on an inclusive basis.

STATEMENT

1. Against the background of the ongoing and protracted IRA cessations, the leadership of Óglaigh na hÉireann has periodically asserted the view that the political responsibility for advancing the political situation rests with the two Governments, especially the British Government and the political parties.

2. A comprehensive agreement between the two Governments and the political parties to achieve a just and lasting peace has been secured. We welcome that.

3. The full and speedy implementation of the comprehensive agreement now achieved, as all sides, including the two Governments, are now pledged to do, will, by removing the causes of conflict, allow Unionists and Republicans to pursue our political objectives peacefully and as equals. The future of the people of this island must be one in which the rights, identity, culture and contribution of everyone including Unionists is fully respected.

4. The IRA leadership is determined to support this comprehensive agreement. The all-Ireland nature and implementation on an enduring basis of this agreement by the democratically elected representatives of the Irish people enables us all to take political objectives forward by peaceful and democratic means. This creates the conditions for the IRA to move into a new mode that reflects its determination to see the transition to a totally peaceful society brought to a successful conclusion. Consistent with this and recognising the need to uphold and not to endanger anyone's personal rights and safety, all IRA volunteers have been given specific instructions not to engage in any activity which might thereby endanger the new agreement.

5. We have also made it clear that the IRA leadership will, in this new context, conclude the process to completely and verifiably put all its arms beyond use. Accordingly the IRA leadership has agreed with the IICD to complete this process in a way which further enhances public confidence and to conclude this by the end of December.

Elements for an IICD Statement

1. We have had further meetings with the IRA representative and have agreed arrangements which will see all IRA arms put beyond use by the end of December 2004. We have had up-to-date assessments from British and Irish security sources of IRA arms holdings to assist us in that regard.
2. It is our intention to issue further reports in relation to IRA arms: a statement on the commencement of the decommissioning process and a final report at the end of December, when the process of putting IRA arms beyond use is complete. The significance of such an agreement will be unparalleled.
3. The Commission has pursued the agreed remit given to us in strict adherence to the legislative terms which govern our existence and activities. The independence and integrity of the IICD are central and indispensable elements of the decommissioning process. We continue to believe that a report by the IICD marking the successful completion of our task in respect of IRA arms is the most effective way to enhancing public confidence.
4. We are aware, however, that some have argued that more is required in respect of the transparency of the decommissioning process. On the basis of our recent contacts with the IRA representative, we are satisfied that this will form part of our two further reports. The IRA representative has indicated that, in response to our request to agree mechanisms which would enhance public confidence in the decommissioning process, additional arrangements will be put in place. These will include the presence as observers during the process of two clergymen nominated by the two Governments following appropriate consultation. These witnesses will be able to make public statements to the following effect on publication of the final IICD Report in December:
 - (a) that they themselves have attended each decommissioning event that has taken place since their appointment as independent witnesses;
 - (b) that the inventory compiled by the IICD is a true reflection of what was decommissioned.
5. In addition, the IRA representative has told us that the IRA will have photographs of the weapons and materiel involved taken by the IICD, in the presence of the independent observers. These photographs will be shown by the IICD to the two Governments and the parties at the time of the final report on IRA decommissioning and will be published at the time the Executive is established.
6. We now look forward to progress in decommissioning the weapons held by other groups.

Sinn Féin Statement on policing

“I will propose to the SF Ard Chomhairle that it calls a special Ard Fheis to decide on Sinn Féin’s support for new policing arrangements in the context of:

- agreement between the parties on the departmental model and the powers to be transferred; and
- the enactment by the British Parliament of the legislation to give full expression to this transfer of powers on policing and justice away from London.

The unresolved issue of policing was a central focus for Sinn Féin in our recent discussions with the two Governments. For nationalists and republicans the experience of policing within the north has been historically negative. This is a huge challenge which can only be achieved in the context of fundamental change sustained by effective democratic mechanisms.

As a result of our discussions we now have a commitment from the British government and the DUP to the transfer of powers on policing and justice to the Assembly as soon as possible, a DUP commitment to a speedy, time framed discussion on the departmental model and the powers to be transferred with a view to agreement by the time the Executive is established, and a commitment from the British Government that it will enact in 2005 the necessary legislation to enable the transfer of policing and justice powers away from London.

In light of these critically important developments I now intend to call together an Ard Chomhairle meeting and to recommend to it that we convene a special Ard Fheis to decide on the issue of policing as soon as the legislation is enacted.