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**An Comhchoiste um Feidhmiú  
Chomhaontú Aoine an Chéasta**  
Ceachtanna ó údair Chomhaontú  
Aoine an Chéasta

Márta 2023

**Joint Committee on the Implementation  
of the Good Friday Agreement**  
Lessons from the Architects of the  
Good Friday Agreement

March 2023



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Witnesses	Date	Transcript
Tim O'Connor, former senior official, Department of Foreign Affairs	26 May 2022	<a href="#">Architects of the Good Friday Agreement</a>
David Donoghue, former senior official, Department of Foreign Affairs	2 June 2022	<a href="#">Architects of the Good Friday Agreement</a>
Rory Montgomery, former senior official, Department of Foreign Affairs		
Jonathan Powell, chief of staff to Prime Minister, Tony Blair (1997-2007)	30 June 2022	<a href="#">Architects of the Good Friday Agreement</a>
Mark Durkan, key Member of the SDLP negotiating team, Deputy First Minister (2001-2002), Leader of the SDLP (2001-2010)	29 September 2022	<a href="#">Architects of the Good Friday Agreement</a>
Lord Alderdice, leader of Alliance Party (1987-1988), first Speaker of the Northern Ireland Assembly (1998-2004)	6 October 2022	<a href="#">Architects of the Good Friday Agreement</a>
Bertie Ahern, former Taoiseach	20 October 2022	<a href="#">Architects of the Good Friday Agreement</a>

US Senator George J. Mitchell, co-chair of the Multi-Party Negotiations

27 October 2022

[Architects of the Good Friday Agreement](#)

John Bruton, former Taoiseach

8 December 2022

[Architects of the Good Friday Agreement](#)

Gerry Adams, former leader of Sinn Féin

15 December 2022

[Architects of the Good Friday Agreement](#)

Wally Kirwan, former senior official at the Department of the Taoiseach

19 January 2023

[Architects of the Good Friday Agreement](#)

Ambassador Eamonn McKee, senior official in the Department of Foreign Affairs

Martin Mansergh, former Minister of State, political adviser to Taoisigh Charles Haughey, Albert Reynolds, and Bertie Ahern.

Sir John Major, former UK Prime Minister

26 January 2023

[Architects of the Good Friday Agreement](#)

Liz O'Donnell, former Minister of State at the Department of Foreign Affairs

16 February 2023

[Architects of the Good Friday Agreement](#)



Bronagh Hinds, founding  
member of the Northern  
Ireland Women's Coalition

2 March 2023

[Architects of the Good  
Friday Agreement](#)

Lord Empey, key member of  
the Ulster Unionist Party  
negotiating team in the  
Multi-Party Negotiations,  
former Northern Ireland  
Minister of Enterprise, Trade  
and Investment, leader of  
Ulster Unionist Party 2005-  
2010

9 March 2023

[Architects of the Good  
Friday Agreement](#)

## Cathaoirleach's Foreword



This Easter will mark the 25th anniversary since the successful conclusion of the Good Friday Agreement on April the 10th, 1998. The Agreement was an extraordinary achievement that brought an end to three decades of violence and ushered in a new dawn of stability in Northern Ireland.

The Agreement however remains under threat despite the fact that the majority of population from Northern Ireland supported its implementation.

With that in mind the upcoming anniversary of the Agreement will draw political and community leaders from all sides together and along with the announced visit of the US President will present opportunities that simply must be grasped. The improved relations with the British government represents an opportunity for renewed and strengthened dialogue and constructive outcomes.

The involvement of the US Special Envoy, Joe Kennedy also brings another voice for compromise and economic growth to the table.

The anniversary provides a moment for reflection on what was achieved and what is still left to be done. The Joint Committee on the Implementation of the Good Friday Agreement has met with the Architects of the Agreement to better understand how the Agreement came to be and what lessons we can learn to inform politics today. I would like to thank the witnesses both for their time and generosity in sharing their experiences with us and for their immense contribution to securing peace on this island.

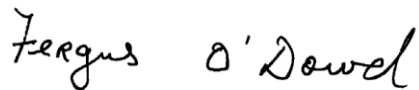
While we have tried to bring in a wide array of perspectives, this report is by necessity incomplete. The passage of time has meant some of the giants of the Peace Process are no longer with us. A particular debt is due to the contributions of John Hume, David Trimble, Albert Reynolds, Martin McGuinness, David Ervine, and Mo Mowlam.

Securing peace in Northern Ireland took an enormous degree of conviction, certainty, and determination from its leaders and importantly it removed doubt and hesitation, and provided a platform for people to show a willingness to change.



Peace on this island is the result of countless unknowable conversations where people paused, listened, changed their minds and changed history.

Finally, this report is incomplete because peace in Northern Ireland remains a process. While violence has all but ended, this does not in itself amount to peace. This is not the sum total of the promise of the Good Friday Agreement. Some provisions of the Agreement are yet to be implemented while implementation in other areas needs much greater focus and determination to progress. Fundamentally, this report is a rallying cry for renewed commitment to mediation and reconciliation.



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Fergus O'Dowd TD

Cathaoirleach

Joint Committee on the Implementation of the Good Friday Agreement

March 2023

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## Summary

This report is based on a series of engagements with the “Architects of the Good Friday Agreement”. The report seeks to understand how the Good Friday Agreement came to be agreed in 1998 and what we can learn from the process to inform politics today. The Committee heard from a range of political actors, diplomats, and civil servants who were involved in the negotiations. To better understand the path to the Agreement, the Committee also heard from Sir John Major and Mr John Bruton, who shared their experiences of the years leading up to the Agreement.

While the report captures the perspectives of those involved in 1998, it also asks their views about the implementation of the Agreement today and what we can learn from their experiences. The Committee discussed the challenges of incomplete implementation of the Good Friday Agreement, as well as Brexit, the legacy of the Troubles, the constitutional future of the island, and the need for reconciliation.

This report will first explore why it was possible to reach an Agreement in 1998 and what lessons we can learn from the process. The report will then examine areas where witnesses identified weaknesses of the Agreement. Finally the report looks ahead to the future of the Good Friday Agreement.

## Chapter 1 – Introduction

1. The importance of the Good Friday Agreement was outlined by many of the witnesses, with some describing involvement in it as their highlight of their public lives.
2. Senator George Mitchell, in his address to the Committee, said “From 1995 through 1999, I had the privilege of serving in Northern Ireland. I am often asked about what about those years is most important to me. My answer is in the following numbers: between 1968 and 1998 in Northern Ireland during what had come to be known as the Troubles, approximately 3,500 people were killed and an estimated 50,000 were injured and between 1998 and the present, there have been approximately 160 security-related deaths. I believe that latter figure includes the 30 people killed in a single tragic bombing in Omagh in August 1998.”
3. Bertie Ahern described to the Committee the importance of the Agreement, “Nothing about securing that agreement was easy. Members do not need me to tell them that nothing about its implementation has been easy either, but let nobody say that it has not made a difference, and a huge one at that. Today, almost 25 years later, we can look back on a generation of peace, a generation in which the guns have been largely silent and a generation in which a life unimaginable over the previous three decades has been possible for everybody in Northern Ireland”.
4. Sir John Major highlighted the significance of the role of the people in Northern Ireland in bringing about peace, stating “The Peace Process did not progress simply because of the politicians and their officials. The Northern Ireland community, definitely the churches, individual clerics, groups such as the Peace Women, and so many others all played a part in framing public opinion at difficult moments and carrying the whole Peace Process forward at times when it looked to be in difficulty. I hope that no one person, group, political party or ideology will now risk imperilling the peace so carefully constructed by so many for so long.”

## The Difficult Journey to the Good Friday Agreement

5. The meetings in this series focused primarily on the period from the Peace Process in the 1990s onwards, culminating in the Good Friday Agreement on 10 April 1998. The Committee also heard the witnesses' perspectives on implementation of the Agreement and on current challenges.
6. The success of the Good Friday Agreement was due in part to factors present in 1998 such as political investment from the new Governments in the UK and Ireland, and alignment through shared membership of the European Union. However, the success of the Agreement also builds on years of effort to reach consensus and build trust, in spite of frequent setbacks.
7. Several witnesses outlined the extent to which the ground had been laid for the Good Friday Agreement in previous years. As stated by Mark Durkan, "That Agreement was not only the result of concentrated negotiations in the weeks and months leading up to 10 April 1998. Its achievement rested on layers of understanding built up in disparate phases including the New Ireland Forum, the Anglo-Irish Agreement, the Hume-Adams dialogue, the Brooke-Mayhew talks and the Forum for Peace and Reconciliation."
8. The Committee heard about the vital role played by previous agreements in building consensus around the concepts underpinning the Good Friday Agreement, in particular through the Downing Street Declaration of 1993 and the Framework Documents of 1995. According to senior Department of Foreign Affairs official David Donoghue, "Between them, those two documents, in a sense, were trying to demonstrate to republicans that if they were to abandon violence and commit absolutely to peaceful politics, they could take part in a comprehensive talks process, which would validate Irish unity as a legitimate political objective and would also ensure a level playing field for people of both traditions, in a careful balancing of two key concepts, namely, self-determination and consent."

9. The Committee heard from both Sir John Major and Mr John Bruton about the difficulties of the Peace Process in this period, which were marked by both significant breakthroughs and violent incidents including the Warrington bombings, the Shankill Road bombing and the Greysteel murders. Sir John outlined to the Committee his decision to engage with the IRA in spite of violent incidents such as the Warrington bombing, saying “My judgment of this was that the IRA believed that continuing violence would reassure their members - their volunteers - that there was no weakness on the provisional side, and so we decided to continue with talks.” He later added, “many people thought the smack of firm government would result in its being said that we are not going to deal with these people anymore, but there is a reverse to that. If that smack of firm government had taken place and we had decided not to deal with the Provisional IRA anymore, the violence would have gone on and more little boys and others would have been subjected to the same sort of violence.”
  
10. Mr Bruton outlined the aftermath of the republican and loyalist ceasefires, “On 31 August 1994, the IRA had announced “a complete cessation of military activities”. A loyalist ceasefire had followed on 13 October. As well as not being permanent, the IRA cessation of military activities was not complete either. I remember the following names because I was in office at the time: Frank Kerr, a post office worker, was shot by the IRA during a robbery on 10 November 1994; on 8 December 1994, 28 years ago today, Paul Dunne was shot by the IRA off the Lisburn Road; on 18 December, a date whose anniversary is a few days from now, Francie Collins was shot on Lepper Street and, on the following day, Chris Johnson was shot on Cooke Street; and on 1 January 1996, Ian Lyons was shot by the IRA. In the 14 months after the IRA announced its “complete” cessation of military activities on 31 August 1994, 148 punishment beatings were conducted by republicans. This was more than three times as many punishment beatings as the IRA had inflicted in the 14 months prior to its complete cessation of military activities in August 1994”.
  
11. Notwithstanding the violence and difficulties of these years, the efforts of the British and Irish Governments in the 1990s laid the groundwork for the Good



Friday Agreement. Sir John described the significance of the Downing Street Declaration as follows, “At last, we had the basis of an agreement that received overwhelming support from nearly every source. However, it was a basis only: a set of agreed principles. It was a beginning. Yet, after 70 years of partition and 24 years of bloodshed, it was an agreement both the UK and Ireland could accept. From then on, I was confident a deal could eventually be done and so was Albert Reynolds. A mini Rubicon had been crossed. The text was convoluted but it served its purpose. It promised a fair outcome. The unionists were reassured a united Ireland would only come about with their consent. Nationalists were promised their interests would be protected. The paramilitaries were offered a route into political life. This was all an essential preliminary to the Good Friday Agreement”.

## Chapter 2 – How did the Negotiations succeed?

12. The Good Friday Agreement brought an end to decades of violence and has been lauded as a successful example of a peace negotiation around the world. It succeeded where previous attempts to reach agreement had not. In the Committee meetings, the Architects of the Good Friday Agreement were invited to share the lessons they learned from the process. This chapter explores the key elements that made the 1998 negotiations successful.

### Partnership between the United Kingdom and Ireland

13. The Committee heard about the centrality of partnership between the United Kingdom and Ireland to the Peace Process. Bertie Ahern spoke of his view that it was only with the British and Irish Governments working “hand in glove” that progress could be made in Northern Ireland. Mr Ahern outlined how he and Mr Blair “lived this shared view on literally a daily basis”.

14. Several witnesses commented on the remarkable partnership between Tony Blair and Bertie Ahern. Tim O'Connor, a senior official from the Department of Foreign Affairs, described to the Committee how this impacted the broader dynamics, remarking that the two premiers would arrive and go to the same room and sit together, adding “they were like brothers”. This closeness impacted the broader dynamic of the negotiating teams, with the teams of officials working closely together as a result. Jonathan Powell, Chief of Staff to Tony Blair, similarly remarked on the impact of Mr Blair’s and Mr Ahern’s relationship on the wider teams, “First, building that trust with Bertie Ahern was crucial because Tony Blair was able to work seamlessly with him. Mr. Ahern did not think we were trying to pull something over on him at any stage. We were not, and vice versa.... once there are good relations between the principals it is much easier to have good relations all the way down the official chain”.

15. The partnership between Mr Blair and Mr Ahern followed a strong relationship between the United Kingdom and Ireland in the earlier years of the Peace Process in the 1990s. Sir John Major outlined the positive co-operation he had

with both Albert Reynolds and John Bruton. John Major and Albert Reynolds had developed a relationship when they were both Finance Ministers and attended European Union meetings. They were able to capitalise on this relationship in building trust when they became opposite numbers as heads of Government. Sir John described how this relationship was established quickly, by inviting Albert Reynolds to a private supper within a fortnight of taking office, “The first conversation we had was when I invited him over to No. 10. We had a private supper for two - no officials, just us - in the white room on the first floor and it was at that discussion, when we were completely relaxed, that we turned to the Peace Process and the absolute inability of either of us to understand how it could possibly be tolerable to anyone. We were on the same route exactly from the very start”.

16. A strong partnership between Ireland and the United Kingdom cannot be taken for granted. Sir John expressed surprise that prior to the 1990s there were no regular meetings between the British and Irish Governments. He later highlighted the role of the European Union in building a positive relationship between the United Kingdom and Ireland, “When Ireland joined the European Union, it changed the relationship with the UK as well because there we were, at the same meetings, with the same common interests. We did not have to artificially arrange a summit or a meeting, travel to Dublin or travel to London; there we were, together in the same place. It certainly was extremely helpful. That simple fact was extremely helpful in actually improving the relationship, letting Ministers get to know one another better and indeed, get to know each country better because each country’s interests were often expressed during EU meetings and we heard them”.

17. The Committee also discussed contemporary challenges with the relationship between the United Kingdom and Ireland, including threats posed to the Good Friday Agreement by legislative developments in Westminster such as proposals to replace the Human Rights Act with a Bill of Rights, the Northern Ireland Troubles (Legacy and Reconciliation) Bill, the long-running dispute over the Northern Ireland Protocol. As the Committee concluded its sessions in this series,

there were indications of positive developments in resolving the dispute on the Northern Ireland Protocol.

18. Current difficulties in the relationship between Ireland and the United Kingdom were attributed to the decision of the United Kingdom to leave the European Union. As described by Tim O'Connor, "Brexit has been a huge disturbance in the positive force of the Good Friday Agreement. It has brought back into play the whole question of the sovereignty of Northern Ireland and if it is British or Irish. All of those questions are back in play when we had kind of calmed them down and put them into a very careful, delicate space." According to Liz O'Donnell, "Brexit poisoned the well and polarised politics between the two largest parties of government in Northern Ireland and between the UK and Ireland. This in turn has caused the institutions not to sit since the last elections in May of last year." Ms O'Donnell added that there is progress underway with the British Government under Prime Minister Rishi Sunak.
19. Some witnesses expressed concern at the loss of opportunities for the British and Irish Governments to meet as a result of Brexit. In this context, Bertie Ahern underlined the need to maximize the Good Friday Agreement in order to ensure opportunities to meet, saying, "Sometimes I hear people saying we need a new model so we can meet, as the British are no longer in Europe. We do not need a new model; all we need to do is implement the model we have, which is the British-Irish Intergovernmental Conference. It should be meeting regularly".

### **Support from International Partners**

20. In addition to the close partnership between Ireland and the United Kingdom, the Peace Process was driven by an array of international actors who served to bring in an outside perspective, catalyse progress and build trust. This section will highlight the role of the US and the European Union. Bertie Ahern also highlighted the contribution to the Peace Process by Harri Holkeri (Finland), John de Chastelain (Canada), Cyril Ramaphosa (South Africa) and Martti Ahtisaari (Finland).

21. The Committee heard from Department of Foreign Affairs official Eamonn McKee about the efforts of the Department to build international support for the Peace Process. The Department of Foreign Affairs, as well as the Department of the Taoiseach and the Department of Justice, invested significant human resources in Northern Ireland. In the case of the Department of Foreign Affairs, diplomats who had developed expertise on Northern Ireland were then posted to strategic locations such as Washington, Boston and London to strengthen international support, in particular in the United States. Mr McKee emphasised the importance of continued investment in the Ireland's relationship with the United States. This is reflected in the whole of government "Global Ireland 2025"<sup>1</sup> strategy which has seen a significant expansion of Ireland's diplomatic presence in the United States.

### Support for the Peace Process from the United States

22. The United States of America played a vital role in the Peace Process. The Committee heard about the key role played by the Clinton administration, shaped by the 'unrivalled' knowledge of Northern Ireland of President Clinton. He was described by Department of Foreign Affairs official David Donoghue as "a third partner to those negotiations". Jonathan Powell recalled "Bill Clinton himself played a role in the three days around Good Friday on the phone, staying up all night and cajoling people. I particularly remember his call to the unionist leadership and I came down to tell them it was happening".

23. Mr Powell also commented that the decision by President Clinton to grant a visa to Gerry Adams in 1994, in spite of opposition from the United Kingdom, had been the right thing to do as it "gave political hope". Eamonn McKee highlighted the importance of this decision, saying "...if the republicans were going to surrender the leverage of violence, they needed an assurance that they would have the ear of Washington and they knew that was really important, as did we".

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<sup>1</sup>Launched 2018, Global Ireland 2025 is a multi-annual, whole-of-government strategic initiative to double the scope and impact of Ireland's global footprint by 2025 [gov.ie - Global Ireland: Ireland's Global Footprint to 2025 \(www.gov.ie\)](https://www.gov.ie/en/global-ireland-ireland-s-global-footprint-to-2025/)

24. The US also played a key role by creating external pressure for progress.

According to Mr McKee, “One cannot over-exaggerate the sensitivity of Downing Street to the White House across all kinds of briefs. When the White House is engaged it makes a huge difference. Certainly, Irish diplomatic efforts throughout the conflict in Northern Ireland focused in Washington on the development of the Friends of Ireland group in Congress and the Senate. That was a great investment and always paid dividends.” Mr McKee highlighted the ongoing importance of the US in the implementation of the Good Friday Agreement and the attention paid by President Biden to efforts to restore the institutions, “That gives huge momentum and builds up the opportunity to restore the institutions in Northern Ireland”.

25. John Bruton identified the 1995 visit by President Clinton as a catalyst in reaching agreement with then Prime Minister John Major on the so-called “twin track” approach, which enabled progress in parallel on decommissioning and on all-party negotiations, “The twin-track approach was basically pushed on the basis that the US President was coming and we had an opportunity and a deadline. We have to seize deadlines when they are there and use them as leverage to get something”.

26. One of the most significant elements of US involvement in the Peace Process was the appointment of Senator George Mitchell as Special Envoy for Northern Ireland from 1995 – 2001. Senator Mitchell led the International Commission for Decommissioning and then chaired the Multi-Party Negotiations that resulted in the Good Friday Agreement. Many of the witnesses paid tribute to the immense contribution of Senator Mitchell to the Peace Process, praising his communication and negotiation skills and his success in building trust among the delegates. He has been described as “extraordinarily important in keeping the show on the road” and “a masterful Chair”.



27. Other witnesses highlighted the role played by Irish America in building support for the Peace Process, in particular the contribution of Niall O'Dowd<sup>2</sup> who acted as a link between the Clinton administration and Gerry Adams. According to Gerry Adams, "Niall O'Dowd was crucial. He was a journalist and publisher and was watching from afar. He came to meet me and a few others, and then he went back and started to talk to influential people. He said that there was potential, and that something was happening which we could get behind. He used the phrase, "we can think outside the box". All these people gave confidence at different times that peace was possible".

28. Notwithstanding the vital role played by international actors in bringing about the Agreement, witnesses emphasised the homegrown nature of the Peace Process. As stated by Senator Mitchell, "I cannot, nor do I think anyone can impose an agreement from the outside. It must be internal, organic and created by those directly involved as was the case in 1998. I recall how on the first day of the main negotiations, which ultimately lasted nearly two years, I told the delegates that I did not come with an American plan. There was no external plan. If an agreement could be reached, and I said I believed this was possible, it would have to be their agreement. It had to be the agreement of the people who were going to be affected by it and live under it".

### Membership of the European Union

29. The Committee heard about the importance of shared European Union membership in reaching the peace agreement. During the negotiations, shared Membership of the European Union was taken for granted and was not explicitly discussed. According to Liz O'Donnell, "...I can vouch for the fact that of all the scenarios we considered, not once did anyone anticipate that the UK might leave the European Union. On the contrary, the Agreement anticipates the benefits of free movement of peoples on both sides of the Irish Sea as co-members of the EU. And envisaged a role for the [North/South] institutions for implementing EU legislation and directives. So when the British people voted to leave the EU on

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<sup>2</sup> Niall O'Dowd is the brother of Fergus O'Dowd TD, Cathaoirleach of the Joint Committee on the Implementation of the Good Friday Agreement

that day in 2016, it immediately presented a huge threat to the Good Friday Agreement”.

30. The Committee heard that the European Union also underpinned the concept of peace being developed through the Peace Process. Tim O'Connor told the Committee “John Hume was huge in promoting the idea that the EU is the greatest example of conflict resolution in human history, which is right. We drew on the EU model both as an inspiration for conflict resolution and as a model for its institutions, with the PEACE programme and the financial support we got from member states and the Commission. The EU was a very big part of the outer circle of support around us”.

## Political investment and courage

### Political Investment

31. As highlighted above, co-operation between the United Kingdom and Ireland was vital to progressing peace in Northern Ireland. The Committee discussed the remarkable commitment to resolving the conflict in Northern Ireland shown by both Tony Blair and John Major, despite the lack of political priority generally given to Northern Ireland in British politics. As Jonathan Powell put it, “there are precisely no votes relating to Northern Ireland in British politics. One would not do it in order to win political success”.
32. In his opening statement before the Committee, John Major outlined why he had given such priority to Northern Ireland, adding that he spent a long time reading into the problem at the beginning of his Premiership; “...Why did I become so concerned about what we loosely call the Troubles? The answer is simple. Life in Northern Ireland over the previous 25 years had never been free from terror and, to me, violence was as unacceptable there as it would have been anywhere else in the UK. It was for this reason, that, between 1990 and 1997, I visited Northern Ireland more often than any other location, either in the UK or overseas”.
33. Asked about Tony Blair’s commitment to Northern Ireland, Jonathan Powell speculated that his interest came in part from time spent as a child in Donegal

with an “Orange grandmother” but added that he was also motivated by a “commitment to making peace”. He emphasised the centrality of Northern Ireland to the Blair Government, “It was also important that we were running this Northern Ireland thing from 10 Downing Street. Sometimes we were criticised for that, but it was a symbol of how important getting to peace in Northern Ireland was to Tony Blair. He wanted it to take up a good deal of time for himself, his chief of staff and 10 Downing Street”.

34. Jonathan Powell also emphasised efforts made by Tony Blair to take a bipartisan approach to Northern Ireland. He noted that as Leader of the Opposition, Tony Blair shifted the Labour Party’s policies from being a persuader for unity to bipartisan support for John Major’s efforts to reach peace. Witnesses also noted the importance of cross-party support for the Peace Process in Ireland. Liz O’Donnell commented that in Ireland the Peace Process was a Government driven political project “blessed with all-party support in the House”. John Bruton highlighted that when he took office he offered to keep Fianna Fáil adviser on Northern Ireland Martin Mansergh, in an effort to build on the work of his predecessor Albert Reynolds.

35. The Peace Process was also invigorated by the election of new leaders with strong mandates to advance peace. Jonathan Powell commented, “Both [Tony Blair] and Bertie Ahern did not quite have the burden of history that someone from a previous generation, such as Mrs. Thatcher, would have had on Irish questions. For them there was a much more open mind and they saw the need to get to peace, to get Northern Ireland politics working properly and to remove the poison of identity from it”.

### Political Risk

36. Many witnesses paid tribute to the courage and leadership of politicians in Northern Ireland. Commenting on his involvement in the Northern Ireland Peace Process, Senator Mitchell said “To me it was an example of the best that human beings are capable of. I came away with and I retain a tremendous admiration for the men and women who reached that agreement. They were ordinary people ...

They had spent their entire lives in conflict. Many of them had been shot at. Some had been shot. Many had been in prison for violent crimes but they were determined not to return to that. As a result, they demonstrated what could be done. Personally, I think it is a lesson not just for the people of Ireland and the United Kingdom but for the people the world over about how strength and courage can rise to the occasion and can meet even the most difficult and complex of challenges for their mutual safety, security and benefit”.

37. The Committee heard about the immense contribution of John Hume to peace in Northern Ireland, both as the intellectual architect of the three strand approach to the Agreement and as a persuader for peace. This included a series of secret meetings from the late 1980s until early 1990s between John Hume and Gerry Adams, known as the “Hume-Adams” dialogue. When the dialogue became public in 1993, Mr Hume faced an enormous backlash. Commenting on the revelations, Department of Foreign Affairs official Eamonn McKee said “the vitriol directed at John Hume was quite astonishing for a man who was absolutely dedicated to peace and who had a strategic insight that if there was going to be peace in Ireland, it was not going to happen by building the middle ground outwards.” .

38. The Committee heard about the political bravery shown by David Trimble in reaching agreement in spite of criticism from the DUP and from within his own party. According to Department of Foreign Affairs negotiator Rory Montgomery, “David Trimble, while politically not always an easy interlocutor, to put it mildly, showed extraordinary bravery as a leader. He brought his party through a series of knife-edge votes in favour of staying in the institutions in the agreement. I do not believe any other of the political leaders involved would have done so...When I think back on it, the politically savvy thing for him to have done would have been to break on the decommissioning issue on 10 April 1998 and not signed the agreement. Who knows what would have happened then? He did not do it, however. His strategic insight was that it was better for unionism to engage. However, with all that happened thereafter, he effectively signed his own political death warrant in doing that.” Mr Montgomery also highlighted the role of other

Ulster Unionist Party members including Reg Empey, Michael and Chris McGimpsey, John Taylor and Ken Magginis.

39. The Committee also heard from Liz O'Donnell about the comparative isolation of David Trimble in the negotiations and his bravery; "As he was on his own and his party was not united he was under ferocious pressure, which you could literally see in his face every day. He was under terrible pressure, but in the end he did it. He took the leap and trusted in the bona fides of the people who agreed to the Good Friday Agreement on that day. He trusted there would be decommissioning of weapons and that he was not being sold a pup by the two Governments. Ultimately, he risked his own political career, to be frank, and his party.

History will be kinder to David Trimble and his party than politics has been because in the end the extremists in the DUP, who were rejectionists for many years, destroying the UUP politically at one stage, took the golden prize of having the top job and being in government. It is the way politics works. The SDLP similarly took a hiding in elections from Sinn Féin. In some ways, the people who made the sacrifices lost out politically, which was a shame, but history will be fair to everybody in the end".

40. Sir John Major described to the Committee his politically risky engagement with the Provisional IRA. This engagement took place in secret as it would have been considered unacceptable by the British parliament. He also acknowledged the courage of the leadership of the republican movement in engaging the Peace Process, accepting that his own backbenchers were probably not as difficult as those of the Provisional IRA, "Although dealing with them was very frustrating and although they were often very negative, often for show, it was also courageous to take the risk. There is no courage in refusing to engage in negotiations; that is easily done. There is a courage in entering into negotiations and a lot of people in politics and beyond - including Fr. Alec Reid, for example, if we go back far enough, and many others - had a finger in pushing the people who could reach an agreement into actually doing so".

## Efforts to build empathy and trust

41. The Committee heard several examples of the efforts made in building trust between the negotiators over many years. Opportunities to meet and discuss in private, and efforts to break down barriers, were vital to progress in the negotiations.
42. In his opening statement, Sir John described efforts at the beginning of his premiership to read into the issue and get into the minds of the opposing factions and understand their motivations. He highlighted the role of “innumerable” meetings with his counterparts Albert Reynolds and John Bruton, many of which were “informal and private rather than declared and public”. Commenting on lessons learned from the Northern Ireland Peace Process, Sir John said “you cannot agree if you do not talk or if you do not listen or if you think you hold the wisdom of the world in your hand and those engaging with you are necessarily wrong. You have to have an open mind, you have to talk, and you have to listen and if that were inscribed in every part of government in every part of the world, we would be living in a much happier planet than we do at the moment”.
43. Bertie Ahern, when asked about the emphasis he had placed on building relationships, replied, “All the time, we were trying to build up relationships and to understand the people. I always thought my job was not to blind them with science or tell them I was right and they were wrong. That was not it. We were trying to see where we could find common ground and make progress. Some people here know that it involved plodding along with all the parties trying to see what the issues were, where compromises could be found, what could be achieved and who could carry people with them”.
44. As outlined above, the trust built up between the British and Irish Governments was key to the success of the Peace Process. Jonathan Powell also described to the committee the role in building trust played by the late Mo Mowlam as Secretary of State for Northern Ireland, “... She was very different from her predecessors, who were good men but very much in the mould of Guards officers



rather than more normal representatives of the British public. She managed to break a lot of ice in opinions in Northern Ireland. I always think of Mo Mowlam as a necessary but not sufficient cause of peace. If we had not had her, it would have been very difficult to build that trust.” Liz O’Donnell also praised the role of Mo Mowlam in the negotiations, “Mo Mowlam was the first Secretary of State for Northern Ireland who actually saw the injustice we were trying to deal with in terms of how the North was, and had been, run. Even though she was representing her Government brilliantly she was a naturally reforming, open politician. She was very inclusive. She took great pleasure in including the small parties and talking to them, especially the Northern Ireland Women’s Coalition. She had a natural sense of reform. She and Tony Blair were kind of natural reforming politicians. She in particular was hugely popular in Northern Ireland. She was very good at a time when confidence-building was required, in the beginning, and especially with the republican movement. She was popular and open to discussions with Sinn Féin delegates. She was willing to listen, which was so important. For so long the discourse between the British Government and Sinn Féin had been disastrous and there was no listening to the other perspective at all. She was very good and a very important part of the Peace Process”.

45. Jonathan Powell also shared insight on Tony Blair’s efforts to build trust with the unionist parties. He expected that unionists would be wary of a Labour Government due to the party’s previous position of support for a united Ireland. In order to build trust, Tony Blair’s first visit outside London was to an agricultural show in Northern Ireland where he delivered a speech intended to assuage unionist fears about the new Government. Jonathan Powell also outlined Tony Blair’s efforts to build trust with unionists in implementing the Good Friday Agreement, “I remember Tony Blair and I going up to one of the bedrooms and sitting on a four-poster bed with Peter Robinson and asking how we were going to do this. He said that we had to build trust with Ian Paisley. He said we needed to talk to him, and not just about politics but about religion and other things. Tony Blair then devoted hundreds of hours to sitting with Ian Paisley and talking about faith and matters relating to religion rather than politics. That played an important

part in building trust with Rev. Paisley so we were able eventually to get to the St. Andrews Agreement.”

46. Lord Empey highlighted the role that local government played in building co-operation in the years before the Good Friday Agreement, despite the strained political relationships at that time, “We must remember that there were interactions at local government. I was in local government for many years and councillors were there from all parties; that was the case from the early 1980s. It was not friendship but you knew people as they progressed further up their respective parties. It was not the case that there was no communication but it was very strained and could sometimes get to breaking point. ... It was only really in the mid-1990s that we came up with the idea that we could try to work on economic issues together in local government. We certainly did that in Belfast. That gave everybody the opportunity to at least do something positive for their constituents without any political issues to confront them. Everybody wanted to do something to improve the lot of their constituents but which did not require any significant political sacrifices or arguments over wider national issues. That was one mechanism I found helped lay the foundations for at least the ability to recognise there was at least one area of common ground upon which we could build. Sadly, that is the area we have largely neglected since”.

### Building Trust through Implementation of the Good Friday Agreement

47. Implementation of the Good Friday Agreement would also pose both challenges and opportunities for building trust. The Committee heard that some of the most difficult aspects of the negotiations such as North-South co-operation, decommissioning, and policing were effectively “parked” to be resolved outside the Good Friday Agreement negotiations. As Jonathan Powell put it, “The long painful process on decommissioning, getting the institutions up and running, and implementing the human rights provisions, language provisions and policing was not a waste. It was the crucial aspect of building trust”.
48. The Committee heard from Tim O’Connor who worked on the negotiations on Strand Two of the Agreement and served as Joint Secretary of the North/South

Ministerial Council from 1999 to 2005. He stated, “I am a great believer in the power of institutions to enable people to come together. It is quite difficult for people who have been historically conflicted to just say that they will pick up the phone, because they will not do so.” Mr O’Connor outlined how he worked to build trust in the early years of the North/South Ministerial Council, servicing 65 meetings between 1999 and 2002. He operated according to the “principle of no surprises”, which meant “that we would say what we would do, we would do what we said we would do and then we would tell people we did what we said we would do.” He further explained, “the big deal about the principle is that a surprise discombobulates. It is not just about that particular issue that one has caused. It is now a crisis of confidence as to what else are they hiding from him or her, or what else will they land him or her in”.

49. Mr McKee highlighted the example of the Patten Commission on policing as a positive example of change management. He attributed the success of policing reform to a number of factors, including the terms of reference contained in the Good Friday Agreement, the role of the Oversight Commission in ensuring recommendations were implemented, and the extensive efforts of the Patten Commission to consult widely with local communities, “The Patten commission's recommendations were firmly grounded in the views and desires of local communities about what kind of policing they wanted. That is why security sector reform in Northern Ireland was so successful. It created not a police force but a police service fully accountable to its people. Following the model of listening to people and trying to build a better Ireland is the way to go”.
50. Witnesses also outlined how the delay after the Agreement in decommissioning served to undermine the trust built in the negotiations. Liz O’Donnell described how David Trimble had needed a last minute confidence-building intervention by Tony Blair to give assurance on the issue of decommissioning. She described Mr Trimble’s decision to sign the Agreement despite doubts on this issue as a “leap of faith”, saying “Ultimately, the delay in the decommissioning of IRA weapons post-agreement gradually eroded the trust of the Ulster Unionist Party. Weapons were finally disposed of almost eight years later, too late for David Trimble’s

party, which was destroyed electorally by the DUP in subsequent elections.” Asked about the impact of the delay in decommissioning on the UUP, Lord Empey replied “It was a nightmare. We were under enormous pressure, which was understandable. The clear understandings were that things would move faster than they did and that allowed those opponents of the agreement to gain ground at our expense”.

### Opportunities to change position

51. The creation of opportunities for parties to move away from fixed positions was vital to the Peace Process, both in the years leading up to the Multi-Party Negotiations and in the negotiations themselves. The Committee heard about the role of secret and unofficial channels of communication, in particular in efforts to bring Sinn Féin into the peace talks. Witnesses also described efforts to shift positions in the Multi-Party Negotiations, such as efforts made by the Chair Senator George Mitchell and the Northern Ireland Women’s Coalition.

### Back-Channel Communications

52. The Committee heard that for Sinn Féin, the Good Friday Agreement provided for the first time a political pathway to an independent and united Ireland. Gerry Adams described a decades long effort to create an alternative to armed struggle to reach this legitimate goal. This was based on prolonged engagement with John Hume, back-channel discussions with the British and Irish Governments, Irish America, the White House and the unionist and loyalist communities. Mr Adams said, “Sinn Féin had also begun the slow process of talking to others, occasionally publicly, but often privately and secretly. This was especially the case when dealing with the British and Irish Governments. The dialogue between John Hume and I was probably the clearest example of this developing alternative strategy. It generated enormous public attention when it came into the public view accidentally. Most of the attention was negative, as the establishment in Britain and Ireland pushed back against any new approach. Others were starting to listen and talk to Sinn Féin and to acknowledge the rights of our electorate. Taoisigh Charles Haughey, Albert Reynolds and Bertie Ahern authorised and facilitated a dialogue with the Sinn Féin leadership. Bill Clinton,

both before and during his presidency, listened to Irish-American voices and broke with the pro-British agenda that had been followed by successive US administrations. Tony Blair, while leader of the Labour Party and when he was Prime Minister, also recognised the need to talk and to listen. These key leadership figures were critical to ending the failed approaches of the past and developing a new approach based on dialogue and inclusion.”

53. The Committee heard that Martin Mansergh, in his role as adviser to successive Taoisigh in Fianna Fáil, played a vital part in developing support among republicans for a peaceful path to a united Ireland, “My involvement as adviser to different Fianna Fáil taoisigh, from Charles Haughey to Bertie Ahern, centred latterly on the formulation of broad principles that could bring the conflict to an end and offer an alternative political path. This involved direct back-channel discussions mediated through Fr. Alec Reid, Redemptorist priest, in 1988 with Dermot Ahern and in 1993-94 and in mid-1997 on my own. Written messages and draft replies to and from the then Taoiseach, Albert Reynolds, deemed to have come through Fr. Reid, were shared in close partnership with and advised upon by Seán Ó hUiginn, heading up the Anglo-Irish control centre, if I may call it that, in the Department of Foreign Affairs. Trust had to be created and that was, in some ways, as much the purpose of the channel as working on specific draft principles. This was despite the serious political risks for all concerned.”

54. Sir John Major also outlined back-channel communications between the British Government and the Provisional IRA. In the month that John Major became Prime Minister, Secretary of State for Northern Ireland Peter Brookes opened an intelligence channel with the IRA, leading to his statement later that year that the British Government had no selfish or strategic interest in Northern Ireland. Sir John described receiving a back-channel message from the Provisional IRA that “The conflict is over but we need your [that is, British] advice on how to bring it to a close. We wish to have an unannounced ceasefire in order to hold [a] dialogue leading to peace.” The message also indicated that the IRA could not publicly announce a ceasefire for fear its volunteers would mistake the announcement as

a surrender. Sir John identified this dilemma as one of the key difficulties for the IRA in the Peace Process.

### Inclusiveness of the negotiations

55. The Multi-Party Negotiations leading to the Good Friday Agreement were open to every party with a mandate from the 1996 Northern Ireland Forum elections. Every party that had rejected violence and committed to the Mitchell principles was entitled to participate. Throughout the sessions, several witnesses highlighted the inclusiveness of the negotiations as key to their success. As Jonathan Powell put it, “Inclusion was absolutely crucial...As I work on negotiations around the world, that is perhaps the single most important lesson I take away from Northern Ireland.”

56. The Multi-Party Negotiations leading to the Good Friday Agreement included the British and Irish Government as well as the following parties from Northern Ireland; Alliance, the Democratic Unionist Party (DUP), the Labour Coalition, Northern Ireland Women’s Coalition (NIWC), Sinn Féin, the Social Democratic and Labour Party (SDLP), the Ulster Democratic Party (UDP), the Progressive Unionist Party (PUP), the Ulster Unionist Party (UUP), and the UK Unionist Party. However, as pointed out to the Committee by Rory Montgomery, while the Peace Process was inclusive, at no point were all the major political parties participating at the same time. Sinn Féin were excluded from peace talks in the aftermath of the Canary Wharf bombing. While the British and Irish Governments worked to restore the ceasefire, Sinn Féin’s eventual inclusion in the talks resulted in both the Democratic Unionist Party and the UK Unionist party leaving the negotiations. Mr Montgomery stated that this left the Unionist perspective “in a way, under-represented in the final stages of the negotiations”. He also noted that DUP attacks on the agreement destroyed the prospect of broad unionist support for the Agreement, speculating that it is likely that only “a bare majority, if that” of unionists voters supported the Good Friday Agreement.



57. Notwithstanding the absence of the DUP and the smaller UK Unionist Party, several witnesses highlighted the inclusive nature of the process as a key to its success. According to Mark Durkan, “The inclusive nature of the process was important. Having been involved in different talks processes, including the Brooke-Mayhew talks I found the more inclusive, bigger table for the Good Friday Agreement better in the sense that in a tighter situation, parties are very defensive about their own idiom or they are very careful about accepting language from other parties or whatever. In the more open process, it was easier; language was able to be seasoned not least by people like the Women’s Coalition; people were able to bring in a different perspective or maybe couch things in somewhat less political and what sounded like more academic terms. That was able to neutralise the debate and open up discussion away from fixed positions.”
58. Liz O’Donnell outlined the role of the Northern Ireland Women’s Coalition in shifting the dynamics of the negotiations, “They helped, on many occasions, to overcome procedural logjams. They were also helpful conduits for Governments in judging sentiment in the community, and in the loyalist paramilitary groups in particular.”
59. The policy focus of the Women’s Coalition was different from that of the other parties. Bronagh Hinds recalled, “We were strong advocates for the provisions on human rights, equality and reconciliation, adding substantially to these sections. We championed the right of women to full and equal political participation, integrated education and mixed housing and...recognition and provision for the victims of violence. We also inserted references to community development, social inclusion and other issues”.
60. Liz O’Donnell also highlighted the importance of the inclusion of the Ulster Democratic Party and the Progressive Unionist Party in the negotiations, saying “Similarly, the two small loyalist parties were essential to the process of reaching agreement and ending the conflict. I deeply regret that the smaller loyalist parties did not prosper electorally post-Agreement. There was a proposal to make space

for the loyalist parties and the NIWC in post-Agreement elections, but this was rejected by the major parties. That was a source of regret to the Government.”

### Language, compromise, and constructive ambiguity

61. Liz O'Donnell also outlined the importance of changing positions in the Good Friday negotiations, highlighting the importance of both the Women's Coalition and Senator Mitchell in this regard, “Women bring a different dimension. They do not get stuck in fixed positions, which is the problem with Northern Ireland. Before the agreement, people were stuck in fixed positions and they were brilliant at articulating their fixed position, but that did not get us anywhere. George Mitchell helped us to move into a space that was not fixed, which encouraged us to open up. He was as tough on the Governments as he was on the participants. He said they could not stick to a position, that they had to move a little bit.”
62. Bronagh Hinds outlined the strategy of the Women's Coalition in the negotiations of challenging problematic behaviour such as sectarianism, misogyny, and threatening behaviour. She described their approach as “process-oriented” as well as outcome-oriented. The Women's Coalition was cross-community in membership and those who joined signed up to being “willing to reach an accommodation”. The Women's Coalition's diverse background from civil society and academia, and their refusal to identify with either side of the traditional positions in Northern Ireland, meant they could play a key role in advancing the negotiations. As stated by Ms Hinds, “We were prepared to live with ambiguity and experiment with various configurations until we reached consensus. We sought to be creative and innovative, explore all ideas and options, offer solutions, and re-frame issues to assist agreement.”
63. The Committee also heard about the centrality of compromise to the negotiations, including on difficult issues such as the release of prisoners, decommissioning, and the changes to Articles 2 and 3 of the Irish Constitution. As highlighted by Mark Durkan, it was necessary not only to engage but to shift position, “We also need to remember that we would not have reached the Good Friday Agreement if we had simply talked past each other and ignored where people were saying they

had genuine problems or issues. We had to address those issues. We only got an agreement by mutual adjustment. Mutual engagement on its own does not bring about an agreement. It takes mutual adjustment where people are able to vary some of the language either of their proposals or their objections to reach more accommodation.”

64. Compromise was also possible because not all the most contentious issues were addressed directly in the negotiations. David Donoghue highlighted that, as the principles of the constitutional future were broadly agreed in the Downing Street Declaration and the Framework Documents, the constitutional question could effectively be “parked” in the Good Friday negotiations. He said, “It meant that all participants were able to go into the negotiations in a more relaxed frame of mind because each objective had been described as legitimate. It meant it was easier to put things to one side and to focus on institutional questions.”
65. Similarly, on the contentious issue of policing, the Good Friday Agreement contains broad principles with detailed proposals to be developed by a Commission on Policing for Northern Ireland. It was not possible to reach agreement on the full extent of North-South co-operation, so this was resumed in a separate negotiation process. Tim O'Connor, an official involved in the Good Friday Agreement negotiations, the subsequent Strand Two negotiations, and then implementation thereof, described the process as follows; “We got agreement on the principles involved but, in a way, we made a bet that having agreed the principles, people would not break on the detail. That is a big risk in signing off but it is what we did.”
66. As well as delaying agreement on the most contentious issues, the Good Friday Agreement also relied on constructive ambiguity. According to Mark Durkan, “Some collective ambiguity was a necessary part of the coinage for the process in 1998 but this was supposed to be supplemented by a growing collective certainty which should have stemmed from the implementation of its provisions and faithful adherence to its precepts.” Commenting on the role of constructive ambiguity in the Peace Process, John Major said “There were many different

pieces in the puzzle that had to be brought into the whole before we could finally get an agreement, which is one of the reasons neither the joint declaration nor the frameworks agreement, nor indeed the Good Friday Agreement itself, would have won an award for plain English. There is a degree of flexibility written into them and without that, we would never have got everybody to sign up to them. That is another lesson. The essence of negotiation is you do not get everything you wish to have. That is true for every negotiator and it is probably true of every successful conclusion to negotiation the world has ever seen”.

### **“Pressure cooker” nature of the negotiations**

67. The Multi-Party Negotiations culminated in an intense period of negotiations in the weeks leading to Easter 1998. The intensity of this phase of the negotiations was to some extent artificial. Senator George Mitchell announced a date for his departure for the talks, and in doing so created pressure to reach a conclusion. As recounted by Tim O'Connor, “George Mitchell called us all together on 25 March for a pep talk for the delegates. All of us crowded into a room bigger than this and what he said went something like this: “I have been with you now for three years. It's been marvellous. I have listened to your stories. They are wonderful stories and I'm sure you have more of them, as well.” He said: “In the meantime, a son has been born to me in New York and I would like to see him before he goes to college, so I am declaring a deadline by which our discussions must draw to an end and decisions be reached.” There was a sharp collective intake of breath”.
68. In their appearance before the Committee, Department of Foreign Affairs officials Rory Montgomery and David Donoghue described a chaotic negotiation process, “When Easter week eventually arrived, and it come down to a final hectic, sometimes confused, few days, we were not sitting around a table, as we would be here. It did not involve formal negotiations, as one might imagine. There were eight parties there. There were two Governments. It was presided over by George Mitchell and his two colleagues. One might imagine that with that number of players and people one would have to have a more formal setup, but the truth is that the deals were being done in small bilateral or trilateral settings. That is

often the way it has to be. We deliberately engineered a kind of pressure cooker situation in Castle Buildings in the final few days, from about the Tuesday onwards, because it was clear that while we had the two Heads of Government there, they would not be there forever.”

69. The presence of both Tony Blair and Bertie Ahern, as well as telephone calls by Bill Clinton, served to create a climax to the negotiations that ultimately resulted in reaching agreement. Witnesses highlighted that Bertie Ahern even returned to the negotiations immediately after his mother’s funeral. The time constraints and political pressure were essential in reaching agreement. As described by Rory Montgomery, “It is almost impossible to exaggerate the extent to which things were chaotic and confused ...I have been involved in many negotiations since, including at EU level, and that is how deals get done. They are a combination of fatigue, confusion and adrenaline, and the sense that the time has come.”

## Chapter 3 – Alternative Perspectives on the Good Friday Agreement

70. The Committee discussed some weaknesses and shortcomings of the Good Friday Agreement, both in the text and in its implementation. These elements are an important part of lessons learned from the Good Friday Agreement. Elements highlighted include limited consideration of victims' and legacy issues, scant detail on the issue of a future border poll, and the lack of focus on implementation.
71. When assessing any shortcomings, it should be borne in mind that the negotiations themselves were imperfect and were conducted under extreme pressure due to fear of a return to violence. The Agreement represented a compromise between many strong, opposing points of view. Some ambiguity in the text was needed to secure agreement. In other areas, all that could be agreed was a broad outline on principles with further details to be worked out later, including on North-South co-operation and on policing. Some witnesses stressed that the outcome was the very best that could be achieved in the circumstances. As described by Tim O'Connor, the final agreement represented "what the market would bear on the day".
72. Others pointed out that the chaotic nature of the negotiations meant that not all elements of the text were fully scrutinised. The atmosphere of the negotiations is drawn in detail in the contribution of Department of Foreign Affairs officials David Donoghue and Rory Montgomery. They describe a rushed, disjointed negotiations process, "...Discussions were largely unco-ordinated. Only the Governments had an overview of what was happening. Representatives of the UUP and the SDLP were in one room talking about Strand One. The Irish Government was talking to the UUP about Strand Two. Sinn Féin was talking to the British and Irish Governments about prisoners and decommissioning, etc. This near chaos, this fog of war, is almost typical of negotiating endgames but it means issues can be left unclear. There can be creative ambiguity but at times there can also be uncreative ambiguity, if you like, and a lack of clarity".

73. While the time limits and political pressure created momentum that was essential in reaching an Agreement, this resulted in some passages of the Agreement not being examined in full. According to Mr Montgomery, the issue of policing was not fully scrutinised by the Unionist participants in the negotiations leading to some surprise at the extent of policing reform subsequently proposed through the Patten Commission, “There is an idea that those involved knew what they were doing in every case. I remember when the unionists reacted furiously to Chris Patten’s recommendations on policing. Patten asked what did they think they were signing up to, to which my reply would be that they did not know what they were signing up to. The focus was so heavily on some other matters that the policing texts were drafted between the two Governments and the unionists never read them clearly and did not know what they were signing up to.” He went on to add, “There was sometimes a lack of clear elements in the agreement. I am not saying that was avoidable because it could not have been otherwise but I make that point.”

### Legacy and Victims

74. In most sessions in this series, the Committee sought the views of witnesses on the legacy of the Troubles and treatment of victims in the Good Friday Agreement and in its implementation. Members expressed grave concern at the United Kingdom’s Northern Ireland Troubles (Legacy and Reconciliation) Bill. The Bill would allow the Secretary of State for Northern Ireland to grant immunity for crimes committed during the Troubles in certain circumstances. The Bill is opposed by all political parties in Ireland and Northern Ireland, as well as all major victims’ advocacy groups.

75. Lord Alderdice outlined the wider impact of failure to address legacy on politics and society, stating “It is not just the people who were directly harmed who are part of the legacy; it is the political and cultural remnants of that. People look at their community, another community or other communities and they remember difficult and unpleasant things that happened for them in the past and they find it difficult to forget them”. Lord Alderdice warned that trauma is trans-generational

in its impact – he explained that the consequences of trauma are passed on to the next generation and may become delinked from the events that caused them. Lord Alderdice also cautioned against getting into a “blame game” with the British Government.

76. Several witnesses attested that the issue of the legacy of the Troubles did not get much attention in the Good Friday Agreement negotiations. Tim O'Connor suggested that this was because, at the time of negotiating the Agreement, it was not clear that the conflict was at an end, “Legacy comes into play when a conflict is over and when it is being looked back on. The Good Friday Agreement was negotiated in the context of a desire to get a deal and an agreement. Discussing how we were going to deal with the past would almost have been a luxury.” Rory Montgomery speculated that the issue of legacy was not explored in depth, in part because it was viewed as a “soft issue” and there was an expectation “that those issues would look after themselves if the political structures were in place”.

77. Some witnesses identified the lack of consideration of legacy issues as a shortcoming of the Agreement. Mark Durkan commented that in his engagements with the Colombian Peace Process he has highlighted the importance of addressing legacy issues upfront “and face up and not to think they would take care of themselves or could be avoided afterwards”.

### **Provision for a Border Poll**

78. The Good Friday Agreement includes an obligation for the Secretary of State for Northern Ireland to hold a border poll “if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.” The Agreement does not specify the grounds on which the Secretary of State should come to this conclusion and does not specify any role for the Irish Government in this process.



79. The Committee heard that relatively little attention was paid to this element of the text during the negotiations. According to Rory Montgomery, "...the funny thing is that the two governments had reached this broad consensus on the basic principles of self-determination and consent and the concept of British or Irish, or both, etc. This was not challenged by any of the parties in particular. The UUP's focus was very heavily on the changes to Articles 2 and 3, but one of the odd things is... no real scrutiny was given to the finer points, in particular, of the British legislation. I know for a fact that a middle ranking official - my opposite number - drafted the legislation. He expected it would be the subject of much discussion with his colleagues and with us and it basically went through on the nod." Mr Montgomery also speculated that the issue was not discussed in more detail at the time as the matter was not likely to arise soon, "Nobody at that time would have thought that these would become live questions any time soon and of course, they did not. It was not necessary, maybe, to go into the kind of detail that ideally one might have wished people to go into."

80. Mark Durkan called for reflection in Ireland on the criteria for a border poll, rather than leaving this to be determined by the Secretary of State for Northern Ireland, saying "In respect of constitutional change, democratic, pro-agreement Ireland needs to have a discussion to clarify what the criteria might be for calling a poll, or the question to be asked, rather than waiting for a British secretary of state to set his or her criteria. In the same way as democratic Ireland thought ahead, through the New Ireland Forum and the Forum for Peace and Reconciliation, even when unionists were refusing to engage and participate. Democratic Ireland thought about the type of political arrangements which might be agreed in negotiations and proposals that could be borne by both unionists and nationalists. We had to be realistic about what was likely to be agreed in negotiations and could be passed in a referendum North and South, as John Hume always recommended." Mr Durkan also noted that he prefers to use the term "constitutional change" rather than "border poll". He explained, "...those of us who want a united Ireland need to remember we need to address many more issues than just antipathy to the Border. We must also respect the views of

people who will vote to remain part of the United Kingdom and who will not per se be voting for the Border”.

## Implementation

81. Twenty-five years on from the negotiations, implementation of the Good Friday Agreement remains incomplete. As stated by Mark Durkan, “When you have something like the Good Friday Agreement, the institutions should be the process after that. The process should be the institutions. By and large, that is not what happened.” Witnesses expressed concerns about non-implementation of and underuse of the Agreement on a range of issues, in particular the poor functioning of the Northern Ireland Assembly and Executive, the underdevelopment of North-South co-operation, the failure to progress a Civic Forum in Northern Ireland, the complementary North-South civic consultation arrangements, and the Bill of Rights for Northern Ireland. According to Gerry Adams, “It is also a fact that crucial elements of the Good Friday Agreement have still not been implemented by the British or, the committee should note, the Irish Government, including a bill of rights for the North, the civic forum and a charter of rights for the island of Ireland. The British Government still refuses to honour its Weston Park commitment to establish an inquiry into the murder of human rights lawyer, Pat Finucane. Likewise is the British Government’s refusal to fulfil its commitments and obligations to deal with the legacy of the past and the concerns of families bereaved during the conflict.”
82. Some witnesses suggested that implementation should have received more attention at the negotiation stage of the Agreement. As observed by Jonathan Powell, “One of the lessons of the Good Friday process for all negotiations around the world is always to think about the implementation phase even when in the early stages of negotiation. A Peace Process is never over and goes on so the implementation phase is in many ways more important even than the piece of paper that one gets to.”

83. Witnesses outlined how some elements of the Agreement that have been implemented have only partially functioned. The Committee meetings on this series took place in a period when the Strand One institutions of the Good Friday Agreement were not functioning. Consequently, the North/South Ministerial Council was also unable to meet. As stated by Rory Montgomery, “One of the weaknesses of the d’Hondt system and one of the big failures of the agreement has been its inability to deliver good and effective government. Part of the issue is that this may be the inevitable counterweight to there being an all-inclusive Executive without any real opposition...”.

84. Lord Empey was critical of the evolution of Strand One of the Good Friday Agreement, in particular of changes made ahead of the St Andrews Agreement to the mechanism for nomination of the First Minister and Deputy First Minister. Initially, under the Good Friday Agreement the First Minister and Deputy First Minister were identified by the largest party in the largest designation and the largest party in the second-largest designation respectively and put to the Assembly on a joint resolution that had to be agreed with cross-community consent. This was intended to operate as a partnership model. Lord Empey outlined how this was subsequently changed via negotiation between the Blair Government, Sinn Féin and the DUP. The Northern Ireland Assembly no longer requires a cross-community vote to appoint the First Minister and deputy First Minister but rather uses a first-past-the-post basis whereby whichever party is the largest, irrespective of its designation, provides the First Minister. According to Lord Empey, this changed entrenched polarisation in politics in Northern Ireland, “The point I am making is that every election from 2006 onwards was fought by the DUP on the basis that if one did not vote for “me”, that is, Ian Paisley, one would get Sinn Féin and Martin McGuinness. That meant we were trapped in the sectarian trenches, unable to break free from them. I had hoped, as had many of my interlocutors, when we were conducting the original negotiations that, over time, we could have seen politics develop more on the people’s view on economic divisions and things of that nature, to become slightly more normal. The change in 2006-07, which was done behind our backs, was a major mistake. It is one of the key reasons we are in such a mess today”.

85. Mark Durkan discussed underuse of Strand Three of the Good Friday Agreement, stating “It is not just parties that let parts of the agreement go. Look how long the two Governments let the British-Irish Intergovernmental Conference go without meeting. Why? There is no point in them calling themselves co-guarantors of the agreement if they are setting a pretty bad standard.” Lord Alderdice criticised poor implementation of all three strands of the Good Friday Agreement, “For years the British-Irish Intergovernmental Council did not meet at the highest levels, leading to problems on Northern Ireland, but also contributing to the Brexit problem. A new generation of Northern Ireland politicians also failed to understand that the unionist-nationalist and North-South relationships needed to be constantly nourished through respect and engagement. Now all three sets of relationships are in poor shape.”

86. The Committee heard that North-South co-operation was one of the most difficult elements of the Good Friday Agreement negotiations. The Irish Government was forced to drastically reduce the number of areas of North-South co-operation proposed. Witnesses expressed mixed views about how Strand Two of the Good Friday Agreement has been implemented. Tim O'Connor, who served as the inaugural Joint Secretary of the North/South Ministerial Council, expressed pride in the development of North-South co-operation, in particular the work of Tourism Ireland and Waterways Ireland. He attributed the current impasse in the North/South Ministerial Council to wider political difficulties rather than to problems of North-South co-operation itself.

87. Lord Empey highlighted the positive role of North-South co-operation, describing his experience as a Minister of building co-operation both within Strand Two of the Good Friday Agreement and outside of the Agreement, “...I had the opportunity to establish InterTradeIreland, with my Dublin counterpart, and we also established Tourism Ireland with another Minister. Those were bodies that worked quite well.

We also did things that went outside the framework of the cross-border bodies. I did a lot of work on energy. We did the South-North gas pipeline, which was quite

a big deal, and the electricity interconnector with then Minister for Public Enterprise, Mary O'Rourke. There were things we could do that were in our mutual interests and which did not have a political baggage with them. Who does not want a gas supply? Who does not want an electricity supply that is reliable and affordable? I rather suspect that if we spent a lot more time on that sort of thing, the other issues with which we keep poking on another's eyes out, should perhaps take a bit of a back seat".

88. The Committee heard from Bertie Ahern that the areas selected for North-South co-operation were intended to evolve and were not necessarily confined to those areas agreed in 1998, "We always had a view they would be incremental and we did not have to write down exactly where we were going to have co-operation. The co-operation on cancer services works very well. I do not think that was ever written down, so there are lots of things you can do that you do not have to write down. It should be more active and if we get the institutions up, we need to be looking at other areas and new areas. As for the idea that 25 years ago we said these were the areas and 25 years later we are still saying these are the areas, I am sure the Deputy could think of 20 areas where we should be having North-South co-operation. It is vital to do".

89. Liz O'Donnell expressed disappointment that the potential of North-South co-operation has not been reached, "...I think it would be of great regret to Seamus Mallon and John Hume in particular that the institutions in the North are not sitting effectively. Their greatest wish, far more than political unity or changes to Articles 2 and 3 of the Constitution, and far more important to them, was that the people of Northern Ireland and the Republic would work together on shared initiatives and that that would ease the tensions and build confidence between the two communities. The great promise of the Good Friday Agreement has not been achieved because reconciliation has not been achieved, because people have not been working together and because the institutions are not sitting now and have been sitting only fitfully for a couple of years over the 25 years. It means that people are not meeting, getting to know one another and losing the hesitancy between them as human beings".

90. The Good Friday Agreement provides for the creation of a Bill of Rights for Northern Ireland, based on the European Convention on Human Rights with supplementary rights to reflect the particular circumstances of Northern Ireland. The additional rights were to take account of the principles of mutual respect for identity and ethos of both communities, and parity of esteem. This element of the Good Friday Agreement is yet to be implemented. The Committee heard that the negotiators had hoped that strong human rights protections would mean that other institutional safeguards in the Good Friday Agreement would become less important over time. According to Mark Durkan, “I recall at the time, when we negotiated the Agreement, we said that some of these provisions would, we hoped, be biodegradable and that as the environment changed, they could dissolve and our reliance on them would change. Part of the thinking also was that a robust and articulate bill of rights, as we hoped would emerge under the Agreement, would itself be a significant safeguard and would mean that a lot of these checks and balances would not have to play out as vetoes inside the institutional decision-making”.

91. Mr Durkan also highlighted that while the failure to establish a Bill of Rights is sometimes attributed to lack of all-party consensus in Northern Ireland, this is not required by the Good Friday Agreement. The Agreement specifies that legislation at Westminster will be required for the Bill of Rights because the negotiators were aware that it would not have been possible to reach an all-party consensus on this in Stormont.

92. The Committee also heard about the non-implementation of the Civic Forum. The Good Friday Agreement provides for the establishment of a consultative Civic Forum, comprised of representatives of business, trade union and voluntary sectors. The Forum, which was proposed by the Northern Ireland Women’s Coalition, was intended to harness the expertise of social and economic actors to assist the Executive and Assembly in driving forward economic prosperity and social cohesion. The Committee heard however that the Civic Forum was not

enthusiastically received by any of the larger parties, with the exception of SDLP's Mark Durkan.

93. The Civic Forum for Northern Ireland was established in 2000 but has not sat since 2002. Bronagh Hinds pointed out that “while the Assembly has been suspended and resurrected many times, the Forum was abandoned with the first suspension in February 2000 despite being covered by the Northern Ireland Act 1998.” Commenting on the short-lived Civic Forum, Lord Alderdice said “...It is a real shame it did not continue. The civic forum was in place when I was speaker and I engaged with its chairman. It could have developed more momentum. By sitting in the Senate Chamber in Stormont and bringing about an approach that was energetic, committed and proactive, it could have survived longer. I very much hope that is an element of the Good Friday Agreement that could be returned to because it is very important to have other ways into government discussion rather than merely through elected representatives, not that they are not absolutely key”.

### **Provision for smaller political parties**

94. Liz O'Donnell highlighted the key role played by Northern Ireland Women's Coalition and the loyalist parties in the Good Friday Agreement negotiations. She expressed disappointment that a proposal to make space for the loyalist parties and the Northern Ireland Women's Coalition in post-Agreement elections was rejected by the major parties. This disappointment was echoed by Bronagh Hinds, who said “We were unsuccessful in getting the support of other parties for a new electoral system that we hoped would deliver more diverse representation. Instead, parties finally settled on 6 rather than 5-seat constituencies elected by proportional representation. It was deeply disappointing to see the Assembly resile from this later under the guise of saving money, voting to reduce the seats from 108 to 90 and thus lessen the hard negotiated inclusion”.

### **Review of the Agreement**

95. The Good Friday Agreement includes a chapter on “Validation, Implementation, and Review” which allows for the possibility of review of the institutions of the

Agreement. Some witnesses expressed the view that this section could have been more detailed and robust. Senator Mitchell stated, “In retrospect, the absence of a specifically detailed process of review is unfortunate but the reason is simply that there were a number of critical issues pressing on the delegates, who were under tremendous pressure. There was a widespread fear of an immediate and severe outbreak of violence that had been accelerating over the prior three or four months. ... If I were teaching a class on this at some university, I would probably encourage people in similar situations, to the extent possible, to include a more specific and detailed review in order that for all of the issues involved there would be some process for determining progress or suggesting ways forward. It is not likely it could have been done within the timeframe and pressure of events.”

96. While the review provisions are limited, a number of witnesses called for their use with the aim of maximizing the Good Friday Agreement. This is explored in the next chapter.



## Chapter 4- the Future of the Good Friday Agreement

97. Twenty-five years have passed since the Good Friday Agreement. The success of the Agreement meant that a generation in Northern Ireland have grown up without violence. However, challenges remain. In inviting the Architects of the Good Friday Agreement to share their experiences of the Peace Process, the Committee sought not just to understand how the Agreement came about but also what lessons can be learned for the future.

98. The 25<sup>th</sup> anniversary of the Agreement provides a moment for reflection and renewal. As Bertie Ahern put it, “It seems clear to me that, as we approach the 25th anniversary of the agreement, we use the opportunity to remind ourselves why it was necessary in the first place and the principles that lay at its heart. That means focusing on continuing its work, building and strengthening its institutions, redoubling our efforts on reconciliation and mobilising the support of new generations around its promise. Above all, I suggest we must continue the focus on the agreement’s core value - the respect for, and accommodation of, difference.”

### Review of the Agreement

99. Mark Durkan advocated approaching the 25<sup>th</sup> anniversary of the Agreement with a spirit of renewal, including through use of the review provisions, “The agreement has review provisions. Such necessary facilities for respective strands or in overall terms should not be ignored as we celebrate and contemplate the 25th anniversary. A spirit of renewal review would allow us to be honest about shortcomings in the agreement’s outworkings and Brexit’s disruptive fallout, while showing positive purpose about its under-tapped enabling potential. The bandwidth of strands 2 and 3 allow for creative lateral thinking that could answer some of the problems created by the fact and form of Brexit. Why deny such relevant exploration as we celebrate what we achieved in 1998 but have not fully advanced since?” Later in his contribution, he championed maximising the potential of the Agreement, stating “The agreement should not be looked on as a precious ornament, which is not to be touched. It is a tool kit to be used and

developed, not least in the context of many of the issues and questions Brexit throws up.”

100. On the question of reform, Lord Alderdice highlighted that during the Multi-Party Negotiations he had called for the formation of the Northern Ireland Executive to be based on a weighted majority of 67%, in order to incentivise parties to seek cross-community support. This proposal was rejected. Lord Alderdice speculated that both John Hume and David Trimble expected their respective parties to remain the largest forces in politics in Northern Ireland. He said, “Given the new situation we are in, a radically different position in terms of support for the Alliance Party, the SDLP and the UUP, returning to the kind of proposition - not every item of it - we had been making for a long time of a weighted majority as the best way of reaching across the community divide in the establishment of an Executive is something people ought to be getting back to looking at again 25 years later. I do not believe the Good Friday Agreement is the law of the Medes and Persians. It needs to evolve and change as the situation changes if it is going to remain a worthwhile way forward, not just in terms of reform but in the longer term, we fervently hope, in respect of the reconciliation...”.

101. Similarly, Bronagh Hinds noted that the Women’s Coalition had had difficulty with cross-community designation. She underlined the importance of cross-community protections but suggested consideration should be given to making the protections more inclusive, “We need to ensure we have cross-community protections but we need to rethink how we do so, whether it is with a higher threshold or some other proposal. We need to look at the changes in voting patterns, which are bringing forward more and more “other” voting, and see how we can be inclusive. We cannot throw these out but we have to have a debate about how we can build on those protections, extend them and make them as inclusive as possible.”

102. On reform, Liz O’Donnell cautioned the Committee that reform of the Northern Ireland institutions is primarily a matter for the parties of Northern Ireland. She

added, "... the particular arrangements for power-sharing in Northern Ireland were tailor-made for a post-conflict situation as a form of forced coalition for the situation we were dealing with. It may well be that as time moves on, there can be a normal opposition-and-government situation in Northern Ireland, but we are not there yet. It is up to the parties in Northern Ireland to figure that out and work together towards a better arrangement."

103. Both Bertie Ahern and Lord Empey cautioned against engaging in review of the Good Friday Agreement while the institutions are not functioning. Lord Empey underlined the complexity of any such review at this time, "There are so many complications in it that if you start picking at things, you get unintended consequences. This is what has already happened. No agreement can remain static forever. It does not have to. It has the capacity to change, which is built into it, but I agree that to open up a Pandora's box now regarding how the Executive should be constructed or how Stormont could be run would take us down a blind alley we would never get out of. It would take years and we would have arguments over everything. You would open up the whole thing and everything would be on the table. It would be a mistake. We should concentrate on trying to get it running and delivering for people in the middle of a cost-of-living catastrophe for many."

### **Ireland's Constitutional Future**

104. Committee Members sought the views of the Architects of the Good Friday Agreement on the constitutional future of Ireland and the preparation that the Government of Ireland ought to undertake for the prospect of a united Ireland. Members raised issues including demographic change in Northern Ireland as well as shifting attitudes within Unionism in Northern Ireland.
105. The example of the lack of preparation by the UK Government ahead of the Brexit referendum was raised in several sessions. The lack of an explicit role in the Good Friday Agreement for the Irish Government in the calling of a border poll was identified as a cause for concern. In his opening statement, Gerry Adams said, "No Irish Government, to this day, has produced a strategy to build a

new and inclusive Ireland and give effect to Irish unity. Now there is a mechanism to achieve this. The absence of Irish Government planning is indefensible and incredibly short-sighted. There is no excuse for this. What is needed is the full implementation of the Good Friday Agreement, including setting a date and preparing for the referendum on the future”.

106. Mr Adams underlined the need for vision and leadership, “Very few countries get a chance to begin anew. We in Ireland, North and South, have that chance. Most leaders would be excited by the prospect, and would embrace and welcome it. Most leaders with a vision for the future would carefully and diligently seize the opportunity but not here, not in this place”.

107. In contrast, John Bruton cautioned against calls for a united Ireland, citing the need for reconciliation. He said, “The border poll issue is, and will remain, contentious. Indeed, the constant publicity about it is unsettling. It heightens the tension around the Northern Ireland protocol, which Ulster unionists wrongly see as a stepping stone to a united Ireland. Calling for a united Ireland is seen as patriotic and popular in the Republic, even though repeating such calls may be a barrier to practical reconciliation between the communities in Northern Ireland.” Similarly, Martin Mansergh expressed concern at current calls for a united Ireland, “There is a danger in ratcheting up pressure, with claims that unity can be brought about in seven years because of demographic change, or the Government creating Citizens’ Assemblies and a Ministry of national re-unification, as if unity is almost inevitable and can, if necessary, be shaped without unionism”. He later added, “When we see the difficulties experienced by the evenly balanced Good Friday Agreement, which had 71% support in Northern Ireland in the 1998 vote, what makes us sure that far more sweeping change would be easier?”.

108. Mr Bruton highlighted the danger that, in the event of a narrow vote in favour of Irish unity, a significant minority in Northern Ireland might refuse allegiance to the new decision. As this minority would be geographically concentrated in the

northeast of the country, where they would be a local majority, this could pose significant policing and security challenges.

109. When asked about the need for conversations on constitutional change, Mr Bruton replied that the Government should carry out work on how a united Ireland should look, “not on the basis it is promoting this idea as something to be campaigned for against the wishes of a large number in Northern Ireland but rather as part of the normal exercise of government, which prepares for every contingency”.
110. Lord Empey highlighted the destabilising effects of calls for a border poll at present, saying “We are still reeling from the effects of the last poll, with regard to the European Union and the United Kingdom’s decision to leave it. I can think of nothing more likely to destabilise us than to open up another front at this time. I think if the Brexit referendum has taught us nothing else, it is that there needs to be preparation. If one was to simply jump into something like that the downstream consequences could be extremely destabilising.” He later added, “I think the onus is on those who wish to succeed in their operation to prepare. They cannot expect people who take a different view to sit down and help them prepare their own execution, politically speaking. It is not a priority for most families at the present moment as they are sitting in cold houses with empty fridges. If we spent some more time on that issue, I believe relationships would improve, and there is evidence that has happened.”
111. Wally Kirwan, a former senior official from the Department of the Taoiseach, cautioned that it is not evident at present that a border poll would succeed, “...the one thing we do not want is a referendum on a united Ireland in the South that is lost. The most recent evidence would suggest that this is a far from unlikely prospect. You could by no means take it for granted that a referendum in the South would be passed. Data is coming out in the Ireland North-South Project relating to opinion in the South. The evidence from those polls suggests that a majority in the North would still not vote in favour of a united Ireland so we must

be very careful about that. It will be a fine balance because you cannot be sure events might not move faster than you expect...”.

### **Citizens’ Assembly on Irish Unity**

112. The Committee sought the views of the witnesses on whether a Citizens’ Assembly could be used to prepare for a united Ireland. Gerry Adams called for the establishment of a Citizens’ Assembly, or series of assemblies, to prepare for unity including in relation to education, health, and other public services. He highlighted his experiences at the Ireland’s Future conference series as an indication of change of perspective among unionists, “Civic unionism is reflecting. Some of them are changing. Some of them are no longer unionist. We can look at the Ireland’s Future event that people from northern Protestant backgrounds attended. I was at an event in Derry last week organised by the Sinn Féin commission on the future of Ireland and one young woman spoke eloquently. She told us that both her parents voted unionist - that was her background - but she had moved, on the basis of the need for rights, to the position that the people should determine the future. Those changes are happening, but it is impossible to quantify them”.

113. Other witnesses questioned the value of Citizens’ Assemblies in this context. Lord Alderdice speculated that a Citizens’ Assembly on a united Ireland would risk being dominated by those who already agree on this issue, “With regard to Citizens’ Assemblies, it is always positive to try to get people involved in the discussion. However, if it is simply people who already largely agree on what the outcome might be, in a case such as the question of a united Ireland, and if the only people who come along to participate, in an energetic way and in any sort of numbers, are those who are already convinced that is what they want, I am not sure it achieves what Citizens’ Assemblies are meant to achieve, that is, to bring together people with different perspectives and to try to find a way of reaching agreement beyond political partisanship.”

114. The Committee heard from Wally Kirwan, a former senior official who was central to the work of both the New Ireland Forum 1983-84 and the Forum for

Peace and Reconciliation, established in 1994. He said, “I wish to speak about Citizens’ Assemblies and the degree to which the unionist community or representatives of it have taken part in past efforts. During the week, I had occasion to go back and look at the publications of the Forum for Peace and Reconciliation. One hears a certain amount of commentary regarding the different forums that the unionists did not really take part in. It is suggested that the unionist parties, as such, did not take part in either the New Ireland Forum or the Forum for Peace and Reconciliation. I was reminded looking over the publications of the Forum for Peace and Reconciliation that there was tremendous engagement by the unionist community in the work and deliberations of the Forum for Peace and Reconciliation. All of the Protestant churches were involved, as were a number of interested citizens’ groups like the Evangelical Contribution on Northern Ireland and so on. There was quite strong engagement.” Mr Kirwan added, “By all means, get out there and have discussions and try to get engagement from the unionist community, as there was at the time of the Forum for Peace and Reconciliation, but it should still be directed at political level here by the Government and elected representatives of the people”.

115. Bertie Ahern expressed reservations about the democratic value of Citizens’ Assemblies, “I readily admit that the Citizens’ Assembly has probably sorted out some thorny issues in this country in the past decade. Would I like to see a Citizens’ Assembly of 100 people? I was before the Citizens’ Assembly recently talking about an elected mayor for Dublin. I enjoyed the morning with those present and we had lovely tea and all that. I do not think we solved much but we will see what happens. I am not too sure about putting the national question we have been talking about for 100 years into the hands of 100 people”.

116. In response to a question about how the Committee can constructively engage on constitutional change, Mr Ahern advised that “we should not put the cart before the horse”. He cited ongoing work by the Shared Island unit, NESC<sup>3</sup>,

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<sup>3</sup> National Economic & Social Council



academic and civil society. He also highlighted expertise on constitutional change available through the United Nations.

117. Mark Durkan suggested that, as a preliminary to a Citizens' Assembly, the Irish Government could consider holding something akin to the Forum for Peace and Reconciliation as a platform for "deliberative, well-framed, inter-party discussions", on the basis that participants in a Citizens' Assembly would likely "want to know if there is at least some established wavelength of thinking across political parties and the various parties likely to form governments here, in the North or whatever." He advocates using Citizens' Assemblies as a tool as part of a wider, reflective process; "In taking steps to ensure due diligence in deliberations, we should start with parties, extend it to Citizens' Assemblies and commission expert input. I say Citizens' Assemblies because I do not expect it will be a one-off exercise. A series of assemblies will be needed to focus on different issues. Parties would then have to regroup and retune based on what comes back from those expert groups and Citizens' Assemblies. It is a longer process and it needs to start now. There is no virtue in not preparing or planning".

## Reconciliation

118. The Committee heard from several witnesses about the importance of concepts developed by John Hume to build reconciliation, such as an emphasis on uniting people rather than territory, and the development of a "shared homeplace". As recounted by Lord Alderdice, "The point [John Hume] repeatedly made in public and in private was that it was not about uniting territory; it was about bringing people together. It was about uniting people. In a way, we have sort of slipped back a bit from that into talking about borders, polls, territory, institutions and all those kinds of things. All of those things are important, but fundamentally it is about how you bring people to have a relationship with each other".
119. Bronagh Hinds outlined some of the ongoing challenges for reconciliation, including the continued influence of paramilitaries in Northern Ireland, "Paramilitaries exploit children and young people, oppress women, deal drugs,



act as loan sharks, intimidate and, as reported only last week, threaten to burn Northern Ireland down if they do not get their way. Enough has been spent on their transition. We must have an end to paramilitary control and criminality. We must ensure no public funds find their way into their hands and instead invest significantly more in women and young people.” She called for a comprehensive reconciliation strategy, with priority given to victims and survivors when dealing with the legacy of the past. Ms Hinds also called for investment in integrated education and “courageous” steps on mixed housing.

120. John Bruton called for a re-examination of nationalist and unionist assumptions, suggesting the Committee might be an appropriate forum for reflection on nationalist assumptions. He also called for a reinvigorated approach to reconciliation, “I believe we should try a different approach. The priority now should be reconciliation within Northern Ireland. The work of reconciliation must be done, in the first place, by the people of Northern Ireland themselves, but with the active support of the Dublin and London Governments. It should be seen as an end in itself and not as a preparation either for a united Ireland or continuance of the union. Indeed, part of the problem is that many nationalists have seen the Good Friday Agreement as a staging post on the road to a united Ireland, whereas many unionists saw it as a final destination and a full settlement. This difference of perception is crucial. Reconciliation requires the creation of a shared perception and shared achievements that become a basis for a shared allegiance. Political leaders in Northern Ireland need to work towards shared achievements, of which all of them can be proud, and that become part of a new shared historic memory, gradually replacing the divisive memories of the past. Shared ideals must be forged by negotiation, discussion and achievement at every level. Unionists must begin to imagine themselves into the minds of nationalists and nationalists into those of unionists. This requires a conscious and structured effort of the imagination among every group in Northern Ireland. Instead of being boosters for one side or the other in the constitutional debate, creative people - actors and so on - should lend their talents to this demanding exercise of the imagination, namely, forging a new shared identity that involves both sides in Northern Ireland”.

121. Gerry Adams called for reflection on how unionist identity would be protected in a united Ireland, “The Irish Government has a responsibility and an obligation to plan for constitutional change. The Government and the rest of us need to be totally committed to upholding and promoting the rights of our unionist neighbours, including the rights of the Orange Order and other loyal institutions. The protections in the Good Friday Agreement are their protections also. This is their land. This is their home place. There needs to be a clear commitment by the rest of us to uphold their rights and to work with them to make this a better place for everyone. As Martin McGuinness said, “I am so confident in my Irishness that I have no desire to chip away at the Britishness of my neighbours”“.
122. The Committee heard about the potential of the Government’s Shared Island initiative to play a constructive role in reconciliation. Lord Alderdice praised the tone taken by then Taoiseach Micheál Martin, saying “It is a thoughtful nuanced tone and sometimes quite courageously so.” He advised caution in the use of language, to avoid alienating unionists, “There are ways of speaking about things that can be helpful and ways that can be unhelpful. I would flag that when we talk about all-Ireland bodies, that has a particular resonance for many people in the unionist community that North-South bodies or even shared island bodies does not have. The language we use is an important dimension to think about”.
123. Liz O’Donnell praised the potential of the Shared Island Initiative to advance North-South co-operation, “I welcome the shared island initiative the Taoiseach has proposed. It does not get enough airplay here but I have looked at what it is and it is a fantastic opportunity to do those things we intended the North-South bodies to do all those years ago. It is a matter of co-operating for our mutual benefit in areas such as health, climate change, biodiversity, the canals and all the things on which we can work happily together without neuralgic fears of political unity.” Similarly, Mark Durkan highlighted the role the Shared Island Initiative can play in advancing co-operation that has not progressed under Strand Two, “If some issues are being stilted and stunted in the context of the North-South Ministerial Council arrangements that does not rule out other

airspace being opened up in a creative, positive, pragmatic and non-threatening way, but that is not a substitute for being able to hold a mature, adult conversation about the prospect and possibility of constitutional change.” Mark Durkan also highlighted that the Shared Island Fund has played a role in cutting through the “drag factors” that have hindered other worthwhile projects, saying “Unionists do not like structures and bodies, but they do not mind funds. Who does?”. He proposed that a review of the Good Friday Agreement could draw on lessons learned from the positive experience of the Shared Island Fund.

124. Bertie Ahern called for the concept of the “shared homeplace”, as developed by John Hume and Seamus Mallon, to shape the approach to the future of the Good Friday Agreement. He said, “...That was the spirit at the heart of the Good Friday Agreement and it is clear to me that it must be the spirit at the heart of how current difficulties are resolved, whether one is talking about the Northern Ireland protocol, the restoration of the Executive and Assembly, legacy or the range of other challenges facing us. That will require leadership and risk-taking by everybody, and it will involve compromise”.

## Conclusion

125. The Committee heard a wide range of evidence that the Good Friday Agreement was an outstanding success in ending violence and has undoubtedly saved many lives. However, it is also clear that the promise of the Agreement remains unfulfilled. The institutions of the Agreement have operated only fitfully and some elements of the Agreement have yet to be implemented at all. While Northern Ireland has achieved peace, it has not achieved reconciliation. The political leaders of Northern Ireland and the British and Irish Governments, as co-guarantors of the Agreement, must act together urgently to redouble their commitment to the Good Friday Agreement, which should be implemented in full.
126. The Committee urges the political parties of Northern Ireland to return to power-sharing as soon as possible. The British and Irish Governments, as co-guarantors of the Agreement, should continue to strongly support efforts in this regard.
127. It is evident that a strong partnership between the British and Irish Governments, underpinned by trust, was essential to the Good Friday Agreement. This partnership is also essential to efforts to support reconciliation in Northern Ireland. Given reduced opportunities for contact at political and official level following the United Kingdom's departure from the European Union, efforts should be made to maximise the institutions of the Good Friday Agreement. The Committee calls on the British and Irish Governments to intensify their engagement under Strand Three of the Good Friday Agreement. Meetings should take place frequently at political and official level. There should also be frequent opportunities for British and Irish Ministers to meet informally and privately.
128. It is clear that international actors, in particular the United States, played a vital role in the Peace Process. The United States continues to play a key role in maintaining peace in Northern Ireland. In this regard, continued investment in Ireland's relationship with the United States is vital. The expansion of Ireland's

diplomatic presence in the United States via the Global Ireland<sup>4</sup> strategy is welcome.

129. The Committee calls for increased efforts to build Strand Two North-South co-operation. The Committee hopes for a return to power-sharing, which would in turn enable the North-South Ministerial Council to function normally. The Committee also calls for exploration of new and emerging areas of co-operation. The Committee strongly supports the efforts of the Shared Island Unit to strengthen practical co-operation on this island.
130. The Committee heard an array of perspectives on the constitutional future of Ireland. There was no consensus from the witnesses as to the appropriate next steps. However, the Committee will explore this issue further as part of its work programme, continuing some vital conversations started in this series. There was broad consensus among witnesses that appropriate and detailed planning would have to take place in advance of referenda on constitutional change in Ireland. The Committee will endeavour to outline more specific recommendations in future reports such as the ‘perspectives on constitutional change’ report.
131. The Committee calls for a renewed focus on reconciliation. It is clear that while the Good Friday Agreement succeeded in ending most violence, there is still progress needed towards true peace and a shared society. Victims of the legacy of the Troubles must be central to efforts at reconciliation.
132. The Committee calls for the Northern Ireland Troubles (Legacy and Reconciliation) Bill to be abandoned and calls for a collective path forward, that is victim-centric, to be prioritised urgently.
133. The Good Friday Agreement was the product of empathy, partnership, compromise, and political bravery. Every effort should be made to ensure that the

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<sup>4</sup> Launched 2018, Global Ireland 2025 is a multi-annual, whole-of-government strategic initiative to double the scope and impact of Ireland's global footprint by 2025 [gov.ie - Global Ireland: Ireland's Global Footprint to 2025 \(www.gov.ie\)](https://www.gov.ie/en/global-ireland-ireland-s-global-footprint-to-2025/)

lessons of the Peace Process inform the next generation of political leaders in Northern Ireland, in Ireland and in the United Kingdom.

134. As stated by Senator George Mitchell, “Those in 1998 who were no different from us. They had been in the conflict. That was really the only difference in circumstance, although it was a substantial one. They had been through the conflict, had seen death and destruction and were worried about their family’s safety and their personal safety. That does not exist now. People tend to forget that. Their minds move to other things. For anyone under 25, this all happened before they were born, but we must keep reminding ourselves and them what is at stake and encourage them as best we can to reach agreement. There is no magic formula I or any external person or force can suggest or impose on them. It must come from within - from the courage, strength and vision of the current political leaders of Northern Ireland in particular but also Ireland and the UK”.

## **APPENDIX: The Good Friday Agreement:**

### **The Agreement reached in the multi-party negotiations**

10 April 1998

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## DECLARATION OF SUPPORT

1. We, the participants in the multi-party negotiations, believe that the agreement we have negotiated offers a truly historic opportunity for a new beginning.
2. The tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We must never forget those who have died or been injured, and their families. But we can best honour them through a fresh start, in which we firmly dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all.
3. We are committed to partnership, equality and mutual respect as the basis of relationships within Northern Ireland, between North and South, and between these islands.
4. We reaffirm our total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues, and our opposition to any use or threat of force by others for any political purpose, whether in regard to this agreement or otherwise.
5. We acknowledge the substantial differences between our continuing, and equally legitimate, political aspirations. However, we will endeavour to strive in every practical way towards reconciliation and rapprochement within the framework of democratic and agreed arrangements. We pledge that we will, in good faith, work to ensure the success of each and every one of the arrangements to be established under this agreement. It is accepted that all of the institutional and constitutional arrangements - an Assembly in Northern Ireland, a North/South Ministerial Council, implementation bodies, a British-Irish Council and a British-Irish Intergovernmental Conference and any amendments to British Acts of Parliament and the Constitution of Ireland - are interlocking and interdependent and that in particular the functioning of the Assembly and the North/South Council are so closely inter-related that the success of each depends on that of the other.
6. Accordingly, in a spirit of concord, we strongly commend this agreement to the people, North and South, for their approval.

## CONSTITUTIONAL ISSUES

1. The participants endorse the commitment made by the British and Irish Governments that, in a new British-Irish Agreement replacing the Anglo-Irish Agreement, they will:

(i) recognise the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland;

(ii) recognise that it is for the people of the island 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, accepting that this right must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland;

(iii) acknowledge that while a substantial section of the people in Northern Ireland share the legitimate wish of a majority of the people of the island of Ireland for a united Ireland, the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the Union and, accordingly, that Northern Ireland's status as part of the United Kingdom reflects and relies upon that wish; and that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people;

(iv) affirm that if, in the future, the people of the island of Ireland exercise their right of self-determination on the basis set out in sections (i) and (ii) above to bring about a united Ireland, it will be a binding obligation on both Governments to introduce and support in their respective Parliaments legislation to give effect to that wish;

(v) affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from

discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos, and aspirations of both communities;

(vi) recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.

2. The participants also note that the two Governments have accordingly undertaken in the context of this comprehensive political agreement, to propose and support changes in, respectively, the Constitution of Ireland and in British legislation relating to the constitutional status of Northern Ireland.

## ANNEX A

### DRAFT CLAUSES/SCHEDULES FOR INCORPORATION IN BRITISH LEGISLATION

1. (1) It is hereby declared that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1.

(2) But if the wish expressed by a majority in such a poll is that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland, the Secretary of State shall lay before Parliament such proposals to give effect to that wish as may be agreed between Her Majesty's Government in the United Kingdom and the Government of Ireland.

2. The Government of Ireland Act 1920 is repealed; and this Act shall have effect notwithstanding any other previous enactment.

## SCHEDULE 1

### POLLS FOR THE PURPOSE OF SECTION 1

1. The Secretary of State may by order direct the holding of a poll for the purposes of section 1 on a date specified in the order.
2. Subject to paragraph 3, the Secretary of State shall exercise the power under paragraph 1 if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.
3. The Secretary of State shall not make an order under paragraph 1 earlier than seven years after the holding of a previous poll under this Schedule.
4. (Remaining paragraphs along the lines of paragraphs 2 and 3 of existing Schedule 1 to 1973 Act.)

## ANNEX B

### IRISH GOVERNMENT DRAFT LEGISLATION TO AMEND THE CONSTITUTION

Add to Article 29 the following sections:

7.

1°. The State may consent to be bound by the British-Irish Agreement done at Belfast on the 10th day of April 1998, hereinafter called the Agreement.

2°. Any institution established by or under the Agreement may exercise the powers and functions thereby conferred on it in respect of all or any part of the island of Ireland notwithstanding any other provision of this Constitution conferring a like power or function on any person or any organ of State appointed under or created or established by or under this Constitution. Any power or function conferred on such an institution in relation to the settlement or resolution of disputes or controversies may be in addition to or in substitution for any like power or function conferred by this Constitution on any such person or organ of State as aforesaid.

3°. If the Government declare that the State has become obliged, pursuant to the Agreement, to give effect to the amendment of this Constitution referred to therein, then, notwithstanding Article 46 hereof, this Constitution shall be amended as follows:

i. the following Articles shall be substituted for Articles 2 and 3 of the Irish text:

### Airteagal 2

Tá gach duine a shaolaítear in oileán na hÉireann, ar a n-áirítear a oileáin agus a fharraigí, i dteideal, agus tá de cheart oidhreachta aige nó aici, a bheith páirteach i náisiún na hÉireann. Tá an teideal sin freisin ag na daoine go léir atá cáilithe ar shlí eile de réir dlí chun bheith ina saoránaigh d'Éirinn. Ina theannta sin, is mór ag náisiún na hÉireann a choibhneas speisialta le daoine de bhunadh na hÉireann atá ina gcónaí ar an gcoigríoch agus arb ionann féiniúlacht agus oidhrecht chultúir dóibh agus do náisiún na hÉireann.

### Airteagal 3

1. Is í toil dhiongbháilte náisiún na hÉireann, go sítheach cairdiúil, na daoine go léir a chomhroinneann críoch oileán na hÉireann i bpáirt lena chéile, in éagsúlacht uile a bhféiniúlachtaí agus a dtraidisiún, a aontú, á aithint gur trí mhodhanna síochánta amháin le toiliú thromlach na ndaoine, á chur in iúl go daonlathach, sa dá dhlínse san oileán, a dhéanfar Éire aontaithe a thabhairt i gcrích. Go dtí sin, bainfidh na dlíthe a achtófar ag an bParlaimint a bhunaítear leis an mBunreacht seo leis an limistéar feidhme céanna, agus beidh an raon feidhme céanna acu, lena bhain na dlíthe, agus a bhí ag na dlíthe, a d'achtaigh an Pharlaimint a bhí ar marthain díreach roimh theacht i ngníomh don Bhunreacht seo.

2. Féadfaidh údaráis fhreagracha faoi seach na ndlínsí sin institiúidí ag a mbeidh cumhachtaí agus feidhmeanna feidhmiúcháin a chomhroinntear idir na dlínsí sin a bhunú chun críoch sonraithe agus féadfaidh na h-institiúidí sin cumhachtaí agus feidhmeanna a fheidhmiú i leith an oileáin ar fad nó i leith aon chuid de.

ii. the following Articles shall be substituted for Articles 2 and 3 of the English text:

### Article 2

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also

the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

### *Article 3*

1. It is the firm will of the Irish nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions, recognising that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island. Until then, the laws enacted by the Parliament established by this Constitution shall have the like area and extent of application as the laws enacted by the Parliament that existed immediately before the coming into operation of this Constitution.

2. Institutions with executive powers and functions that are shared between those jurisdictions may be established by their respective responsible authorities for stated purposes and may exercise powers and functions in respect of all or any part of the island."

iii. the following section shall be added to the Irish text of this Article:

"8 Tig leis an Stát dlínse a fheidhmiú taobh amuigh dá chríoch de réir bhunrialacha gnáth-admhaithe an dlí idirnáisúnta." and

iv. the following section shall be added to the English text of this Article:

"8. The State may exercise extra-territorial jurisdiction in accordance with the generally recognised principles of international law."

4. If a declaration under this section is made, this subsection and subsection 3, other than the amendment of this Constitution effected thereby, and subsection 5 of this section shall be omitted from every official text of this Constitution published thereafter, but notwithstanding such omission this section shall continue to have the force of law.

5. If such a declaration is not made within twelve months of this section being added to this Constitution or such longer period as may be provided for by law, this section shall cease to have effect and shall be omitted from every official text of this Constitution published thereafter.

## STRAND ONE

### DEMOCRATIC INSTITUTIONS IN NORTHERN IRELAND

1. This agreement provides for a democratically elected Assembly in Northern Ireland which is inclusive in its membership, capable of exercising executive and legislative authority, and subject to safeguards to protect the rights and interests of all sides of the community.

#### The Assembly

2. A 108 member Assembly will be elected by PR (STV) from existing Westminster constituencies.

3. The Assembly will exercise full legislative and executive authority in respect of those matters currently within the responsibility of the six Northern Ireland Government Departments, with the possibility of taking on responsibility for other matters as detailed elsewhere in this agreement.

4. The Assembly - operating where appropriate on a cross-community basis - will be the prime source of authority in respect of all devolved responsibilities.

#### Safeguards

5. There will be safeguards to ensure that all sections of the community can participate and work together successfully in the operation of these institutions and that all sections of the community are protected, including:

(a) allocations of Committee Chairs, Ministers and Committee membership in proportion to party strengths;

(b) the European Convention on Human Rights (ECHR) and any Bill of Rights for Northern Ireland supplementing it, which neither the Assembly nor public bodies can infringe, together with a Human Rights Commission;

(c) arrangements to provide that key decisions and legislation are proofed to ensure that they do not infringe the ECHR and any Bill of Rights for Northern Ireland;

(d) arrangements to ensure key decisions are taken on a cross-community basis;

(i) either parallel consent, i.e. a majority of those members present and voting, including a majority of the unionist and nationalist designations present and voting;

(ii) or a weighted majority (60%) of members present and voting, including at least 40% of each of the nationalist and unionist designations present and voting. Key decisions requiring cross-community support will be designated in advance, including election of the Chair of the Assembly, the First Minister and Deputy First Minister, standing orders and budget allocations. In other cases such decisions could be triggered by a petition of concern brought by a significant minority of Assembly members (30/108).

(e) an Equality Commission to monitor a statutory obligation to promote equality of opportunity in specified areas and parity of esteem between the two main communities, and to investigate individual complaints against public bodies.

### **Operation of the Assembly**

6. At their first meeting, members of the Assembly will register a designation of identity - nationalist, unionist or other - for the purposes of measuring cross-community support in Assembly votes under the relevant provisions above.

7. The Chair and Deputy Chair of the Assembly will be elected on a cross-community basis, as set out in paragraph 5(d) above.



8. There will be a Committee for each of the main executive functions of the Northern Ireland Administration. The Chairs and Deputy Chairs of the Assembly Committees will be allocated proportionally, using the d'Hondt system. Membership of the Committees will be in broad proportion to party strengths in the Assembly to ensure that the opportunity of Committee places is available to all members.

9. The Committees will have a scrutiny, policy development and consultation role with respect to the Department with which each is associated, and will have a role in initiation of legislation. They will have the power to:

- consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee stage of relevant primary legislation;
- call for persons and papers;
- initiate enquiries and make reports;
- consider and advise on matters brought to the Committee by its Minister.

10. Standing Committees other than Departmental Committees may be established as may be required from time to time.

11. The Assembly may appoint a special Committee to examine and report on whether a measure or proposal for legislation is in conformity with equality requirements, including the ECHR/Bill of Rights. The Committee shall have the power to call people and papers to assist in its consideration of the matter. The Assembly shall then consider the report of the Committee and can determine the matter in accordance with the cross-community consent procedure.

12. The above special procedure shall be followed when requested by the Executive Committee, or by the relevant Departmental Committee, voting on a cross-community basis.

13. When there is a petition of concern as in 5(d) above, the Assembly shall vote to determine whether the measure may proceed without reference to this special

procedure. If this fails to achieve support on a cross-community basis, as in 5(d)(i) above, the special procedure shall be followed.

### **Executive Authority**

14. Executive authority to be discharged on behalf of the Assembly by a First Minister and Deputy First Minister and up to ten Ministers with Departmental responsibilities.

15. The First Minister and Deputy First Minister shall be jointly elected into office by the Assembly voting on a cross-community basis, according to 5(d)(i) above.

16. Following the election of the First Minister and Deputy First Minister, the posts of Ministers will be allocated to parties on the basis of the d'Hondt system by reference to the number of seats each party has in the Assembly.

17. The Ministers will constitute an Executive Committee, which will be convened, and presided over, by the First Minister and Deputy First Minister.

18. The duties of the First Minister and Deputy First Minister will include, inter alia, dealing with and co-ordinating the work of the Executive Committee and the response of the Northern Ireland administration to external relationships.

19. The Executive Committee will provide a forum for the discussion of, and agreement on, issues which cut across the responsibilities of two or more Ministers, for prioritising executive and legislative proposals and for recommending a common position where necessary (e.g. in dealing with external relationships).

20. The Executive Committee will seek to agree each year, and review as necessary, a programme incorporating an agreed budget linked to policies and programmes, subject to approval by the Assembly, after scrutiny in Assembly Committees, on a cross-community basis.

21. A party may decline the opportunity to nominate a person to serve as a Minister or may subsequently change its nominee.

22. All the Northern Ireland Departments will be headed by a Minister. All Ministers will liaise regularly with their respective Committee.

23. As a condition of appointment, Ministers, including the First Minister and Deputy First Minister, will affirm the terms of a Pledge of Office (Annex A) undertaking to discharge effectively and in good faith all the responsibilities attaching to their office.

24. Ministers will have full executive authority in their respective areas of responsibility, within any broad programme agreed by the Executive Committee and endorsed by the Assembly as a whole.

25. An individual may be removed from office following a decision of the Assembly taken on a cross-community basis, if (s)he loses the confidence of the Assembly, voting on a cross-community basis, for failure to meet his or her responsibilities including, inter alia, those set out in the Pledge of Office. Those who hold office should use only democratic, non-violent means, and those who do not should be excluded or removed from office under these provisions.

### Legislation

26. The Assembly will have authority to pass primary legislation for Northern Ireland in devolved areas, subject to:

- (a) the ECHR and any Bill of Rights for Northern Ireland supplementing it which, if the courts found to be breached, would render the relevant legislation null and void;
- (b) decisions by simple majority of members voting, except when decision on a cross-community basis is required;
- (c) detailed scrutiny and approval in the relevant Departmental Committee;
- (d) mechanisms, based on arrangements proposed for the Scottish Parliament, to ensure suitable co-ordination, and avoid disputes, between the Assembly and the Westminster Parliament;
- (e) option of the Assembly seeking to include Northern Ireland provisions in United Kingdom-wide legislation in the Westminster Parliament, especially on devolved issues where parity is normally maintained (e.g. social security, company law).

27. The Assembly will have authority to legislate in reserved areas with the approval of the Secretary of State and subject to Parliamentary control.

28. Disputes over legislative competence will be decided by the Courts.

29. Legislation could be initiated by an individual, a Committee or a Minister.

### **Relations with other institutions**

30. Arrangements to represent the Assembly as a whole, at Summit level and in dealings with other institutions, will be in accordance with paragraph 18, and will be such as to ensure cross-community involvement.

31. Terms will be agreed between appropriate Assembly representatives and the Government of the United Kingdom to ensure effective co-ordination and input by Ministers to national policy-making, including on EU issues.

32. Role of Secretary of State:

- (a) to remain responsible for NIO matters not devolved to the Assembly, subject to regular consultation with the Assembly and Ministers;
- (b) to approve and lay before the Westminster Parliament any Assembly legislation on reserved matters;
- (c) to represent Northern Ireland interests in the United Kingdom Cabinet;
- (d) to have the right to attend the Assembly at their invitation.

33. The Westminster Parliament (whose power to make legislation for Northern Ireland would remain unaffected) will:

- (a) legislate for non-devolved issues, other than where the Assembly legislates with the approval of the Secretary of State and subject to the control of Parliament;
- (b) to legislate as necessary to ensure the United Kingdom's international obligations are met in respect of Northern Ireland;

(c) scrutinise, including through the Northern Ireland Grand and Select Committees, the responsibilities of the Secretary of State.

34. A consultative Civic Forum will be established. It will comprise representatives of the business, trade union and voluntary sectors, and such other sectors as agreed by the First Minister and the Deputy First Minister. It will act as a consultative mechanism on social, economic and cultural issues. The First Minister and the Deputy First Minister will by agreement provide administrative support for the Civic Forum and establish guidelines for the selection of representatives to the Civic Forum.

### **Transitional Arrangements**

35. The Assembly will meet first for the purpose of organisation, without legislative or executive powers, to resolve its standing orders and working practices and make preparations for the effective functioning of the Assembly, the British-Irish Council and the North/South Ministerial Council and associated implementation bodies. In this transitional period, those members of the Assembly serving as shadow Ministers shall affirm their commitment to nonviolence and exclusively peaceful and democratic means and their opposition to any use or threat of force by others for any political purpose; to work in good faith to bring the new arrangements into being; and to observe the spirit of the Pledge of Office applying to appointed Ministers.

### **Review**

36. After a specified period there will be a review of these arrangements, including the details of electoral arrangements and of the Assembly's procedures, with a view to agreeing any adjustments necessary in the interests of efficiency and fairness.

## **Annex A**

### **Pledge of Office**

To pledge:

- (a) to discharge in good faith all the duties of office;
- (b) commitment to non-violence and exclusively peaceful and democratic means;

(c) to serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination;

(d) to participate with colleagues in the preparation of a programme for government;

(e) to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly;

(f) to support, and to act in accordance with, all decisions of the Executive Committee and Assembly;

(g) to comply with the Ministerial Code of Conduct.

## CODE OF CONDUCT

Ministers must at all times:

- observe the highest standards of propriety and regularity involving impartiality, integrity and objectivity in relationship to the stewardship of public funds;
- be accountable to users of services, the community and, through the Assembly, for the activities within their responsibilities, their stewardship of public funds and the extent to which key performance targets and objectives have been met;
- ensure all reasonable requests for information from the Assembly, users of services and individual citizens are complied with; and that Departments and their staff conduct their dealings with the public in an open and responsible way;
- follow the seven principles of public life set out by the Committee on Standards in Public Life;
- comply with this code and with rules relating to the use of public funds;
- operate in a way conducive to promoting good community relations and equality of treatment;

- not use information gained in the course of their service for personal gain; nor seek to use the opportunity of public service to promote their private interests;
- ensure they comply with any rules on the acceptance of gifts and hospitality that might be offered;
- declare any personal or business interests which may conflict with their responsibilities. The Assembly will retain a Register of Interests. Individuals must ensure that any direct or indirect pecuniary interests which members of the public might reasonably think could influence their judgement are listed in the Register of Interests;

## STRAND TWO

### NORTH/SOUTH MINISTERIAL COUNCIL

1. Under a new British/Irish Agreement dealing with the totality of relationships, and related legislation at Westminster and in the Oireachtas, a North/South Ministerial Council to be established to bring together those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, co-operation and action within the island of Ireland - including through implementation on an all-island and cross-border basis - on matters of mutual interest within the competence of the Administrations, North and South.

2. All Council decisions to be by agreement between the two sides. Northern Ireland to be represented by the First Minister, Deputy First Minister and any relevant Ministers, the Irish Government by the Taoiseach and relevant Ministers, all operating in accordance with the rules for democratic authority and accountability in force in the Northern Ireland Assembly and the Oireachtas respectively. Participation in the Council to be one of the essential responsibilities attaching to relevant posts in the two Administrations. If a holder of a relevant post will not participate normally in the Council, the Taoiseach in the case of the Irish Government and the First and Deputy First Minister in the case of the Northern Ireland Administration to be able to make alternative arrangements.

3. The Council to meet in different formats:

(i) in plenary format twice a year, with Northern Ireland representation led by the First Minister and Deputy First Minister and the Irish Government led by the Taoiseach;

(ii) in specific sectoral formats on a regular and frequent basis with each side represented by the appropriate Minister;

(iii) in an appropriate format to consider institutional or cross-sectoral matters (including in relation to the EU) and to resolve disagreement.

4. Agendas for all meetings to be settled by prior agreement between the two sides, but it will be open to either to propose any matter for consideration or action.

5. The Council:

(i) to exchange information, discuss and consult with a view to co-operating on matters of mutual interest within the competence of both Administrations, North and South;

(ii) to use best endeavours to reach agreement on the adoption of common policies, in areas where there is a mutual cross-border and all-island benefit, and which are within the competence of both Administrations, North and South, making determined efforts to overcome any disagreements;

(iii) to take decisions by agreement on policies for implementation separately in each jurisdiction, in relevant meaningful areas within the competence of both Administrations, North and South;

(iv) to take decisions by agreement on policies and action at an all-island and cross-border level to be implemented by the bodies to be established as set out in paragraphs 8 and 9 below.

6. Each side to be in a position to take decisions in the Council within the defined authority of those attending, through the arrangements in place for co-ordination of executive functions within each jurisdiction. Each side to remain accountable to the Assembly and Oireachtas respectively, whose approval, through the arrangements



in place on either side, would be required for decisions beyond the defined authority of those attending.

7. As soon as practically possible after elections to the Northern Ireland Assembly, inaugural meetings will take place of the Assembly, the British/Irish Council and the North/South Ministerial Council in their transitional forms. All three institutions will meet regularly and frequently on this basis during the period between the elections to the Assembly, and the transfer of powers to the Assembly, in order to establish their *modus operandi*.

8. During the transitional period between the elections to the Northern Ireland Assembly and the transfer of power to it, representatives of the Northern Ireland transitional Administration and the Irish Government operating in the North/South Ministerial Council will undertake a work programme, in consultation with the British Government, covering at least 12 subject areas, with a view to identifying and agreeing by 31 October 1998 areas where co-operation and implementation for mutual benefit will take place. Such areas may include matters in the list set out in the Annex.

9. As part of the work programme, the Council will identify and agree at least 6 matters for co-operation and implementation in each of the following categories:

- (i) Matters where existing bodies will be the appropriate mechanisms for co-operation in each separate jurisdiction;
- (ii) Matters where the co-operation will take place through agreed implementation bodies on a cross-border or all-island level.

10. The two Governments will make necessary legislative and other enabling preparations to ensure, as an absolute commitment, that these bodies, which have been agreed as a result of the work programme, function at the time of the inception of the British-Irish Agreement and the transfer of powers, with legislative authority for these bodies transferred to the Assembly as soon as possible thereafter. Other arrangements for the agreed co-operation will also commence contemporaneously with the transfer of powers to the Assembly.

11. The implementation bodies will have a clear operational remit. They will implement on an all-island and cross-border basis policies agreed in the Council.
12. Any further development of these arrangements to be by agreement in the Council and with the specific endorsement of the Northern Ireland Assembly and Oireachtas, subject to the extent of the competences and responsibility of the two Administrations.
13. It is understood that the North/South Ministerial Council and the Northern Ireland Assembly are mutually inter-dependent, and that one cannot successfully function without the other.
14. Disagreements within the Council to be addressed in the format described at paragraph 3(iii) above or in the plenary format. By agreement between the two sides, experts could be appointed to consider a particular matter and report.
15. Funding to be provided by the two Administrations on the basis that the Council and the implementation bodies constitute a necessary public function.
16. The Council to be supported by a standing joint Secretariat, staffed by members of the Northern Ireland Civil Service and the Irish Civil Service.
17. The Council to consider the European Union dimension of relevant matters, including the implementation of EU policies and programmes and proposals under consideration in the EU framework. Arrangements to be made to ensure that the views of the Council are taken into account and represented appropriately at relevant EU meetings.
18. The Northern Ireland Assembly and the Oireachtas to consider developing a joint parliamentary forum, bringing together equal numbers from both institutions for discussion of matters of mutual interest and concern.
19. Consideration to be given to the establishment of an independent consultative forum appointed by the two Administrations, representative of civil society, comprising the social partners and other members with expertise in social, cultural, economic and other issues.

**ANNEX**

Areas for North-South co-operation and implementation may include the following:

1. Agriculture - animal and plant health.
2. Education - teacher qualifications and exchanges.
3. Transport - strategic transport planning.
4. Environment - environmental protection, pollution, water quality, and waste management.
5. Waterways - inland waterways.
6. Social Security/Social Welfare - entitlements of cross-border workers and fraud control.
7. Tourism - promotion, marketing, research, and product development.
8. Relevant EU Programmes such as SPPR, INTERREG, Leader II and their successors.
9. Inland Fisheries.
10. Aquaculture and marine matters
11. Health: accident and emergency services and other related cross-border issues.
12. Urban and rural development.

Others to be considered by the shadow North/ South Council.

**STRAND THREE****BRITISH-IRISH COUNCIL**

1. A British-Irish Council (BIC) will be established under a new British-Irish Agreement to promote the harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands.

2. Membership of the BIC will comprise representatives of the British and Irish Governments, devolved institutions in Northern Ireland, Scotland and Wales, when established, and, if appropriate, elsewhere in the United Kingdom, together with representatives of the Isle of Man and the Channel Islands.
3. The BIC will meet in different formats: at summit level, twice per year; in specific sectoral formats on a regular basis, with each side represented by the appropriate Minister; in an appropriate format to consider cross-sectoral matters.
4. Representatives of members will operate in accordance with whatever procedures for democratic authority and accountability are in force in their respective elected institutions.
5. The BIC will exchange information, discuss, consult and use best endeavours to reach agreement on co-operation on matters of mutual interest within the competence of the relevant Administrations. Suitable issues for early discussion in the BIC could include transport links, agricultural issues, environmental issues, cultural issues, health issues, education issues and approaches to EU issues. Suitable arrangements to be made for practical co-operation on agreed policies.
6. It will be open to the BIC to agree common policies or common actions. Individual members may opt not to participate in such common policies and common action.
7. The BIC normally will operate by consensus. In relation to decisions on common policies or common actions, including their means of implementation, it will operate by agreement of all members participating in such policies or actions.
8. The members of the BIC, on a basis to be agreed between them, will provide such financial support as it may require.
9. A secretariat for the BIC will be provided by the British and Irish Governments in coordination with officials of each of the other members.
10. In addition to the structures provided for under this agreement, it will be open to two or more members to develop bilateral or multilateral arrangements between them. Such arrangements could include, subject to the agreement of the members

concerned, mechanisms to enable consultation, co-operation and joint decision-making on matters of mutual interest; and mechanisms to implement any joint decisions they may reach. These arrangements will not require the prior approval of the BIC as a whole and will operate independently of it.

11. The elected institutions of the members will be encouraged to develop interparliamentary links, perhaps building on the British-Irish Interparliamentary Body.

12. The full membership of the BIC will keep under review the workings of the Council, including a formal published review at an appropriate time after the Agreement comes into effect, and will contribute as appropriate to any review of the overall political agreement arising from the multi-party negotiations.

### **BRITISH-IRISH INTERGOVERNMENTAL CONFERENCE**

1. There will be a new British-Irish Agreement dealing with the totality of relationships. It will establish a standing British-Irish Intergovernmental Conference, which will subsume both the Anglo-Irish Intergovernmental Council and the Intergovernmental Conference established under the 1985 Agreement.

2. The Conference will bring together the British and Irish Governments to promote bilateral co-operation at all levels on all matters of mutual interest within the competence of both Governments.

3. The Conference will meet as required at Summit level (Prime Minister and Taoiseach). Otherwise, Governments will be represented by appropriate Ministers. Advisers, including police and security advisers, will attend as appropriate.

4. All decisions will be by agreement between both Governments. The Governments will make determined efforts to resolve disagreements between them. There will be no derogation from the sovereignty of either Government.

5. In recognition of the Irish Government's special interest in Northern Ireland and of the extent to which issues of mutual concern arise in relation to Northern Ireland, there will be regular and frequent meetings of the Conference concerned with non-devolved Northern Ireland matters, on which the Irish Government may put forward

views and proposals. These meetings, to be co-chaired by the Minister for Foreign Affairs and the Secretary of State for Northern Ireland, would also deal with all-island and cross-border co-operation on nondevolved issues.

6. Co-operation within the framework of the Conference will include facilitation of co-operation in security matters. The Conference also will address, in particular, the areas of rights, justice, prisons and policing in Northern Ireland (unless and until responsibility is devolved to a Northern Ireland administration) and will intensify co-operation between the two Governments on the all-island or cross-border aspects of these matters.

7. Relevant executive members of the Northern Ireland Administration will be involved in meetings of the Conference, and in the reviews referred to in paragraph 9 below to discuss non-devolved Northern Ireland matters.

8. The Conference will be supported by officials of the British and Irish Governments, including by a standing joint Secretariat of officials dealing with non-devolved Northern Ireland matters.

9. The Conference will keep under review the workings of the new British-Irish Agreement and the machinery and institutions established under it, including a formal published review three years after the Agreement comes into effect. Representatives of the Northern Ireland Administration will be invited to express views to the Conference in this context. The Conference will contribute as appropriate to any review of the overall political agreement arising from the multi-party negotiations but will have no power to override the democratic arrangements set up by this Agreement.

## **RIGHTS, SAFEGUARDS AND EQUALITY OF OPPORTUNITY**

### **Human Rights**

1. The parties affirm their commitment to the mutual respect, the civil rights and the religious liberties of everyone in the community. Against the background of the recent history of communal conflict, the parties affirm in particular:

- the right of free political thought;

- the right to freedom and expression of religion;
- the right to pursue democratically national and political aspirations;
- the right to seek constitutional change by peaceful and legitimate means;
- the right to freely choose one's place of residence;
- the right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity;
- the right to freedom from sectarian harassment; and
- the right of women to full and equal political participation.

### United Kingdom Legislation

2. The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency.

3. Subject to the outcome of public consultation underway, the British Government intends, as a particular priority, to create a statutory obligation on public authorities in Northern Ireland to carry out all their functions with due regard to the need to promote equality of opportunity in relation to religion and political opinion; gender; race; disability; age; marital status; dependants; and sexual orientation. Public bodies would be required to draw up statutory schemes showing how they would implement this obligation. Such schemes would cover arrangements for policy appraisal, including an assessment of impact on relevant categories, public consultation, public access to information and services, monitoring and timetables.

4. The new Northern Ireland Human Rights Commission (see paragraph 5 below) will be invited to consult and to advise on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience. These additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and - taken together with the ECHR - to constitute a Bill of Rights for Northern Ireland. Among the issues for consideration by the Commission will be:

- the formulation of a general obligation on government and public bodies fully to respect, on the basis of equality of treatment, the identity and ethos of both communities in Northern Ireland; and
- a clear formulation of the rights not to be discriminated against and to equality of opportunity in both the public and private sectors.

### **New Institutions in Northern Ireland**

5. A new Northern Ireland Human Rights Commission, with membership from Northern Ireland reflecting the community balance, will be established by Westminster legislation, independent of Government, with an extended and enhanced role beyond that currently exercised by the Standing Advisory Commission on Human Rights, to include keeping under review the adequacy and effectiveness of laws and practices, making recommendations to Government as necessary; providing information and promoting awareness of human rights; considering draft legislation referred to them by the new Assembly; and, in appropriate cases, bringing court proceedings or providing assistance to individuals doing so.

6. Subject to the outcome of public consultation currently underway, the British Government intends a new statutory Equality Commission to replace the Fair Employment Commission, the Equal Opportunities Commission (NI), the Commission for Racial Equality (NI) and the Disability Council. Such a unified Commission will advise on, validate and monitor the statutory obligation and will investigate complaints of default.

7. It would be open to a new Northern Ireland Assembly to consider bringing together its responsibilities for these matters into a dedicated Department of Equality.

8. These improvements will build on existing protections in Westminster legislation in respect of the judiciary, the system of justice and policing.

### **Comparable Steps by the Irish Government**

9. The Irish Government will also take steps to further strengthen the protection of human rights in its jurisdiction. The Government will, taking account of the work of the All-Party Oireachtas Committee on the Constitution and the Report of the



Constitution Review Group, bring forward measures to strengthen and underpin the constitutional protection of human rights. These proposals will draw on the European Convention on Human Rights and other international legal instruments in the field of human rights and the question of the incorporation of the ECHR will be further examined in this context. The measures brought forward would ensure at least an equivalent level of protection of human rights as will pertain in Northern Ireland. In addition, the Irish Government will:

- establish a Human Rights Commission with a mandate and remit equivalent to that within Northern Ireland;
- proceed with arrangements as quickly as possible to ratify the Council of Europe Framework Convention on National Minorities (already ratified by the UK);
- implement enhanced employment equality legislation;
- introduce equal status legislation; and
- continue to take further active steps to demonstrate its respect for the different traditions in the island of Ireland.

### **A Joint Committee**

10. It is envisaged that there would be a joint committee of representatives of the two Human Rights Commissions, North and South, as a forum for consideration of human rights issues in the island of Ireland. The joint committee will consider, among other matters, the possibility of establishing a charter, open to signature by all democratic political parties, reflecting and endorsing agreed measures for the protection of the fundamental rights of everyone living in the island of Ireland.

### **Reconciliation and Victims of Violence**

11. The participants believe that it is essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation. They look forward to the results of the work of the Northern Ireland Victims Commission.

12. It is recognised that victims have a right to remember as well as to contribute to a changed society. The achievement of a peaceful and just society would be the true memorial to the victims of violence. The participants particularly recognise that

young people from areas affected by the troubles face particular difficulties and will support the development of special community-based initiatives based on international best practice. The provision of services that are supportive and sensitive to the needs of victims will also be a critical element and that support will need to be channelled through both statutory and community-based voluntary organisations facilitating locally-based self-help and support networks. This will require the allocation of sufficient resources, including statutory funding as necessary, to meet the needs of victims and to provide for community-based support programmes.

13. The participants recognise and value the work being done by many organisations to develop reconciliation and mutual understanding and respect between and within communities and traditions, in Northern Ireland and between North and South, and they see such work as having a vital role in consolidating peace and political agreement. Accordingly, they pledge their continuing support to such organisations and will positively examine the case for enhanced financial assistance for the work of reconciliation. An essential aspect of the reconciliation process is the promotion of a culture of tolerance at every level of society, including initiatives to facilitate and encourage integrated education and mixed housing.

### **Economic, Social and Cultural Issues**

1. Pending the devolution of powers to a new Northern Ireland Assembly, the British Government will pursue broad policies for sustained economic growth and stability in Northern Ireland and for promoting social inclusion, including in particular community development and the advancement of women in public life.

2. Subject to the public consultation currently under way, the British Government will make rapid progress with:

- (i) a new regional development strategy for Northern Ireland, for consideration in due course by the Assembly, tackling the problems of a divided society and social cohesion in urban, rural and border areas, protecting and enhancing the environment, producing new approaches to transport issues, strengthening the physical infrastructure of the region, developing the

advantages and resources of rural areas and rejuvenating major urban centres;

(ii) a new economic development strategy for Northern Ireland, for consideration in due course by the Assembly, which would provide for short and medium term economic planning linked as appropriate to the regional development strategy; and

(iii) measures on employment equality included in the recent White Paper ("Partnership for Equality") and covering the extension and strengthening of anti-discrimination legislation, a review of the national security aspects of the present fair employment legislation at the earliest possible time, a new more focused Targeting Social Need initiative and a range of measures aimed at combating unemployment and progressively eliminating the differential in unemployment rates between the two communities by targeting objective need.

3. All participants recognise the importance of respect, understanding and tolerance in relation to linguistic diversity, including in Northern Ireland, the Irish language, Ulster-Scots and the languages of the various ethnic communities, all of which are part of the cultural wealth of the island of Ireland.

4. In the context of active consideration currently being given to the UK signing the Council of Europe Charter for Regional or Minority Languages, the British Government will in particular in relation to the Irish language, where appropriate and where people so desire it:

- take resolute action to promote the language;
- facilitate and encourage the use of the language in speech and writing in public and private life where there is appropriate demand;
- seek to remove, where possible, restrictions which would discourage or work against the maintenance or development of the language;
- make provision for liaising with the Irish language community, representing their views to public authorities and investigating complaints;

- place a statutory duty on the Department of Education to encourage and facilitate Irish medium education in line with current provision for integrated education;
- explore urgently with the relevant British authorities, and in co-operation with the Irish broadcasting authorities, the scope for achieving more widespread availability of Teilifís na Gaeilge in Northern Ireland;
- seek more effective ways to encourage and provide financial support for Irish language film and television production in Northern Ireland; and
- encourage the parties to secure agreement that this commitment will be sustained by a new Assembly in a way which takes account of the desires and sensitivities of the community.

5. All participants acknowledge the sensitivity of the use of symbols and emblems for public purposes, and the need in particular in creating the new institutions to ensure that such symbols and emblems are used in a manner which promotes mutual respect rather than division. Arrangements will be made to monitor this issue and consider what action might be required.

## DECOMMISSIONING

1. Participants recall their agreement in the Procedural Motion adopted on 24 September 1997 "that the resolution of the decommissioning issue is an indispensable part of the process of negotiation", and also recall the provisions of paragraph 25 of Strand 1 above.

2. They note the progress made by the Independent International Commission on Decommissioning and the Governments in developing schemes which can represent a workable basis for achieving the decommissioning of illegally-held arms in the possession of paramilitary groups.

3. All participants accordingly reaffirm their commitment to the total disarmament of all paramilitary organisations. They also confirm their intention to continue to work constructively and in good faith with the Independent Commission, and to use any influence they may have, to achieve the decommissioning of all paramilitary arms

within two years following endorsement in referendums North and South of the agreement and in the context of the implementation of the overall settlement.

4. The Independent Commission will monitor, review and verify progress on decommissioning of illegal arms, and will report to both Governments at regular intervals.

6. Both Governments will take all necessary steps to facilitate the decommissioning process to include bringing the relevant schemes into force by the end of June.

## SECURITY

1. The participants note that the development of a peaceful environment on the basis of this agreement can and should mean a normalisation of security arrangements and practices.

2. The British Government will make progress towards the objective of as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat and with a published overall strategy, dealing with:

(i) the reduction of the numbers and role of the Armed Forces deployed in Northern Ireland to levels compatible with a normal peaceful society;

(ii) the removal of security installations;

(iii) the removal of emergency powers in Northern Ireland; and

(iv) other measures appropriate to and compatible with a normal peaceful society.

3. The Secretary of State will consult regularly on progress, and the response to any continuing paramilitary activity, with the Irish Government and the political parties, as appropriate.

4. The British Government will continue its consultation on firearms regulation and control on the basis of the document published on 2 April 1998.

5. The Irish Government will initiate a wide-ranging review of the Offences Against the State Acts 1939-85 with a view to both reform and dispensing with those elements no longer required as circumstances permit.

## **POLICING AND JUSTICE**

1. The participants recognise that policing is a central issue in any society. They equally recognise that Northern Ireland's history of deep divisions has made it highly emotive, with great hurt suffered and sacrifices made by many individuals and their families, including those in the RUC and other public servants. They believe that the agreement provides the opportunity for a new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the community as a whole. They also believe that this agreement offers a unique opportunity to bring about a new political dispensation which will recognise the full and equal legitimacy and worth of the identities, senses of allegiance and ethos of all sections of the community in Northern Ireland. They consider that this opportunity should inform and underpin the development of a police service representative in terms of the make-up of the community as a whole and which, in a peaceful environment, should be routinely unarmed.

2. The participants believe it essential that policing structures and arrangements are such that the police service is professional, effective and efficient, fair and impartial, free from partisan political control; accountable, both under the law for its actions and to the community it serves; representative of the society it polices, and operates within a coherent and cooperative criminal justice system, which conforms with human rights norms. The participants also believe that those structures and arrangements must be capable of maintaining law and order including responding effectively to crime and to any terrorist threat and to public order problems. A police service which cannot do so will fail to win public confidence and acceptance. They believe that any such structures and arrangements should be capable of delivering a policing service, in constructive and inclusive partnerships with the community at all levels, and with the maximum delegation of authority and responsibility, consistent with the foregoing principles. These arrangements should be based on principles of

protection of human rights and professional integrity and should be unambiguously accepted and actively supported by the entire community.

3. An independent Commission will be established to make recommendations for future policing arrangements in Northern Ireland including means of encouraging widespread community support for these arrangements within the agreed framework of principles reflected in the paragraphs above and in accordance with the terms of reference at Annex A. The Commission will be broadly representative with expert and international representation among its membership and will be asked to consult widely and to report no later than Summer 1999.

4. The participants believe that the aims of the criminal justice system are to:

- deliver a fair and impartial system of justice to the community;
- be responsive to the community's concerns, and encouraging community involvement where appropriate;
- have the confidence of all parts of the community; and
- deliver justice efficiently and effectively.

5. There will be a parallel wide-ranging review of criminal justice (other than policing and those aspects of the system relating to the emergency legislation) to be carried out by the British Government through a mechanism with an independent element, in consultation with the political parties and others. The review will commence as soon as possible, will include wide consultation, and a report will be made to the Secretary of State no later than Autumn 1999. Terms of Reference are attached at Annex B.

6. Implementation of the recommendations arising from both reviews will be discussed with the political parties and with the Irish Government.

7. The participants also note that the British Government remains ready in principle, with the broad support of the political parties, and after consultation, as appropriate, with the Irish Government, in the context of ongoing implementation of the relevant recommendations, to devolve responsibility for policing and justice issues.

## ANNEX A

### COMMISSION ON POLICING FOR NORTHERN IRELAND

#### Terms of Reference

Taking account of the principles on policing as set out in the agreement, the Commission will inquire into policing in Northern Ireland and, on the basis of its findings, bring forward proposals for future policing structures and arrangements, including means of encouraging widespread community support for those arrangements.

Its proposals on policing should be designed to ensure that policing arrangements, including composition, recruitment, training, culture, ethos and symbols, are such that in a new approach Northern Ireland has a police service that can enjoy widespread support from, and is seen as an integral part of, the community as a whole.

Its proposals should include recommendations covering any issues such as re-training, job placement and educational and professional development required in the transition to policing in a peaceful society.

Its proposals should also be designed to ensure that:

- the police service is structured, managed and resourced so that it can be effective in discharging its full range of functions (including proposals on any necessary arrangements for the transition to policing in a normal peaceful society);
- the police service is delivered in constructive and inclusive partnerships with the community at all levels with the maximum delegation of authority and responsibility;
- the legislative and constitutional framework requires the impartial discharge of policing functions and conforms with internationally accepted norms in relation to policing standards;
- the police operate within a clear framework of accountability to the law and the community they serve, so:
- they are constrained by, accountable to and act only within the law;



- their powers and procedures, like the law they enforce, are clearly established and publicly available;
- there are open, accessible and independent means of investigating and adjudicating upon complaints against the police;
- there are clearly established arrangements enabling local people, and their political representatives, to articulate their views and concerns about policing and to establish publicly policing priorities and influence policing policies, subject to safeguards to ensure police impartiality and freedom from partisan political control;
- there are arrangements for accountability and for the effective, efficient and economic use of resources in achieving policing objectives;
- there are means to ensure independent professional scrutiny and inspection of the police service to ensure that proper professional standards are maintained;
- the scope for structured co-operation with the Garda Síochána and other police forces is addressed; and
- the management of public order events which can impose exceptional demands on policing resources is also addressed.

The Commission should focus on policing issues, but if it identifies other aspects of the criminal justice system relevant to its work on policing, including the role of the police in prosecution, then it should draw the attention of the Government to those matters. The Commission should consult widely, including with non-governmental expert organisations, and through such focus groups as they consider it appropriate to establish.

The Government proposes to establish the Commission as soon as possible, with the aim of it starting work as soon as possible and publishing its final report by Summer 1999.

## ANNEX B

### REVIEW OF THE CRIMINAL JUSTICE SYSTEM

#### Terms of Reference

Taking account of the aims of the criminal justice system as set out in the Agreement, the review will address the structure, management and resourcing of publicly funded elements of the criminal justice system and will bring forward proposals for future criminal justice arrangements (other than policing and those aspects of the system relating to emergency legislation, which the Government is considering separately) covering such issues as:

the arrangements for making appointments to the judiciary and magistracy, and safeguards for protecting their independence;

- the arrangements for the organisation and supervision of the prosecution process, and for safeguarding its independence;
- measures to improve the responsiveness and accountability of, and any lay participation in the criminal justice system;
- mechanisms for addressing law reform;
- the scope for structured co-operation between the criminal justice agencies on both parts of the island; and
- the structure and organisation of criminal justice functions that might be devolved to an Assembly, including the possibility of establishing a Department of Justice, while safeguarding the essential independence of many of the key functions in this area.

The Government proposes to commence the review as soon as possible, consulting with the political parties and others, including non-governmental expert organisations. The review will be completed by Autumn 1999.

#### PRISONERS

1. Both Governments will put in place mechanisms to provide for an accelerated programme for the release of prisoners, including transferred prisoners, convicted of scheduled offences in Northern Ireland or, in the case of those sentenced outside

Northern Ireland, similar offences (referred to hereafter as qualifying prisoners). Any such arrangements will protect the rights of individual prisoners under national and international law.

2. Prisoners affiliated to organisations which have not established or are not maintaining a complete and unequivocal ceasefire will not benefit from the arrangements. The situation in this regard will be kept under review.

3. Both Governments will complete a review process within a fixed time frame and set prospective release dates for all qualifying prisoners. The review process would provide for the advance of the release dates of qualifying prisoners while allowing account to be taken of the seriousness of the offences for which the person was convicted and the need to protect the community. In addition, the intention would be that should the circumstances allow it, any qualifying prisoners who remained in custody two years after the commencement of the scheme would be released at that point.

4. The Governments will seek to enact the appropriate legislation to give effect to these arrangements by the end of June 1998.

5. The Governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, retraining and/or re-skilling, and further education.

## **VALIDATION, IMPLEMENTATION AND REVIEW**

### **Validation and Implementation**

1. The two Governments will as soon as possible sign a new British-Irish Agreement replacing the 1985 Anglo-Irish Agreement, embodying understandings on constitutional issues and affirming their solemn commitment to support and, where appropriate, implement the agreement reached by the participants in the negotiations which shall be annexed to the British-Irish Agreement.

2. Each Government will organise a referendum on 22 May 1998. Subject to Parliamentary approval, a consultative referendum in Northern Ireland, organised

under the terms of the Northern Ireland (Entry to Negotiations, etc.) Act 1996, will address the question: "Do you support the agreement reached in the multi-party talks on Northern Ireland and set out in Command Paper 3883?". The Irish Government will introduce and support in the Oireachtas a Bill to amend the Constitution as described in paragraph 2 of the section "Constitutional Issues" and in Annex B, as follows: (a) to amend Articles 2 and 3 as described in paragraph 8.1 in Annex B above and (b) to amend Article 29 to permit the Government to ratify the new British-Irish Agreement. On passage by the Oireachtas, the Bill will be put to referendum.

3. If majorities of those voting in each of the referendums support this agreement, the Governments will then introduce and support, in their respective Parliaments, such legislation as may be necessary to give effect to all aspects of this agreement, and will take whatever ancillary steps as may be required including the holding of elections on 25 June, subject to parliamentary approval, to the Assembly, which would meet initially in a "shadow" mode. The establishment of the North-South Ministerial Council, implementation bodies, the British-Irish Council and the British-Irish Intergovernmental Conference and the assumption by the Assembly of its legislative and executive powers will take place at the same time on the entry into force of the British-Irish Agreement.

4. In the interim, aspects of the implementation of the multi-party agreement will be reviewed at meetings of those parties relevant in the particular case (taking into account, once Assembly elections have been held, the results of those elections), under the chairmanship of the British Government or the two Governments, as may be appropriate; and representatives of the two Governments and all relevant parties may meet under independent chairmanship to review implementation of the agreement as a whole.

### **Review procedures following implementation**

5. Each institution may, at any time, review any problems that may arise in its operation and, where no other institution is affected, take remedial action in consultation as necessary with the relevant Government or Governments. It will be for each institution to determine its own procedures for review.

6. If there are difficulties in the operation of a particular institution, which have implications for another institution, they may review their operations separately and jointly and agree on remedial action to be taken under their respective authorities.

7. If difficulties arise which require remedial action across the range of institutions, or otherwise require amendment of the British-Irish Agreement or relevant legislation, the process of review will fall to the two Governments in consultation with the parties in the Assembly. Each Government will be responsible for action in its own jurisdiction.

8. Notwithstanding the above, each institution will publish an annual report on its operations.

In addition, the two Governments and the parties in the Assembly will convene a conference 4 years after the agreement comes into effect, to review and report on its operation.

## **AGREEMENT**

### **BETWEEN THE GOVERNMENT OF**

### **THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

### **AND**

### **THE GOVERNMENT OF IRELAND**

The British and Irish Governments:

Welcoming the strong commitment to the Agreement reached on 10th April 1998 by themselves and other participants in the multi-party talks and set out in Annex 1 to this Agreement (hereinafter "the Multi-Party Agreement");

Considering that the Multi-Party Agreement offers an opportunity for a new beginning in relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands;

Wishing to develop still further the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Union;

Reaffirming their total commitment to the principles of democracy and non-violence which have been fundamental to the multi-party talks;

Reaffirming their commitment to the principles of partnership, equality and mutual respect and to the protection of civil, political, social, economic and cultural rights in their respective jurisdictions;

Have agreed as follows:

## **ARTICLE 1**

The two Governments:

(i) recognise the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland;

(ii) recognise that it is for the people of the island 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, accepting that this right must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland;

(iii) acknowledge that while a substantial section of the people in Northern Ireland share the legitimate wish of a majority of the people of the island of Ireland for a united Ireland, the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the Union and accordingly, that Northern Ireland's status as part of the United Kingdom reflects and relies upon that wish; and that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people;

(iv) affirm that, if in the future, the people of the island of Ireland exercise their right of selfdetermination on the basis set out in sections (i) and (ii) above to bring about a united Ireland, it will be a binding obligation on both Governments to introduce and support in their respective Parliaments legislation to give effect to that wish;

(v) affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos and aspirations of both communities;

(vi) recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.

## ARTICLE 2

The two Governments affirm their solemn commitment to support, and where appropriate implement, the provisions of the Multi-Party Agreement. In particular there shall be established in accordance with the provisions of the Multi-Party Agreement immediately on the entry into force of this Agreement, the following institutions:

- (i) a North/South Ministerial Council;
- (ii) the implementation bodies referred to in paragraph 9 (ii) of the section entitled "Strand Two" of the Multi-Party Agreement;
- (iii) a British-Irish Council;
- (iv) a British-Irish Intergovernmental Conference.

**ARTICLE 3**

(1) This Agreement shall replace the Agreement between the British and Irish Governments done at Hillsborough on 15th November 1985 which shall cease to have effect on entry into force of this Agreement.

(2) The Intergovernmental Conference established by Article 2 of the aforementioned Agreement done on 15th November 1985 shall cease to exist on entry into force of this Agreement.

**ARTICLE 4**

(1) It shall be a requirement for entry into force of this Agreement that:

(a) British legislation shall have been enacted for the purpose of implementing the provisions of Annex A to the section entitled "Constitutional Issues" of the Multi-Party Agreement;

(b) the amendments to the Constitution of Ireland set out in Annex B to the section entitled "Constitutional Issues" of the Multi-Party Agreement shall have been approved by Referendum;

(c) such legislation shall have been enacted as may be required to establish the institutions referred to in Article 2 of this Agreement.

(2) Each Government shall notify the other in writing of the completion, so far as it is concerned, of the requirements for entry into force of this Agreement. This Agreement shall enter into force on the date of the receipt of the later of the two notifications.

(3) Immediately on entry into force of this Agreement, the Irish Government shall ensure that the amendments to the Constitution of Ireland set out in Annex B to the section entitled "Constitutional Issues" of the Multi-Party Agreement take effect.

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



Done in two originals at Belfast on the 10th day of April 1998.

#### ANNEX 1

##### The Agreement Reached in the Multi-Party Talks

#### ANNEX 2

##### Declaration on the Provisions of Paragraph (vi) of Article 1 In Relationship to Citizenship

The British and Irish Governments declare that it is their joint understanding that the term "the people of Northern Ireland" in paragraph (vi) of Article 1 of this Agreement means, for the purposes of giving effect to this provision, all persons born in Northern Ireland and having, at the time of their birth, at least one parent who is a British citizen, an Irish citizen or is otherwise entitled to reside in Northern Ireland without any restriction on their period of residence.





### **Houses of the Oireachtas**

Leinster House  
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