

AGREEMENT AT ST ANDREWS

Over the past three days in St Andrews we have engaged intensively with the Northern Ireland political parties with a view to achieving the goal we set in Armagh in April, which is shared by all the parties and the overwhelming majority of people in Northern Ireland: the restoration of the political institutions. We believe that the transformation brought about by the ending of the IRA's campaign provides the basis for a political settlement.

2. Our discussions have been focused on achieving full and effective operation of the political institutions. When we arrived in Scotland a limited number of outstanding issues remained to be resolved, including support for and devolution of policing and the criminal justice system, changes to the operation of the Agreement institutions, and certain other matters raised by the parties or flowing from the Preparation for Government Committee. The two Governments now believe that the agreement we are publishing today clears the way to restoration.

Power sharing and the political institutions

3. Both Governments remain fully committed to the fundamental principles of the Agreement: consent for constitutional change, commitment to exclusively peaceful and democratic means, stable inclusive partnership government, a balanced institutional accommodation of the key relationships within Northern Ireland, between North and South and within these islands, and for equality and human rights at the heart of the new dispensation in Northern Ireland. All parties to this agreement need to be wholeheartedly and publicly committed, in good faith and in a spirit of genuine partnership, to the full operation of stable power-sharing Government and the North-South and East-West arrangements.

4. Following discussion with all the parties, we have made an assessment of practical changes to the operation of the institutions and we are publishing today a clear outline of these. The British Government will introduce legislation in Parliament before the statutory November deadline to enact these changes, once parties have

endorsed the agreement and agreed definitively to restore the power sharing institutions. Details of these changes are set out in Annex A.

Policing and the rule of law

5. We have consistently said that support for policing and the rule of law should be extended to every part of the community. We believe that all the parties share this objective. Notwithstanding the right of every political party to hold the police to account, we believe that there are fundamental principles of support for the police and the courts which underpin any democratic society.

6. We believe that the essential elements of support for law and order include endorsing fully the Police Service of Northern Ireland and the criminal justice system, actively encouraging everyone in the community to co-operate fully with the PSNI in tackling crime in all areas and actively supporting all the policing and criminal justice institutions, including the Policing Board.

7. Discussions on the devolution of policing and justice have progressed well in the Preparation for Government Committee. The Governments have requested the parties to continue these discussions so as to agree the necessary administrative arrangements to create a new policing and justice department. It is our view that implementation of the agreement published today should be sufficient to build the community confidence necessary for the Assembly to request the devolution of criminal justice and policing from the British Government by May 2008.

Human Rights, Equality, Victims and other issues

8. Both Governments have also discussed other matters raised by the parties. Some of these relate to the final implementation of the Agreement and others have been raised in the context of the Preparation for Government Committee. The British Government has also agreed to take forward a number of measures to build confidence in both communities and to pursue a shared future for Northern Ireland in which the culture, rights and aspirations of all are respected and valued, free from sectarianism, racism and intolerance. Details of all these issues are set out in Annex B.

Financial package for the newly restored Executive

9. The Governments are also committed to working with the parties to establish the most favourable possible financial climate for a newly restored Executive. The Chancellor of the Exchequer and the Minister for Finance will meet delegations from the First and Deputy First Minister to take this forward. Details of how this might be achieved are set out in Annex C.

Conclusion

10. We believe that all parties should be able to endorse this agreement and to implement it in good faith, building the trust and confidence necessary for a stable and lasting settlement. We have set out a fixed timetable for the implementation of this agreement in Annex D and have asked parties, having consulted their members, to confirm their acceptance by 10 November. Following endorsement of the St Andrews agreement by the parties the Assembly will meet to nominate the First and Deputy First Minister on 24 November. Between that date and restoration of the Executive on 26 March the new Programme for Government Committee will agree all the necessary arrangements relating to ministerial responsibilities, ensuring that d'Hondt can be run and the Executive can operate immediately.

11. Verification and compliance mechanisms relating to the Assembly already exist, as set out in the agreement between the Governments published in May 2003 and in the Belfast Agreement. The Prime Minister and the Taoiseach are determined that default by any one of the parties following restoration of the Executive should not be allowed to delay or hinder political progress in Northern Ireland.

12. The Governments have made clear that in the event of failure to reach agreement by the 24 November we will proceed on the basis of the new British Irish partnership arrangements to implement the Belfast Agreement.

13. It is clear to us that all the parties wish to see devolution restored. It is also clear to us that all parties wish to support policing and the rule of law. We hope they

will seize this opportunity for bringing the political process in Northern Ireland to completion and establishing power-sharing government for the benefit of the whole community.

PRACTICAL CHANGES TO THE OPERATION OF THE INSTITUTIONS

1. Following discussion with all the parties in the Preparation for Government Committee and here at St Andrews, we are proposing practical changes to the operation of the institutions of the Agreement in the interests of efficiency and fairness, as envisaged by the Agreement itself. We believe the changes will enable all the institutions to operate in an effective and stable manner, with all parties engaging in good faith and in a spirit of genuine partnership.

Strand 1 Issues

2. **A statutory ministerial Code.** An amendment to the Northern Ireland Act 1998 would provide for a statutory ministerial Code, and place a duty upon Ministers (including junior Ministers), notwithstanding their executive authority in their areas of responsibility as defined in the Agreement, to act in accordance with the provisions on ministerial accountability of the Code. The Code would reflect a requirement for safeguards to ensure that all sections of the community could participate and work together successfully in the operation of these institutions and that all sections of the community were protected. There would be arrangements to ensure that, where a decision of the Executive could not be achieved by consensus and a vote was required, any three members of the Executive could require it to be taken on a cross-community basis.

3. The 1998 Act would be amended to require inclusion in the Code of agreed provisions in relation to ministerial accountability. Consistent with paragraphs 19 and 20 of the Agreement, this would provide for the Executive to be the forum for:

- (i) the discussion of, and agreement on, issues which cut across the responsibilities of two or more Ministers, including in particular those that are the responsibility of the Minister of Finance and Personnel.
- (ii) prioritising executive proposals;
- (iii) prioritising legislative proposals;
- (iv) recommending a common position where necessary – for instance, on matters which

concern the response of the Northern Ireland administration to external relationships;

(v) agreement each year on (and review as necessary of) a programme incorporating an agreed budget linked to policies and programmes (Programme for Government).

4. The Code will also provide for the discussion of and agreement on any issue which is significant or controversial and:

- (a) clearly outside the scope of the agreed Programme for Government or
- (b) which the First Minister and Deputy First Minister agree should be brought to the Executive.

5. The new Code would be discussed by the parties and agreed by the Executive when formed. The First Minister and Deputy First Minister would propose the Code to the Assembly. It would have effect once endorsed by cross-community support there. Any amendments to the Code would require cross-community support in the Assembly.

6. **Assembly referrals for Executive review.** An amendment to the 1998 Act would provide for referrals from the Assembly to the Executive of important ministerial decisions. Thirty members of the Assembly might initiate such a referral, within seven days of a ministerial decision or notification of the decision where appropriate. Before he could pass the referral to the Executive, the Presiding Officer, following consultation with the parties in the Assembly, would be required to certify that it concerned an issue of public importance. The Executive would consider the issue within seven days. A second referral could not be made by the Assembly in respect of the same matter. Only matters covered by the Ministerial Code, as set out above, would require a collective decision by the Executive.

7. Reflecting the Pledge of Office, Ministers would be required to act in accordance with any relevant decisions of the Executive and/or Assembly.

8. **Amendments to the Pledge of Office.** The Pledge of Office would require that Ministers would participate fully in the Executive and NSMC/BIC, and would observe the joint nature of the office of First Minister and Deputy First Minister. Before the Government legislates on the

pledge of office it will consider the outcome of further Preparation for Government Committee discussions on policing and the rule of law.

9. **Appointment of Ministers in the Executive.** An amendment would be made to the 1998 Act on appointment of Ministers in the Executive. The Nominating Officer of the largest party in the largest designation in the Assembly shall make a nomination to the Assembly Presiding Officer for the post of First Minister. The Nominating Officer of the largest party in the second largest designation in the Assembly shall similarly nominate for the post of Deputy First Minister. The d'Hondt procedure will then run, as already set out in the 1998 Act, to fill the Ministerial posts in the Executive. Where a vacancy arose later in the office of the FM or DFM, the nominating officer(s) of the party(ies) entitled to nominate as above for the office(s) would do so and the nominee would take up office once he had taken the pledge of office. Where a vacancy arose in another ministerial office, it would be filled as at present. It will be a matter for the standing Institutional Review Committee referred to in paragraph 12 to consider whether the new procedures should continue beyond the life of the present Assembly.

10. **Functions of Office of First Minister and Deputy First Minister.** The First Minister and Deputy First Minister would reach agreement as to whether any functions of the current OFMDFM should be transferred to other departments, and would put proposals to the Executive and Assembly accordingly.

11. **Committee of the Centre.** An amendment to the 1998 Act would provide for the existing Assembly Committee of the Centre to be placed on a statutory footing like that of other departmental scrutiny committees.

12. **Reviews.** An amendment to the 1998 Act would provide for the Assembly to appoint a standing Institutional Review Committee, to examine the operational aspects of the Strand One institutions. Matters to be reviewed in this way would be agreed among the parties. The Committee's reports would be considered by the Executive and Assembly, and, where agreed changes required legislative steps outside the scope of the devolved institutions, by the British Government in consultation as appropriate with the Irish Government.

13. The First Minister and Deputy First Minister would appoint an Efficiency Review Panel, to examine efficiency and value for money of aspects of the Strand One institutions. The FM/DFM would put to the Assembly for approval proposals for the panel's remit, which might include the size of the Assembly and the departmental structure. The Panel would take into account as appropriate the work of the Review of Public Administration. The Panel's report would be considered by the Executive and Assembly, and, where agreed changes required legislative steps outside the scope of the devolved institutions, by the British Government in consultation as appropriate with the Irish Government.

14. **Repeal of the Northern Ireland Act 2000.** The Northern Ireland Act 2006 provides for the automatic repeal of the Northern Ireland Act 2000 if the Assembly is restored by the date set out in that Act. The Government remains committed to the repeal of the Northern Ireland Act 2000 on the restoration of devolved government in Northern Ireland.

15. **Community designation.** An amendment to the 1998 Act would provide that an Assembly Member would not be able to change community designation for the whole of an Assembly term except in the case of a change of membership of political party.

Strands Two and Three issues

16. **Executive role in preparation for NSMC and BIC meetings.** The amendment to the Northern Ireland Act 1998 on a ministerial Code, described in the British Government's Strand One proposals, would bear on Executive proceedings relating to the North-South Ministerial Council and British-Irish Council.

17. The Code would provide that draft NSMC and BIC decision papers would be circulated to all Executive members within a period (to be decided by the Executive) in advance of a scheduled NSMC or BIC meeting. Any member of the Executive would have the right to seek an Executive discussion on such a paper. Notwithstanding the lead Minister's executive authority in his/her area of responsibility as defined in the Agreement, where the Code provided that certain matters should be considered/agreed in the Executive Committee (see paragraphs 3 to 5 of the British Government's Strand One proposals), this would apply to any draft NSMC/BIC decision

papers falling within those agreed provisions.

18. **Attendance at NSMC and BIC.** Amendments to the 1998 Act would provide for a minister with lead departmental interest in an issue under consideration at an NSMC/BIC meeting to be entitled to attend (with a power for a minister so entitled, by consent, to arrange for another minister attending to discharge his/her responsibilities), and a power for the FM/DFM to adjudicate where a Minister's lead departmental interest was disputed. In the circumstances where a lead Minister was not proposing to attend the meeting in question, and had not arranged for a replacement Minister to discharge his/her responsibilities, there would also be a statutory obligation on FM/DFM to nominate a replacement for a lead Minister to attend the NSMC/BIC and discharge his/her responsibilities. There would be a statutory power for the FM/DFM to require such relevant information from the lead department as would be necessary for the NSMC/BIC meeting in question. Finally, reflecting the existing requirement for representation of the Executive on a cross-community basis at meetings of the NSMC/BIC, there would be a statutory obligation on the FM/DFM to nominate the other Minister whose presence is necessary to fulfil that requirement.

19. **Review.** The Northern Ireland Executive and Irish Government, under the auspices of the NSMC, would appoint a Review Group to examine objectively (1) the efficiency and value for money of existing implementation bodies and (2) the case for additional bodies and areas of co-operation within the NSMC where mutual benefit would be derived. The Group would also input into the work commissioned by the NSMC in June 2002 on the identification of a suitable substitute for the proposed Lights Agency of the Foyle, Carlingford and Irish Lights Commission. The Group would report with recommendations to the NSMC. Any changes to the existing arrangements would require the specific endorsement of the Assembly and Oireachtas. In the meantime, the NSMC would continue to oversee the ongoing work of the Implementation Bodies and work in the areas of co-operation.

20. **Assembly/Oireachtas scrutiny of implementation bodies.** Chairs and Chief Executives of North/South bodies, when called upon and at least yearly, would appear before relevant Assembly Committees. There is provision in the South for similar arrangements in relation to the Oireachtas.

21. **North-South Parliamentary Forum.** The Northern Ireland Executive would encourage the parties in the Assembly to establish a North-South parliamentary forum bringing together equal numbers from the Oireachtas and the Assembly, and operating on an inclusive basis.

22. **Independent Consultative Forum.** The Northern Ireland Executive would support the establishment of an independent North/South consultative forum appointed by the two Administrations and representative of civil society.

23. **Secretariat of British-Irish Council.** Following consultation with its other members, and with a view to giving further impetus to its work, the two Governments would facilitate the establishment of a standing secretariat for the British-Irish Council, if members agree.

24. **East-West Inter-parliamentary Framework.** Following appropriate consultation with the British-Irish Inter-parliamentary Body, the two Governments would encourage the Oireachtas, the British Parliament and the relevant elected institutions to approve an East-West Inter-parliamentary Framework which would embrace all their interests. The framework would operate on an inclusive basis.

25. If the Preparation for Government Committee wishes to reconvene to discuss further changes and reaches agreement by 31 October, the Governments stand ready to implement any such agreed changes.

HUMAN RIGHTS, EQUALITY, VICTIMS AND OTHER ISSUES

The Government will continue to actively promote the advancement of human rights, equality and mutual respect. In the pursuit of which we commit to the following:

- In early November, we will publish an Anti-Poverty and Social Exclusion strategy to tackle deprivation in both rural and urban communities based on objective need and to remedy patterns of deprivation. The strategy will build on the good work of the 'Neighbourhood Renewal' and 'Renewing Communities' initiatives. This can be taken forward by an incoming Executive.
- The Government will introduce legislation this autumn to establish a Victims' Commissioner for Northern Ireland.
- We will establish a forum on a Bill of Rights and convene its inaugural meeting in December 2006.
- The Government believes in a Single Equality Bill and will work rapidly to make the necessary preparations so that legislation can be taken forward by an incoming Executive at an early date.
- The Government will introduce an Irish Language Act reflecting on the experience of Wales and Ireland and work with the incoming Executive to enhance and protect the development of the Irish language.
- The Government firmly believes in the need to enhance and develop the Ulster Scots language, heritage and culture and will support the incoming Executive in taking this forward.
- We have begun consulting with the Parties on terms of reference for a review which will examine all the issues around parading in Northern Ireland with a view to developing an agreed long term strategy.

- The Government will work with business, trade unions and ex-prisoner groups to produce guidance for employers which will reduce barriers to employment and enhance re-integration of former prisoners.
- The 50/50 recruitment arrangements to the PSNI will lapse when the Patten target for Catholic officers has been achieved.
- We will bring forward in the next parliamentary session legislation to give the Northern Ireland Human Rights Commission additional powers. These will include the power to compel evidence, access places of detention and rely on the Human Rights Act when bringing judicial proceedings in its own name. We will publish the Government's response to the consultation carried out on these matters last year, before 24 November.
- We will bring forward separate legislation before the end of 2006 to reform entry requirements to ensure access for EU nationals to posts in the Civil Service.
- During the autumn we will facilitate a meeting of the Northern Ireland Grand Committee in Northern Ireland.

FINANCIAL PACKAGE FOR THE NEWLY RESTORED EXECUTIVE

All of the parties have raised the question of the future economic progress of Northern Ireland. The Governments are committed to working with all the parties to establish a platform for long-term economic stability and reform necessary for a newly restored Executive. In the context of restoration of the institutions, the Governments remain committed to ensuring the Executive has the capacity to provide quality public services, to continue the process of necessary reform, to plan for the future, to make the long-term capital investments to underpin the economic transformation of Northern Ireland, as well as bringing long-term benefits for the island as a whole.

In the context of the forthcoming Comprehensive Spending Review, the Chancellor agrees to meet all parties to consider proposals – including those from the Assembly subgroup on economic challenges facing Northern Ireland - that make the most of new opportunities arising from greater peace and stability. We will also consider the potential for further North/South economic cooperation including proposals for joint investment initiatives. In the context of preparations for restoration, both Governments will work with the parties on these issues.

In response to the strongly expressed views of many in the NI community, the British Government will introduce a cap on domestic rates under the new capital values system and will examine the possibility of further rate reliefs for pensioners on lower incomes.

TIMETABLE FOR IMPLEMENTATION OF THE ST ANDREWS AGREEMENT

- 13 October: Governments publish St Andrews agreement.
Parties consult, including through the DUP Assembly group, the Sinn Fein Ard Comhairle and other appropriate party bodies, on the St Andrews agreement, and respond by 10 November.
- 17 October: New Programme for Government Committee begins regular meetings to agree priorities for new Executive, with parties represented at leadership level.
- 20/21 November: Legislation at Westminster to give effect to the St Andrews agreement, including practical changes to the institutions (Annex A).
- 24 November: Assembly meets to nominate FM/DFM.
- January: IMC Report.
- March: Endorsement by the electorate of the St Andrews agreement.
- 14 March: Members of the Executive nominated by party leaders.
- 26 March: Power devolved and d'Hondt run.

Failure to agree to establish the Executive will lead to immediate dissolution of the Assembly, as will failure to agree at any stage, and the Governments will take forward new partnership arrangements on the basis previously announced.

FUTURE NATIONAL SECURITY ARRANGEMENTS IN NORTHERN IRELAND:
PAPER BY THE BRITISH GOVERNMENT

Building on the useful discussions that have already taken place with the parties on the issue, this paper outlines the arrangements that are being put in place for the handling of national security intelligence in Northern Ireland and the accountability measures that will be in place, once lead responsibility passes to the Security Service in late 2007.

The change will bring Northern Ireland into line with the rest of the UK, to provide a consistent and co-ordinated response to the threat from terrorism, including from international terrorist groups such as Al Qaeda. It also, since national security is an excepted matter, prepares the way for devolution.

The British Government is confident the new arrangements will bring real benefits to both the Security Service and the PSNI. A key driver behind the practical arrangements currently being devised and tested is the unique interface in NI between national security and serious/organised crime. The new arrangements preserve and build upon the Patten reforms: that is a fundamental principle of these changes.

New integrated working arrangements – the first such approach in the UK - will strengthen the PSNI's criminal intelligence capability. This is because PSNI officers will be co-located with Security Service personnel and will work in a variety of roles including as intelligence analysts/advisors and for the purpose of translating intelligence into executive action. These arrangements are designed precisely for the purpose of ensuring that intelligence is shared and properly directed within the PSNI. Integration of personnel in this way is an essential protection against concerns that some intelligence would not be visible to the PSNI.

The Security Service has no executive policing responsibilities, even in countering threats to national security. While the Security Service will provide the strategic direction, the PSNI's contribution to countering terrorism will remain absolutely central. In all circumstances, including where the interest is national security related

it will be the role of the PSNI to mount executive policing operations, make arrests and take forward prosecutions under the direction of the Public Prosecution Service.

There will be no diminution in police accountability. The role and responsibilities of the Policing Board and the Police Ombudsman vis a vis the Police will not change. Police officers working with the Security Service in whatever capacity will remain accountable to the Chief Constable and under the oversight of the Police Ombudsman. The Security Service and the Ombudsman's office have been working together to agree arrangements for the Ombudsman's access to sensitive information held by the Service, where this becomes necessary for the discharge of the Ombudsman's statutory duties. The Service has already disclosed sensitive information to the Ombudsman's office in a number of cases. It is important to ensure that comprehensive accountability mechanisms are in place for all aspects of policing in Northern Ireland, and we will continue to discuss these matters with the parties.

The Government will publish in due course high level versions of the MoUs currently being developed between the Security Service and the PSNI and others, as appropriate

The great majority of national security agents will be run by the PSNI, under the strategic direction of the Service, mirroring the arrangements the Service has with the police in GB. This makes sense in NI in particular because of the interface between serious crime and national security; the police also have the advantage of local knowledge. The Security Service will continue to run directly a small number of agents who are authorised to obtain information in the interests of national security as distinct from countering criminality, where the circumstances make that appropriate. The principles observed by the PSNI and the Security Service in running agents are the same, and are enshrined in the Regulation of Investigatory Powers Act 2000.

The Policing Board will, as now, have the power to require the Chief Constable to report on any issue pertaining to his functions or those of the police service. All aspects of policing will continue to be subject to the same scrutiny as now. To ensure the Chief Constable can be fully accountable for the PSNI's policing operations, the Security Service will participate in briefings to closed sessions of the

Policing Board to provide appropriate intelligence background about national security related policing operations.

On policing that touches on national security the Chief Constable's main accountability will be to the Secretary of State, as it is now. The Security Service is fully accountable through existing statutory arrangements and the due processes of Parliament. In addition, three separate Commissioners oversee different elements of covert work in NI: the Intelligence Services Commissioner; the Interception of Communications Commissioner; and the Surveillance Commissioner. Relevant complaints relating to the actions of the intelligence agencies are investigated by the Investigatory Powers Tribunal, a panel comprising senior members of the legal profession. There is also the Parliamentary Intelligence and Security Committee whose remit is to examine the expenditure, administration and policy of the security and intelligence agencies and whose reports are placed before Parliament; the Government has already indicated that it is prepared to consider how the Northern Ireland focus of the Committee might be strengthened.

In summary, a whole range of safeguards will continue in place: the Policing Board's continuing role in ensuring efficient policing; the safeguards embodied in RIPA; the Ombudsman's role in investigating complaints against police officers; Parliament's scrutiny of intelligence matters through the Intelligence and Security Committee; the various Commissioners' oversight of particular types of covert operations; and the Investigatory Powers Tribunal's remit to deal with complaints. Not only are these arrangements comprehensive, they are as transparent as the sensitivity of the issues allows.

Further to reinforce this comprehensive set of safeguards, the Government confirms that it accepts and will ensure that effect is given to the five key principles which the Chief Constable has identified as crucial to the effective operation of the new arrangements, viz:

- a. All Security Service intelligence relating to terrorism in Northern Ireland will be visible to the PSNI.
- b. PSNI will be informed of all Security Service counter terrorist investigations and operations relating to Northern Ireland.
- c. Security Service intelligence will be disseminated within PSNI according to the current PSNI dissemination policy, and using police procedures.

- d. The great majority of national security CHISs in Northern Ireland will continue to be run by PSNI officers under existing police handling protocols.
- e. There will be no diminution of the PSNI's ability to comply with the HRA or the Policing Board's ability to monitor said compliance.

In that connection, the Government believes that the Policing Board's Human Rights advisers should have a role in human rights proofing the relevant protocols that will underpin the Chief Constable's five key principles, and also in confirming that satisfactory arrangements are in place to implement the principles. The detailed operation of this safeguard will require further consideration.

As far as the employment of former police officers by the Security Service under these new arrangements is concerned, there will be no bar on former officers serving in the new organisation, but for operational reasons there will be a need for such individuals to have working experience of the arrangements under which the PSNI currently operate. The same rigorous vetting procedures will apply to them as they do to all new staff joining the service.