

PERMEATING THE IRISH BORDER: PRACTICAL NORTH-SOUTH COOPERATION* UNDER THE BELFAST AGREEMENT

Austen Morgan

INTRODUCTION

This paper was given in August 1999 as part of the *Permeable Boundaries and Borders in a Globalising World* conference, Vancouver, Canada.

This is a report on government work in progress in Northern Ireland. It deals in particular with the six so-called implementation bodies, agreed by the transitional Assembly on 18 January 1999. These are north-south institutions to be shared by the Republic of Ireland ('ROI'), and one of the devolved regions of the United Kingdom of Great Britain and Northern Ireland ('UK').

I'm interested in precedents for such state to state relations elsewhere in the world. In this paper, I will explain the constitutional/legal nature of these north-south bodies – one set of institutions in the Belfast Agreement – in the context of the political history of the Northern Ireland problem.

While permeability presupposes an international boundary, the problem in Ireland was to have it mutually recognised so practical cooperation could be constructed. My theme is: the Irish government¹ cannot distinguish adequately the rhetoric of reunification, and practical – mainly socio-economic – cooperation (which Ulster unionists are prepared to accept).

AN INTRACTABLE DISPUTE?

An intractable dispute is probably how Northern Ireland is perceived globally. But I want to make two points. One, London and Dublin worked for about ten years to produce the Belfast Agreement of 10 April 1998. And two, this is seen by Bill Clinton and Tony Blair as prototypical of solutions to local disputes in the post-communist global world. They want it to work; they have bigger fish to fry.

THE BELFAST AGREEMENT: A HEALTH CHECK

A health report, however, is probably necessary. David Trimble and Seamus Mallon were elected first minister and deputy first minister on 1 July 1998, as effectively a transitional administration. By 18 December 1998, most of the major decisions had been made.

Decommissioning of paramilitary – mainly IRA – arms has been the principal cause of the failure to transfer power. David Trimble's party has affirmed a no guns, no government policy. Sinn Féin says it is doing all it can; and that is all that is necessary. The Hillsborough declaration of 1 April 1999 was allowed to unravel. And *The Way Forward* plan of 2 July 1999 collapsed (leading to the resignation of the deputy first minister). Senator Mitchell has been sent for, and a review of the Belfast Agreement commenced on 6 September 1999 (it is expected to end before Christmas).

Last year at Durham, I argued – on the basis of the referendums of 22 May 1998 – that the two governments had got the balance wrong. That in Northern Ireland produced a 71.12% 'yes' vote for the Belfast Agreement (on an 81.1% turnout): however, it split the majority unionist community. The referendum to change the constitution in the ROI produced a staggering 94.4% 'yes' vote on a 56.3% turnout.

Since then, Irish nationalism has culturally appropriated what it calls the Good Friday Agreement (not entirely a bad thing), leaving the unionist population feeling the historical losers. To have a party with a private army in an involuntary coalition of four (including Dr Paisley's party) is no longer – if it ever were – politically possible.

PROSPECTS?

1. The Belfast Agreement is not dead. It may be described loosely as fundamental international law; the United Kingdom and Irish governments have no alternative. There is an analogy with the Oslo accords in the middle east. Statecraft may produce a solution in the Mitchell review (with the 22 May 2000 deadline for decommissioning approaching).
2. If it does not, there will still be the 108 elected members of the transitional assembly. After 30 years of violence (to misquote the prime minister), 30 months is a reasonable time in which to manage a transition to democracy.

THE SIX IMPLEMENTATION BODIES

By way of an appetiser, I will start with the institutions agreed on 18 December 1998, and approved by the assembly on 18 January 1999:²

- **Waterways Ireland;**
- **The Food Safety Promotion Board;**
- **The Trade and Business Development Body;**
- **The Special EU Programmes Body;**
- **The North/South Language Body;**
- **The Foyle, Carlingford and Irish Lights Commission.**

One estimate (designed to impress) is an annual expenditure, after three years, of IR£56m and a total staff of about 880;³ these are not realistic figures. Given that the Foyle, Carlingford and Irish Lights Commission – which exists in separate entities – employs some 300 people, the achievement is commensurately less.

UN PEU D'HISTOIRE: Towards an international frontier

Ireland was once united as an administrative unit, within the United Kingdom of Great Britain and Ireland. This constitutional unity (under the Irish Office in London), however, masked a significant nineteenth-century socio-economic divide between north and south.

The consequence, given a majority Irish desire for self-government, and a minority (Ulster) attachment to the constitutional *status quo*, was partition under the Government of Ireland Act ('GOIA') 1920. The Irish border developed as follows:

- **1920-22:**
an internal UK administrative frontier, between Northern Ireland and Southern Ireland, based on parliamentary areas;
- **1922-25:**
an international land boundary, with some uncertainty about the status of the Irish Free State, a dominion within the British Empire;
- **1924-25:**
a three-person boundary commission, to reconcile the wishes of the inhabitants with economic and geographic conditions, which led to a London-Dublin-Belfast agreement to accept the 1920 border;⁴
- **1937 to present (the Irish view):**
the Irish territorial claim to Northern Ireland in Eamon de Valera Bunreacht na hÉireann (constitution of Ireland);
- **1949 to present (the United Kingdom view):**
the independent ROI not a foreign country;⁵
- **the (putative) constitutional balance in the Belfast Agreement of 10 April 1998:**
the end of the Irish territorial claim (in return for alleged UK recognition of the Irish people's right to self-determination⁶).

The boundary between Northern Ireland and the ROI has been one of the most stable in Europe. It is also now among the older land frontiers. The only threatened

international incident was in 1969-70, when an Irish cabinet minority attempted a policy of limited military invasion.

The concept of consent in Northern Ireland (after nearly 30 years) is foregrounded in the constitutional part of the Belfast Agreement (awaiting entry into force as an international agreement).

NORTH-SOUTH RELATIONS AFTER PARTITION

The GOIA 1920 – it is little remembered – provided for so-called Irish union (within the United Kingdom), by identical acts of the Northern Ireland and Southern Ireland parliaments. This was

*with a view to the eventual establishment of a Parliament for the whole of Ireland, and to bringing about harmonious action between the parliaments and governments of Southern Ireland and Northern Ireland, and to the promotion of mutual intercourse and uniformity in relation to matters affecting the whole of Ireland, and to providing for the administration of services which the two parliaments mutually agree should be administered uniformly throughout the whole of Ireland...*⁷

The Council of Ireland was given immediately powers in the areas of:

- railways;
- fisheries; and
- the Diseases of Animals Acts.

This, however, was not at the expense of domestic jurisdiction in the two parts of Ireland.⁸

None of this came to pass. The 1925 agreement, whereby the Irish Free State recognised Northern Ireland, also saw the end of any possibility of a Council of Ireland. It was another 40 years – 1965 – before the heads of government in Belfast and Dublin met again. Paradoxically, it was during the Irish cold war of the 1950s, that some practical cooperation took place:

(1) drainage of the river Erne.

A draft agreement was drawn up by the ministry of finance for Northern Ireland and the electricity supply board in the ROI for works on both sides of the border. This looks like a contract in private international law. While provision was made for a United Kingdom or Irish arbitrator,⁹ the law of the contract is not specified. Under the Erne Drainage and Development Act 1950, the board was authorized to enter into the agreement. There does not appear to have been related Northern Ireland legislation;

(2) the Foyle Fisheries Commission.

Under the Foyle Fisheries Act (Northern Ireland) 1952, and an apparently identical act of the ROI (seemingly drafted in Belfast), the ministry of commerce for Northern Ireland and the minister for agriculture in the ROI, were permitted to purchase jointly fisheries and land. Conservation boards in both jurisdictions were dissolved. And the above commission established, to preside over a lough and other areas without the territorial sea being determined. The commission purports to be a body corporate. And the administrations in Belfast and Dublin appoint the members. It is required to have an office in Northern Ireland and in the ROI;¹⁰

(3) the Great Northern Railway.

Under the Great Northern Railway Act 1953, and a similar act in Northern Ireland, the minister for industry and commerce in the ROI and the ministry of

commerce for Northern Ireland, were permitted to purchase jointly the Great Northern Railway Company (Ireland), which ran a number of cross-border routes. There was to be an office in Dublin and another in Belfast. The two ministers jointly appointed the board, and could jointly direct its members. The board again purported to be a body corporate. The 1953 agreement was terminated in 1958. Under the Transport Act (Northern Ireland) 1958, and a similar measure in the ROI, the undertaking was divided between the Ulster transport authority and Córas Iompair Éireann.

THE 1973 (UNSUCCESSFUL) SUNNINGDALE AGREEMENT

The term, “*Irish dimension*”, emerged in the Northern Ireland Office document, *The future of Northern Ireland: a paper for discussion*, October 1972. It was juxtaposed to “*the United Kingdom interest*”:

*The United Kingdom Government stated it had three major concerns in Northern Ireland. First, that it should be internally at peace...Second, that it should prosper... Third, that Northern Ireland should not offer a base for any external threat to the security of the United Kingdom.*¹¹

The following reasons were given for an Irish dimension: one, Northern Ireland is part of the geographical entity of Ireland; two, “*an element of the minority in Northern Ireland has hitherto seen itself as simply a part of the wider Irish community*”; three, “*the problem of political terrorism...has always had manifestations throughout the island.*”¹²

Sunningdale included provision for (again) a Council of Ireland. There would be a council of ministers – seven each from Belfast and Dublin – “*with executive and harmonising functions and a consultative role.*” There would also be a 60-member consultative assembly “*with advisory and review functions.*” These institutions would have a secretariat headed by a secretary-general, with permanent headquarters and its own staff.

What were these institutions to do? There were to be “*studies*” (seemingly to be completed by the time of the formal conference early in 1974) being directed to identifying “*suitable aspects of activities in the following broad fields*”:

- exploitation, conservation and development of natural resources and the environment;
- agricultural matters (including agricultural research, animal health and operational aspects of the Common Agricultural Policy), forestry and fisheries;
- cooperative ventures in the fields of trade and industry;
- electricity generation;
- tourism;
- roads and transport;
- advisory services in the field of public health;
- sport, culture and the arts.¹³

None of this came to pass. The power-sharing executive had fallen by May 1974, due mainly (but not entirely) to the Irish dimension.

THE PROBLEM OF LEGAL FORMS

How does a state create a body shared with a neighbour? Two models – neither adequate – are extant:

- **identical acts of the Northern Ireland and Southern Ireland parliaments:** this idea (as noted) was contained in the GOIA 1920. But it was redundant from the point at which nationalist Ireland refused to accept the 1920 act. It would never have worked in the Irish Free State, or its successor, Éire/Ireland.

Yet, it was nationalist Ireland's chosen method of creating the implementation bodies (paragraph 10 of the Strand Two section of the Belfast Agreement);

- **(unspecified) agreements or arrangements between Belfast and Dublin:** this appeared first in section 3(1)(a)(ii) of the Ireland Act 1949 (which recognised the ROI as a separate state). It was not used seemingly. Agreements or arrangements were re-enacted in section 12 of the Northern Ireland Constitution Act ('NICA') 1973. This power was not used either. It has been re-enacted again, in section 53 of the Northern Ireland Act ('NIA') 1998 (which has yet to come into force).

The correct model – the international organisation – was found eventually in 1998-99 (as we will see).

THE 1985 ANGLO-IRISH AGREEMENT

This was a consultation plus agreement between London and Dublin to do with Northern Ireland. It established an intergovernmental conference, to discuss: political matters; security and related matters; legal matters, including the administration of justice; and the promotion of cross-border cooperation.

While the UK government was principally interested in security cooperation, the Irish government succeeded, after the 1988 review, in having north-south economic, social and cultural cooperation treated as a regular agenda item.

The origin of Strand Two of the Belfast Agreement lies in article 10(c) of the Anglo-Irish agreement (which was opposed fundamentally by Ulster unionists from 1985). However, it is being replaced by the British-Irish Agreement, a new start in state-to-state relations.

But there is a problem about Dublin's role in the transition. The Anglo-Irish agreement envisaged the Irish government acting as guarantors for northern nationalists in the search for devolution, or if there was no solution.¹⁴ The Belfast Agreement is a devolution settlement in escrow. There is no role specified for the Irish government under the Anglo-Irish agreement, while, under the British-Irish Agreement, it will be shifted away from Northern Ireland to a genuine bilateral basis.

THE NEGOTIATION OF THE BELFAST AGREEMENT

The 1993 *Downing Street Declaration* (Cmnd. 2442), and the 1995 *Framework Documents* (Cmnd. 2964), preceded the multi-party negotiations in 1996-98. The Sunningdale proposals were revived by Dublin, and accepted seemingly by London.

This was evident at least quantitatively, in the Mitchell Draft Paper (the penultimate version of the final agreement); 49 instances of north-south cooperation were specified.¹⁵ Between 6 and 10 April 1998, this was whittled down to the Strand Two text, including the work programme to select six implementation bodies and six areas for cooperation by 31 October 1998 from an annex.¹⁶

STRAND TWO OF THE BELFAST AGREEMENT

This relates to north-south relations. The text of this 19-paragraph section of the Belfast Agreement (along with its annex) is appended. It provides for mainly a North/South Ministerial Council ('NSMC') – a treaty body – (a more practical and modest version of the 1920 and 1973 plans).¹⁷ Strand Two is then covered by Strand Three, the east-west dimension, comprising a British-Irish Council (and a British-Irish Intergovernmental Conference), the former treaty body comprising two states, three devolved administrations and the lesser islands.¹⁸

THE SIX IMPLEMENTATION BODIES

These, as noted, were agreed by the first minister and deputy first minister, with the ROI and UK governments involved, on 18 December 1998. They were approved by the assembly on 18 January 1999. They are listed here again for convenience:

1. **Waterways Ireland;**
2. **The Food Safety Promotion Board;**
3. **The Trade and Business Development Body;**
4. **The Special EU Programmes Body;**
5. **The North/South Language Body;**
6. **The Foyle, Carlingford and Irish Lights Commission.**

The provenance of the six may be ascertained from publicity during the negotiations. The first and fourth were anticipated by the annex to Strand Two. The third and fourth were the deputy first minister's preferred choices; tourism – long a favourite – was downgraded. The remainder – it may be inferred – came from the first minister's camp.¹⁹ The second raised the question of differential agricultural standards; the fifth activated parity of esteem between Ulster Scots and the national language of the Irish state (Irish); and the sixth raises indirectly the question of the territorial seas in Lough Foyle and Carlingford Lough; further, Irish Lights – an anomalous UK-law body located in Dublin – may well be run through the British-Irish Council.²⁰

LEGAL CREATION

Article 2(ii) of the British-Irish Agreement ('BIA') – the legal form of the Belfast Agreement – signed by Tony Blair and Bertie Ahern on 10 April 1998, purports to create the Strand Two, paragraph 9(ii) bodies. However, this cannot be the case; they are not specified sufficiently.

Thus, on 8 March 1999 in Dublin, the secretary of state for Northern Ireland, and the Irish foreign minister signed an *Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing Implementation Bodies* (Cm 4293, Ireland No. 2 (1999)). This was one of four agreements supplementing the BIA.²¹

Article 1 creates the six bodies in international law. Article 6 states they shall have legal personality (in Irish and Northern Ireland law). And article 3 puts them under the NSMC (as required by paragraph 11 of Strand Two).

Whereas the 1973 legislation envisaged partial transfers of sovereignty, as functions were moved out of Northern Ireland into the ROI, and the 1998 act still allows for this, the international organisation model is completely mutual.

Each administration (one a state) is affected in the same way. The two administrations (Northern Ireland through the United Kingdom) agree to the temporary transfer of functions out of their jurisdiction into an international organisation. The organisation (a single body) is then given legal form in Northern Ireland, and Irish, law. There is no transfer of sovereignty – though there is pooling – and the functions can be brought back by agreement or even unilaterally.

However, there are three problems with the 8 March 1999 international agreement.

First, Article 2(1) refers to the "functions" in Annex 1, while article 2(2) specifies consequential "arrangements" in Annex 2. The 18 December 1998 agreement, approved by the assembly under section 1(1) of the Northern Ireland (Elections) Act 1998 on 18 January 1999, is contained in Annex 1. The legality of Annex 2 – pages 13 to 50 of the agreement – remains to be tested. It was not approved by the assembly. And it is more than technical details. The intention of ROI and Northern Ireland officials appears to have been to make the six bodies more meaningful. Thus,

Waterways Ireland was to have functions added “*progressively thereafter*” (Annex 1). In Annex 2, this becomes by 1 April 2000. Most likely, Annex 2 will be construed restrictively by the courts in terms of Annex 1.

Second, under article 5, the NSMC has to resort to the two governments for amendments of the international agreement by exchange of notes. Indeed, there was one such on 18 June 1999 (even before the agreement had entered into force), seeking to clarify an aspect of the Special EU Programmes Body.²² (The secretary of state had little difficulty putting this through Westminster by a – direct rule – order in council.²³ In Dublin, the Oireachtas had to resort to primary legislation²⁴).

Third, article 7(1) reads:

Each Body shall act in accordance with any directions of the British Secretary of State for Foreign and Commonwealth Affairs or the Irish Minister for Foreign Affairs necessary to ensure compliance, within their respective jurisdictions, with any international obligations of the British Government or the Irish Government other than the international obligations arising under this Agreement or the British-Irish Agreement.

Matters have been transferred from London to Belfast. The Northern Ireland administration is responsible under devolution. But, when it comes to cooperating with the Irish government, the UK foreign secretary can step in paternalistically. (There is no issue for Dublin: the foreign minister is a member of the Irish government which sits on the NSMC.)

Austen Morgan is a barrister in practice 3 Temple Gardens, Temple, London, EC4Y 9AU. His book, *The Belfast Agreement: a practical legal analysis* will be published in London by Sweet & Maxwell in late 1999.

Under article 6, the United Kingdom government legislated on 10 March 1999: the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 SI 859/1999. The international agreement was scheduled to the order. The Irish government also did this with the British-Irish Agreement Act 1999, promulgated on 22 March 1999.

¹ Thus, the foreign minister, David Andrews, characterized Strand Two as creating the embryo government of Ireland.

² The 18 December 1998 agreement is Annex 1b of New Northern Ireland Assembly, *Report from the First Minister (Designate) and Deputy First Minister (Designate)*, NNIA 7, 15 February 1999. It was approved in New Northern Ireland Assembly, *Official Report*, 18 January 1999, pp. 416-75, but only on the basis of New Northern Ireland Assembly, *Report of the First Minister (Designate) and Deputy First Minister (Designate)*, NNIA 6, 18 January 1999. However, the assembly took note again, in New Northern Ireland Assembly, *Official Report*, 16 February 1999, pp. 68-109.

³ David Andrews, Dáil Éireann, *Official Report*, 9 March 1999.

⁴ Ireland (Confirmation of Agreement) Act 1925; Treaty (Confirmation of Amending Agreement) Act 1925.

⁵ Ireland Act 1949 s 2(1).

⁶ Constitutional Issues section of Belfast Agreement.

⁷ GOIA 1920, s 2(1).

⁸ GOIA 1920 s 10(2).

⁹ The terms United Kingdom of Great Britain and Northern Ireland and the Republic of Ireland were used in the second schedule to the draft agreement.

¹⁰ Paragraph 10 of the third schedule of the Irish act. It is in fact administered from Derry/Londonderry.

¹¹ Paragraph 74.

¹² Paragraph 76.

¹³ Agreed communiqué if Sunningdale conference, 6-9 December 1973, reproduced in: *Boland v An Taoiseach* [1974] IR 338, 343-50.

¹⁴ Articles 4(c) and 5(c) respectively.

¹⁵ Available at: <http://www.nuzhound.com>.

¹⁶ The story is recounted by Senator Mitchell in *Making Peace*, London 1999, pp. 151-76.

¹⁷ This is to be established under article 2(i) of the BIA. However, there was also a supplementary agreement of 8 March 1999, Cm 4294, Ireland No. 3 (1999), March 1999: *Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing a North/South Ministerial Council*.

¹⁸ The Isle of Man and the Channel Islands.

¹⁹ Two of these – trade and language – had not been endorsed by the UK government in the Mitchell Draft Paper.

²⁰ See article 4 of the international agreement cited in the section below.

²¹ Articles 8 and 9.

- ²² The exchange of notes is scheduled to each of the pieces of legislation in the two notes immediately below. This was not made under article 5. The Irish government was concerned to amend the original agreement in accord with article 31(3)(a) of the 1969 Vienna convention on the law of treaties.
- ²³ North/South Co-operation (Implementation Bodies) (Amendment) (Northern Ireland) Order 1999, SI 2062/1999, made on 19 July 1999.
- ²⁴ British-Irish Agreement (Amendment) Act 1999.
- * This term was used in article 10(c) of the 1985 Anglo-Irish agreement (Cmnd.2657, November 1985). It was also used by John Major in his foreword to the 1995 Framework Declaration (Cmnd. 2964, December 1995).

APPENDIX EXTRACT FROM THE BELFAST AGREEMENT OF 10 APRIL 1998

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.