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Oifig an Taoisigh
Office of the Taoiseach

16 January, 1998.

The Right Honourable Tony Blair, M.P.,
The Prime Minister,
10 Downing Street,
London.

Dear Tony,

I thought it useful to set down my assessment of

- where the Talks Process has now reached after the tabling of the Propositions document this week, and
- how the reaction to the document, especially on the part of Sinn Fein, will in my view affect the future of the Process.

I believe that the agreement of and tabling of the Propositions document was an important step in the Talks Process. I want to thank you for the time and effort you put in in Tokyo with all the difficulties of doing so at a distance, in particular in convincing David Trimble of the value of the exercise at crucial moments, but we need to be very conscious that we have major bridge-repairing to do in other quarters.

I believe that we should now proceed with two separate, though complementary, exercises -

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- amplify the Propositions document in the form of a preliminary draft agreement which, like the Propositions document itself, could be discussed with all the parties, privately, when we both consider it right to do so
- prepare detailed papers on each of our agreed Propositions which could be tabled at the Talks - I understand that this work is already under way - recognising that there will be other areas to be covered as well.

I believe that it would be very difficult to advance discussion on individual Propositions (by means of discussion on the detailed papers) unless the parties know how we see the wider picture developing - that is why I am proposing a two-pronged approach. We need to avoid presenting parties in the future with what appear to be faits accomplis with very little time to consider them.

The downside of this week's tabling exercise is that Sinn Fein are strongly upset at the document itself and by the manner in which it was put together and believe that both of us were too indulgent of Unionist concerns in developing and agreeing it and simply overrode their views. I do not fully accept this criticism since, from the Irish Government viewpoint, we do not see ourselves as having settled for less than the Framework Document and in fact want to see improvements in it in a number of areas. Unfortunately, despite this reality, there is a perception in Nationalist Ireland, especially in Northern Ireland, that both of us reacted to the 'playing of the Orange Card'.

For this reason I believe it crucially important that in a number of areas I mentioned to you on Sunday night both of us must act in ways that are sympathetic to Nationalist positions in the period ahead. In particular I believe

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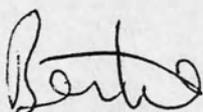
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you should accept the necessity for an independent inquiry in relation to Bloody Sunday and that you should set tariffs for the so-called Balcombe Street Four quickly and at a level not above those recommended by the Trial Judge and preferably below that. I understand that both these issues may be reaching finality in your system. I cannot impress on you too strongly the importance of acting as I have stated here.

Paddy Teahon has spoken to John Holmes last evening. He told him I was sending this letter and suggested that we might talk about it and any other issues on your mind later today.

I look forward to doing that.

Yours sincerely,



Taoiseach

TRANSACTION REPORT

P. 01

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Draft (16 January 1998)

North-South Structures
A Paper by the British and Irish Governments

1. This paper sets out, for discussion, a possible institutional model for structuring the North/South relationship, based on and amplifying the treatment of this issue in the *Propositions on Heads of Agreement* paper.

General Approach

2. As set out in *Propositions on Heads of Agreement*, it is envisaged that there would be a new British-Irish Agreement which would, inter alia, provide for the establishment of a **North/South Ministerial Council**, as well as for the creation of **suitable implementation bodies and mechanisms** for policies agreed by the Council. The necessary legislative provision would be enacted by the Parliaments in Dublin and at Westminster, as part of the legislation required to ratify the new Agreement.
3. We would also propose that the Oireachtas and Northern Ireland Assembly together establish a joint body to bring together backbench members of those institutions, and that a North/South Consultative Forum be established to create a focus for the involvement of civil society in the development of relationships within the island of Ireland.

North/South Ministerial Council

4. The **North/South Ministerial Council** would bring together those with executive responsibilities in Northern Ireland and the Irish Government. It would have overall responsibility for the promotion and development of consultation, co-operation and, as appropriate and as specified, common action within the island of Ireland on all matters of mutual interest within the competence of the administrations, North and South.
5. The Council's level of responsibility in regard to these matters would be three-fold:
 - (i) it would in certain designated areas be responsible for taking decisions, determining policy, and making or overseeing arrangements for the implementation of those decisions or policies, including through a number of subsidiary functional bodies;
 - (ii) in other specified areas the members of the Council would use their best endeavours to reach agreement resulting in joint action or the adoption of a common policy, and would make determined efforts to overcome any disagreements between them;
 - (iii) on all other matters the Council would act as a forum for the exchange of information, consultation and co-operation: it would of course be open to the two sides, by agreement, to take joint action or adopt a common policy on these matters also.

Matters we would propose as being suitable for inclusion in these categories are listed in the annex to this paper.

6. The Council would be, in institutional terms, a single entity, but it would bring together separately individual Ministers/heads of Department (eg agriculture, education). The Council would meet in each particular sectoral format on a regular and frequent basis. Agendas would be settled by prior agreement between the two sides, but it would be open to either side to propose any matter for consideration or action.
7. There would also be a "general affairs" Council at which the Minister and head of Department with overall responsibility for North/South issues would meet to consider institutional or cross-sectoral matters and to review unresolved issues. The Council would also meet at summit level on a periodic basis: the Taoiseach and the head of the Northern Administration might be accompanied by those of their colleagues most involved in the Council's business.
8. In all matters, the Council would operate by agreement between the two sides. A continuing failure to reach agreement on important designated matters would have to be resolved at summit level, or in accordance with whatever overall guarantee/oversight mechanisms were in place within the settlement as a whole. In the case of disagreement on technical issues (for example, whether a particular action by one side met its agreed commitments) the Council would appoint arbitrators (for instance, judges or other senior legal figures).
9. Participation in the Council would be a duty of service attaching to relevant posts in the two Administrations. Its members would exercise their powers in accordance with the rules for democratic authority and accountability in force in the Oireachtas and in the Northern Ireland Assembly, and also in accordance with whatever procedures for and expectations of collective responsibility applied within the two Administrations. The actions and decisions of the Council and of its subsidiary bodies would be subject to regular scrutiny in the Oireachtas and in the Assembly. An Oireachtas/Assembly joint body could also have a role in this regard.
10. The Council would agree its own financial requirements and those of any subsidiary bodies. It would be funded by the two Administrations on the basis that it constituted a necessary public function. Initially, its budget might simply be determined by aggregating the current cost, North and South, of those functions being designated to it, plus shared administrative costs. Subsequently its financing by the two Administrations could be on the basis of an agreed key based on objective criteria (eg population, likely use of service, income per head, etc.). The possibility of assigning dedicated sources of revenue to it could also be examined. Mechanisms for the allocation to the Council of funding received from the EU or other external bodies would have to be examined. It could be envisaged that this would be assigned to the Council, along with any agreed matching funding, by the two Administrations, as part

of their overall contribution to it.

11. The Council's expenditure could be audited jointly by the Comptroller and Auditor-General's Office and by the Northern Ireland Audit Office. Their joint report might be submitted simultaneously to the Oireachtas and to political institutions in Northern Ireland.
12. Arrangements for the legal accountability of the Council would need to be put in place. The decisions and actions of the Council might be subject to judicial review in either jurisdiction, depending on the normal residence of the complainant or the location of the Council's action.
13. Council meetings would be prepared by relevant officials of the two administrations, North and South. The Council would also be supported by a Secretariat, staffed jointly by members of the Northern Ireland Civil Service and the Irish Civil Service and appointed by the Council. The Secretariat would operate as a single administrative structure, under the direction of the Council and accountable to it.

Functional Bodies

14. The Agreement would specify the creation of a number of bodies with executive functions in certain of the designated areas falling within the remit of the Council. These bodies would be responsible for the implementation, on an all-island basis, of the policies and decisions agreed by the Council. Further such bodies could be established as the Council agreed. The Council would appoint members of the bodies' boards and/or their senior officers and would allocate funds to them. It would retain political accountability for their actions.

Council Representation in EU Institutions

15. Inasmuch as the Council had the capacity to take decisions and agree policy, and to agree on arrangements for implementation, in respect of certain designated matters, it would assume responsibility for the EU aspects of those matters, including the implementation of EU policies and programmes and the adoption of agreed approaches towards proposals under consideration in the EU framework. Arrangements for its participation in decision-making structures under the aegis of the EU Council of Ministers and for its liaison with the Commission and other EU bodies would have to be agreed in advance between the two Governments, as member states of the EU.
16. Arrangements would have to be made to ensure that the views of the Council were taken into account and represented appropriately at the EU Council of Ministers. It might be that the view of the Council on a particular proposal would be communicated to both Governments; that members/officials of the Council would participate in relevant Irish and/or British delegations; and that in respect of designated matters the Irish Government would, as a political act, agree to be bound by the decision of the Council as to the substance and presentation of a position on a relevant issue, and not to alter its stance without the agreement of its Northern partner

in the Council.

Joint Oireachtas/Assembly Body

17. The Agreement would include reference to the support of the two Governments for the creation of a joint body bringing together members of the Oireachtas and the Northern Ireland Assembly. The body might consider, and make recommendations on, all matters of mutual concern. It might also have a role in scrutinising and questioning the Council.

Consultative Forum

18. There would also be a Consultative Forum, appointed by the two administrations, representative of civil society and comprising *inter alia* the social partners and experts on social, cultural and economic questions. The Forum would offer advice on issues which were the subject of consideration within the Council, and would have particular responsibility for reflecting upon, and analysing, aspects of the medium-to-long term development co-operation on the island.

Revision of Arrangements

19. The Council could by agreement develop its functions or activities, or transfer matters from one category of responsibility to another. There would be an expectation that its role would develop and increase in line with the development of the relationship between North and South in all its aspects. There would be no pre-ordained limit to its evolution, the potential for which would be limited only by the extent to which matters had been devolved to the Northern Ireland Assembly.

Annex**Matters For Inclusion in Remit of Council**

As outlined in paragraph 5 above, the Council's level of responsibility in regard to these matters would be three-fold:

- (i) it would in certain designated areas be responsible for taking decisions, determining policy, and making or overseeing arrangements for the implementation of those decisions or policies, including through a number of subsidiary functional bodies;
- (ii) in other specified areas the members of the Council would use their best endeavours to reach agreement resulting in joint action or the adoption of a common policy, and would make determined efforts to overcome any disagreements between them;
- (iii) on all other matters the Council would act as a forum for the exchange of information, consultation and co-operation: it would of course be open to the two sides, by agreement, to take joint action or adopt a common policy on these matters also.

Following this classification, we list below areas which it would seem to us appropriate to include under each heading. We have indicated those for which it is suggested that a subsidiary functional body for the implementation of Council policies and decisions be established.

Category A Designated Matters

These matters are drawn from within the following broad categories:

- sectors involving a natural or physical all-Ireland framework
- EU programmes and initiatives;
- marketing and promotion activities abroad;
- culture, heritage and sport.

We thus propose

- Common Agricultural Policy: formulation of all-island approach to design and implementation of CAP.
- EU initiatives: development and implementation of the North/South INTERREG programme, the Special Programme for Peace and Reconciliation and LEADER II (and their successors/equivalents). Establishment of single all-island or cross-border implementing bodies.
- Tourism promotion (including through the establishment of a single Tourist Board)

- Overseas marketing of Irish exports (including through the establishment of a single Trade Promotion Board)
- The Irish language (including the establishment of an all-island Bord na Gaeilge)
- Marine research (including the establishment of an all-island body)
- The island's physical cultural heritage (including the establishment of a single Heritage Council)
- The arts (including the establishment of a single Arts Council)
- Environmental protection (including the creation of a single Environment Protection and Awareness agency)
- Management of inland waterways

Category B Specified Matters

- Science and Technology policy
- Training and Employment services
- Support for domestic companies, especially SMEs
- Identification and removal of barriers to North/South trade and promotion of a single all-island market
- Promotion of inward investment in both jurisdictions
- Implementation of and policy towards Common Fisheries Policy
- Aquaculture
- Inland Fisheries
- Forestry
- Energy policy (including regulation)
- Telecommunications including spectrum allocation, equipment type approval
- Waste Management
- Strategic roads
- Water resource management including cross-border/lake systems
- Emergency planning
- Rural development
- Animal health
- Plant health
- Agricultural research and training
- Regulation of local radio
- Wildlife conservation

- Cultural Institutions
- Social welfare fraud
- Health promotion
- Planning of new medical facilities and services
- Border region medical services and facilities
- Implementation of EU programmes and initiatives in education (SOCRATES, LEONARDO)
- Promotion of educational services abroad
- Youth issues and N/S Youth exchanges
- Development of a single technology and development policy for further education
- Facilities for students with special needs
- Development of all-island Education for Mutual Understanding.
- Cooperation on Irish Language schools, provision of books and material etc.
- Human rights education

Category C: Other Matters

- There would be consultation, and the exchange of information, on all matters not listed in Categories A & B above.