

[ENGLISH TEXT — TEXTE ANGLAIS]

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF IRELAND ESTABLISHING IMPLEMENTATION BODIES

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland:

Having regard to Article 2 of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland done at Belfast on 10th April 1998 ("the British-Irish Agreement"), and to the Multi-Party Agreement reached at Belfast on 10th April 1998 ("the Multi-Party Agreement"), annexed to the British-Irish Agreement;

Recalling that the participants in the multi-party negotiations pledged that they would in good faith work to ensure the success of each and every one of the arrangements to be established under the Multi-Party Agreement, and that it was 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 functions of the Assembly and the North/South Council are so closely inter-related that the success of each depends on that of the other";

Have agreed as follows:

Article 1

Under and in furtherance of Article 2 of the British-Irish Agreement the following Bodies are hereby established:

- (a) an implementation body for inland waterways, to be known as Waterways Ireland;
- (b) an implementation body for food safety, to be known as The Food Safety Promotion Board;
- (c) an implementation body for trade and business development, to be known as The Trade and Business Development Body;
- (d) an implementation body for special EU programmes, to be known as The Special EU Programmes Body;
- (e) an implementation body for language, to be known as The North/South Language Body, which shall be known in Irish as An Foras Teanga or in Ullans as Tha Boord Leid;
- (f) an implementation body for aquaculture and marine matters, to be known as The Foyle, Carlingford and Irish Lights Commission.

Article 2

1. The functions of each Body shall be those specified in the relevant part of Annex 1 hereto insofar, in relation to Northern Ireland, as they relate to matters within the competence of Northern Ireland Ministers.

2. Each Body shall exercise its functions and be structured in accordance with the arrangements set out in the relevant parts of Annex 2 hereto.

Article 3

1. Each Body shall operate in accordance with the provisions of the Multi-Party Agreement, and shall in particular implement any decisions of the North/South Ministerial Council on policies and actions relating to matters within the scope of the Body's functions.

2. Each Body shall be funded in accordance with the provisions of the Multi-Party Agreement on the basis that it constitutes a necessary public function.

Article 4

In relation to the Body for aquaculture and marine matters, Articles 2 and 3 shall apply subject to any arrangements which the two Governments shall determine for the provision and maintenance of aids to navigation pursuant to paragraph 7.1 of Part 6 of Annex 2 hereto.

Article 5

The North/South Ministerial Council may propose to the two Governments amendments to Annexes 1 and 2 hereto. Such amendments may be made by the two Governments by exchange of notes.

Article 6

Each Body shall have legal personality. Its legal capacity shall include the capacity to contract, to acquire and dispose of property and to institute legal proceedings.

Article 7

1. Each Body shall act in accordance with any direction 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 international obligations arising under this Agreement or the British-Irish Agreement.

2. Such directions shall be issued only in the event that the North/South Ministerial Council is unable to reach a decision on measures necessary to ensure compliance with the above international obligations.

Article 8

This Agreement supplements the provisions of the British-Irish Agreement and shall be read together with that Agreement.

Article 9

This Agreement shall enter into force on the date on which the British-Irish Agreement enters into force.

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

Done in two originals at Dublin on the 8th day of March 1999.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

MARJORIE MOWLAM

For the Government of Ireland:

DAVID ANDREWS

ANNEX I

Part 1. Inland Waterways

A Body with the following functions:

Management, maintenance, development and restoration of the inland navigable waterway system throughout the island, principally for recreational purposes:

immediately in respect of the Shannon-Erne Waterway and of the possible restoration and development of the Ulster Canal;

progressively thereafter, in respect of the wider Shannon-Erne system and the island's other waterways (principally the Royal Canal, Grand Canal, Barrow and Lagan).

The Body would take on the functions, together with the appropriate support functions, exercised in that regard by the Waterways Service of the Department of Arts, Heritage, Gaeltacht and the Islands and the Rivers Agency of the Department of Agriculture in Northern Ireland, and would also take over the functions of Shannon-Erne Waterway Promotions Ltd.

Part 2. Food Safety

A Body with the following functions:

- promotion of food safety
- research into food safety
- communication of food alerts
- surveillance of food-borne diseases
- promotion of scientific co-operation and linkages between laboratories
- development of cost-effective facilities for specialised laboratory testing.

Part 3. Trade and Business Development

A Body to exchange information and co-ordinate work on trade, business development and related matters, in areas where the two administrations specifically agree it would be in their mutual interest.

The specific areas of implementation would include:

- co-operation on business development opportunities, North and South;
- devising new approaches to business development in a cross-border context, in such areas as research, training, marketing and quality improvement;
 - supporting business by making recommendations to increase enterprise competitiveness in a north-south context in areas such as skills availability, telecoms, IT and electronic commerce;
- promotion of north-south trade and supply chains, including through business linkages and partnerships;
 - promoting cross-border trade events and marketing initiatives;
 - identifying new areas of trade between North and South;
 - promoting market awareness and trade development in a north-south context;

- undertaking specific projects and events in relation to trade promotion, when tasked jointly on a project by project basis;

- providing advice on specific aspects of trade promotion, when tasked jointly to do so.

Existing economic agencies North and South would continue to be funded by and operate under the direction of their respective administrations.

Part 4. Special EU Programmes

A Body with the following functions:

Until the conclusion of the current Community Initiatives

the central secretariat, monitoring, research, evaluation, technical assistance and development roles currently exercised jointly in respect of INTERREG and PEACE by the Department of Finance and the Department of Finance and Personnel;

administration of certain sectoral sub-programmes under INTERREG and PEACE (interest rate subsidy and cross border co-operation between public bodies).

In relation to post-1999 Structural Funds

advising North/South Ministerial Council and two Departments of Finance on negotiation with the EU Commission of post-1999 Community Initiatives and of Common Chapter;

preparing, for the approval of the two administrations in the Council and in close consultation with the two Departments of Finance and other relevant Departments, detailed programme proposals under the new Community Initiatives (likely to be INTERREG III, LEADER III and EQUAL, and possibly a successor to PEACE);

central secretariat, monitoring, research, evaluation, technical assistance and development roles in respect of these Initiatives;

grant-making and other managerial functions in respect of INTERREG III and of north-south elements of programmes under other Initiatives, within the framework of the relevant overall policies of North and South respectively, and subject to the expenditure allocations and specific programme parameters agreed between the two administrations and with the EU Commission;

monitoring and promoting implementation of the Common Chapter, which would have a specific budgetary allocation.

Part 5. Language

One Body, with two separate parts, with the following functions:

Irish Language

- promotion of the Irish language;

- facilitating and encouraging its use in speech and writing in public and private life in the South and, in the context of Part III of the European Charter for Regional or Minority Languages, in Northern Ireland where there is appropriate demand;

- advising both administrations, public bodies and other groups in the private and voluntary sectors;

- undertaking supportive projects, and grant-aiding bodies and groups as considered necessary;

- undertaking research, promotional campaigns, and public and media relations;

- developing terminology and dictionaries;

- supporting Irish-medium education and the teaching of Irish.

Ulster-Scots

promotion of greater awareness and use of Ullans and of Ulster-Scots cultural issues, both within Northern Ireland and throughout the island.

Part 6. Aquaculture and Marine Matters

A Body with the following functions:

Lough Foyle and Carlingford Lough

- promotion of development of Lough Foyle and Carlingford Lough, for commercial and recreational purposes;

- existing functions of Foyle Fisheries Commission in regard to inland fisheries conservation, protection, management and development, and equivalent functions in respect of Carlingford Lough;

- development and licensing of aquaculture;

- development of marine tourism.

Lighthouses

- existing functions of the Commissioners of Irish Lights in respect of providing and maintaining aids to navigation along the coast of the whole island of Ireland and its adjacent seas and islands.

Given that the CIL functions in an East-West context, arrangements to maintain linkage with the relevant British authorities.

ANNEX 2. DEFINITIONS

In this Annex-

"the Finance Departments" means the Northern Ireland Department of Finance and Personnel and the Irish Department of Finance;

"the Finance Ministers" means the Northern Ireland Minister of Finance and Personnel and the Irish Minister for Finance;

"NSMC" means the North/South Ministerial Council.

Part I. Inland Waterways

Exercise of Functions

Part I of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

1.1 The Body will with immediate effect-

(a) be responsible for the management, maintenance and development principally for recreational purposes of the Shannon-Erne Waterway;

(b) take forward appropriate studies and appraisals in relation to the possible restoration of the Ulster Canal; and

(c) take over the control of Shannon-Erne Waterway Promotions Ltd.

1.2 With effect from 1 April 2000, the Body will assume responsibility for the management, maintenance and development principally for recreational purposes of the following inland waterways-

the Erne System

the Grand Canal (including the Barrow Navigation)

the Lower Bann Navigation

the Royal Canal

the Shannon Navigation.

1.3 If, in the light of the outcome of the studies and appraisals referred to at paragraph 1.1(b), NSMC so decides, the Body will, with effect from such date as NSMC may decide, be responsible for the restoration of the Ulster Canal and, following restoration, for its management, maintenance and development principally for recreational purposes.

1.4 With effect from such date as may be specified by legislation in each jurisdiction, following agreement in NSMC, the Body will assume responsibility for -

(a) the restoration of any other inland waterway specified in the legislation;

(b) the management, maintenance and development principally for recreational purposes of any other inland waterway so specified.

1.5 From 1 April 2000, there will be three regional divisions of the Body - Northern, Western and Eastern.

1.6 In the discharge of its management and development function principally for recreational purposes, the Body will engage in promotion, including marketing and develop-

ment of the tourism and commercial potential of the inland waterways for which it has responsibility.

1.7 The Body will have all the powers necessary for, or incidental to, the exercise of its functions.

Structure

2.1 The Body will have a Chief Executive, appointed by NSMC.

2.2 The functions of the Body will be exercised by the Chief Executive or another member of the staff of the Body authorised by the Chief Executive. In exercising its functions the Body will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

Part 2. Food Safety

Exercise of Functions

Part 2 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

1. Promotion of food safety:

1.1 It will be a key and priority function of the Body to bring about general acceptance that responsibility for the provision of safe food is shared among producers, processors, distributors at all levels, caterers and the general public. This function includes:

- (a) promoting awareness and knowledge of food safety issues among the public, professionals with an interest in, or responsibility for, food safety, and the food industry;
- (b) arranging public awareness campaigns, conferences, training and strategic support;
- (c) providing food safety advice and guidance (including advice on the nutritional aspects of various foods);
- (d) establishing and maintaining links with key interests in the food safety field, including the Northern Ireland and Irish bodies responsible for food safety enforcement.

1.2 The Body will have a remit throughout the island of Ireland in relation to the promotion of food safety and will work in association with the Northern Ireland and Irish food safety agencies, which will continue to be responsible for inspection and enforcement. Existing arrangements for international negotiations, the setting of food standards and the promulgation of legislation and regulations will continue to apply. The Body may review and advise on the adequacy of food enforcement arrangements in place throughout the food chain in the island of Ireland, at the request of NSMC.

1.3 The Northern Ireland and Irish food safety enforcement agencies will retain a promotional role to support their inspection and enforcement functions.

2. Research into food safety:

The Body will have a general remit to promote research into all aspects of food safety, including:

- (a) identifying priorities for research;
- (b) commissioning and funding research projects as necessary to fill identified gaps;

(c) establishing and maintaining a database of research programmes and monitoring progress;

(e) disseminating research findings to relevant interests;

(f) recommending action arising from research findings;

(g) maintaining links with international research bodies.

3. Communication of food alerts:

The Body will have a responsibility to ensure prompt, accurate and complete dissemination of information on national and international food alerts by:

(a) developing and monitoring protocols for responding to food alerts;

(b) liaising with the Northern Ireland and Irish enforcement agencies;

(c) promoting and, where appropriate, arranging training for those likely to be involved in managing and responding to food alerts;

(d) developing cross-border emergency response procedures.

4. Surveillance of food borne diseases:

The Body will have a general responsibility to promote cross-border co-operation in the microbiological surveillance of food borne diseases:

(a) identifying priorities for the development of surveillance;

(b) establishing a forum for the exchange of information between relevant interests;

(c) promoting collaboration in surveillance-related activity, where appropriate, including training and professional development;

(d) accessing and analysing surveillance data held by the appropriate Northern Ireland and Irish authorities;

(e) publishing surveillance information and analysis;

(f) promoting harmonisation, where appropriate, in the development of surveillance systems including methodologies, approaches to reporting, and information technology systems.

5. Promotion of scientific co-operation and linkages between laboratories:

The Body will have a general remit to promote scientific co-operation and linkages between laboratories accredited, or working towards accreditation, under relevant EU directives:

(a) developing a strategy for such co-operation and linkages between laboratories, including proposed funding arrangements;

(b) developing a reporting system for rapid access to laboratory results;

(c) sharing knowledge and experience on methodologies of testing and surveillance;

(d) setting priorities for laboratory network development;

(e) advising on developing linkages and on the means to be employed;

(f) establishing and promoting appropriate information technology solutions;

(g) monitoring effectiveness of the linked laboratories system, including advising on its continuing development.

6. Developing of cost-effective facilities for specialised laboratory testing:

The Body will have a general remit to develop and sustain a strategy for the island of Ireland for the delivery of specialised laboratory services, including:

(a) conducting an early study of the relative cost effectiveness of the available options, including use of laboratories in Great Britain, for the development of specialised laboratory services;

(b) preparing cost-effective proposals, including funding arrangements, for consideration by NSMC;

(c) overseeing the implementation of the strategy once approved by NSMC, including advising on its continuing development.

7.1 The Body will draw on the pool of scientific advice and expertise available separately to the Northern Ireland and Irish food safety regimes.

7.2. It is intended that the Body will provide an independent assessment, through independent scientific advice, of the safety and hygiene of food produced, distributed or marketed in the island of Ireland.

8. The Body will issue reports on specific issues related to its functions, either on request from NSMC, or on its own initiative.

9. The Body will have all the powers necessary for, or incidental to, the exercise of its functions.

Structure

10.1 The Body will have an Advisory Board consisting of not fewer than 8 and not more than 12 members, including a Chairperson and a Vice-Chairperson. NSMC will appoint the members, including one member as Chairperson and one member as Vice-Chairperson.

10.2 Subject to the other provisions in this Annex, the remuneration, allowances and expenses of the Chairperson, Vice-Chairperson and other members, and any other terms and conditions on which they hold office, will be determined by NSMC, with the approval of the Finance Ministers.

11.1 The term of office of the first members of the Advisory Board will be 3 years. The term of subsequent appointments may be varied by NSMC to facilitate continuity of membership but will not exceed 5 years. Members will not serve more than 2 consecutive terms.

11.2 A person may resign as a member or as Chairperson or Vice-Chairperson by notice in writing to NSMC. NSMC may dismiss a person from his or her office as a member, or as Chairperson or Vice-Chairperson, if -

(a) he or she fails without reasonable excuse to discharge his or her functions for a continuous period of 3 months;

(b) he or she is convicted of a criminal offence;

(c) a bankruptcy order is made against him or her, or he or she makes a composition or arrangement with his or her creditors; or

(d) he or she is unable or unfit to carry out his or her functions.

11.3 If a member dies, resigns or is removed from office, NSMC may appoint a person to fill the vacancy, and the person so appointed will be appointed in the same manner as the member who occasioned the vacancy. The person so appointed will hold office for the remainder of the term of office of the member who occasioned the vacancy and will be eligible for reappointment as a member.

11.4 The Body will have a Chief Executive, appointed by NSMC.

11.5 The functions of the Body will be exercised by the Chief Executive or another member of the staff of the Body authorised by the Chief Executive. In exercising its functions the Body will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

11.6 NSMC will appoint an Advisory Committee including scientific experts and representatives of broader food safety interests.

Part 3. Trade and Business Development

Exercise of Functions

Part 3 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

1.1 The Body will develop co-operation on business development opportunities, North and South, including through:

(a) reviewing the scope, extent and effectiveness of relevant existing activities undertaken by government agencies and Departments, and recommend to NSMC for consideration and decision areas where cross-border co-operation would add value, and ways of extending and deepening such co-operation;

(b) administering a programme to enable companies to undertake joint product and process development projects of commercial benefit, with assistance of institutions where appropriate (this includes projects in which a company and an institution can co-operate on a North/South basis);

(c) administering a pre-competitive research programme aimed at supporting commercially focused research within the third level sector, encouraging in particular projects which bring together researchers, companies and institutions, North and South; and

(d) initiating new programmes to assist small and medium enterprises with researching and implementing joint venture partnerships on a North/South basis or jointly with overseas partners. In this area the Body will also be tasked to bring forward to NSMC within 3 months proposals on the development of a North/South equity investment fund programme taking account of the effectiveness of the existing range of equity fund provision, North and South, for consideration and decision by NSMC.

1.2 The Body will devise new approaches to business development in a cross-border context, in such areas as research, training, marketing and quality improvement including through:

(a) reviewing research on business development and experience of business development, including relevant training, in appropriate comparative countries and regions, and in relevant international institutions, with a view to recommending new approaches to the NSMC for consideration and decision;

(b) examining options for the achievement of greater coherence and deepening of research and development, and for cementing and formalising ongoing industry and third level collaboration in the area, North and South;

(c) co-ordinating annual programmes of 'Best Practice' visits for companies on a North/South basis;

(d) implementing a science and technology awareness programme on a North/South basis;

(e) implementing an innovation award scheme on a North/South basis, with support from the private sector;

(f) drawing on findings and recommendations emerging from the Foresight initiatives (medium-to-long-term planning) in Ireland and the United Kingdom, and examining the possibility for their application on a North/South basis; and

(g) recommending to NSMC for implementation on a North/South basis specific measures regarding training and skills development.

In this area the Body will also be tasked to bring forward to NSMC, within 3 months proposals for consideration and decision by NSMC on:

(h) the development of graduate and other placement programmes on a North/South basis;

(i) the carrying out of a range of testing services for industry with a view to the development of testing services, North and South, on a fully commercial basis by private interests; and

(j) the implementation of standards development and certification programmes on a North/South basis.

1.3 The Body will support business by making recommendations to increase enterprise competitiveness in a North/South context in areas such as skills availability, telecoms, information technology and electronic commerce. In particular, it will:

(a) investigate the effectiveness of existing arrangements in regard to all aspects of competitiveness of business environment North and South, including skills availability, telecoms, information technology and infrastructure and make recommendations for consideration and decision by NSMC;

(b) promote an awareness of electronic commerce, including conducting research and advising on the co-ordination of electronic commerce infrastructure, North and South;

(c) implement on a North/South basis a number of actions to facilitate development of the Information Society in the interests of trade and business; and

(d) examine possibilities for promoting inter-regional economic development and co-operation, including through clusters and centres of excellence, particularly in border areas.

1.4 The Body will promote North/South trade and supply chains, including through business linkages and partnerships, including by:

(a) co-ordinating, gathering and disseminating information on linkage programmes matching suppliers and buyers on a North/South basis, including joint supplier databases; and

(b) organising public procurement programmes and events on a North/South basis.

1.5 The Body will, under its own brand, promote cross-border trade events and marketing initiatives, identify new areas of trade between North and South and promote market awareness and trade development in a North/South context, including through identifying sectors and products in which cross-border trade is relatively low, establishing the reasons for the low levels, and making recommendations where appropriate for raising the level of trade, including recommendations for the removal of any artificial impediments to trade.

1.6 The Body will undertake specific projects and events in relation to trade promotion and provide advice on specific aspects of trade promotion, when tasked jointly to do so.

The Body will bring forward proposals for consideration by NSMC on specific projects in these areas.

2. The Body will have all the powers necessary for, or incidental to, the exercise of its functions. Structure

3.1 The Body will have a Board of not fewer than 8 and not more than 12 members, including a Chairperson and a Vice-Chairperson. NSMC will appoint the members, including one member as Chairperson and one member as Vice-Chairperson.

3.2 The functions of the Body will be exercised by the Board. In exercising its functions the Body will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

3.3 Subject to the other provisions in this Annex, the remuneration, allowances and expenses of the Chairperson, Vice-Chairperson and other members, and any other terms and conditions on which they hold office, will be determined by NSMC, with the approval of the Finance Ministers.

4.1 The term of office of the first members of the Board will be 3 years. The term of subsequent appointments may be varied by NSMC to facilitate continuity of membership but shall not exceed 5 years. Members will not serve more than 2 consecutive terms.

4.2 A person may resign as a member or as Chairperson or Vice-Chairperson by notice in writing to NSMC. NSMC may dismiss a person from his or her office as a member, or as Chairperson or Vice-Chairperson, if -

(a) he or she fails without reasonable excuse to discharge his or her functions for a continuous period of 3 months;

(b) he or she is convicted of a criminal offence;

(c) a bankruptcy order is made against him or her, or he or she makes a composition or arrangement with his or her creditors; or

(d) he or she is unable or unfit to carry out his or her functions.

4.3 If a member dies, resigns or is removed from office, NSMC may appoint a person to fill the vacancy, and the person so appointed will be appointed in the same manner as the member who occasioned the vacancy. The person so appointed will hold office for the re-

remainder of the term of office of the member who occasioned the vacancy and will be eligible for re-appointment as a member.

4.4 NSMC will appoint a Chief Executive to the Body. The Chief Executive will be responsible for the management and control generally of the administration and business of the Body.

Part 4. Special EU Programmes

Exercise of functions

Part 4 of Annex I sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

1. Until the conclusion of the current Community Initiatives: -

1.1 The Body will-

(a) prepare documentation relating to financial progress of programmes, monitoring of performance, associated reports, agendas and summary records of meetings, preparation of annual report, publicity requirements;

(b) chair the Monitoring Committee for INTERREG II, and act as secretariat to the PEACE Monitoring Committee which will continue to be jointly chaired by the Finance Departments until 31 December 1999 or such later date as NSMC may agree; collect from Departmental Sub-Programme leaders all financial returns relating to EU expenditure and commitments (i.e. allocations under the Programmes), prepare financial tables for the Monitoring Committees, collate progress reports from Departments, prepare and submit overview reports regarding overall progress of the Programmes to the Monitoring Committees and manage physical and impact indicator monitoring;

(c) commission any research in the form of evaluation exercises on a Programme-wide basis which may be agreed by the Monitoring Committees;

(d) ensure that the legal requirements for evaluation in terms of agreeing and monitoring performance indicators (financial, non-financial and impact) for the Programmes, as laid down in the Structural Funds Regulations and Programme documents, are met;

(e) be responsible for managing the technical assistance Measures of the Programmes;

(f) manage the contract with the INTERREG Development Officer, who will continue to work with Measure Leaders in functional Departments, and liaise with the Consultative Forum within the PEACE programme;

(g) oversee the remaining co-ordination tasks in relation to INTERREG II and act as Sub- Programme Leader in relation to the cross-border elements of PEACE, including the completion of the allocation of funds for the Cross-Border Development Sub-Programme as a whole;

(h) act as Measure Leader for the Co-operation between Public Bodies and Business and Cultural Linkages Measures of that Sub-programme.

1.2 Internal audit and financial control functions will remain with Departments, while public expenditure overview will remain with Ministers. The implementation of the measures, including decision making on allocation of grant, will continue to be dealt with as at present through Northern Ireland and Irish Departments and other relevant non-Governmental bodies.

2. In relation to post-1999 Structural Funds:

2.1 The Body will advise NSMC and the Finance Departments on the negotiation with the European Commission of the post-999 Community Initiatives (CIs) and the Common Chapter on co-operation between Northern Ireland and Ireland in the Structural Funds Plans relating to the next round of funding for 2000-2006. It will be asked to bring forward, following consultation with all relevant interests, proposals in relation to the application of the post-1999 CIs and the Common Chapter which would take account of the policy objectives of the EU, best fulfil the policy objectives of the Irish Government and Northern Ireland Ministers and appropriately reflect the needs of the target areas. On the relevant defined areas of responsibility, the Body's advice will be considered in the context of:

(a) the Irish Government's negotiating strategy in respect of the CIs and the Common Chapter; and

(b) the views of Northern Ireland Ministers represented to the British Government to contribute to the UK's negotiating strategy on these topics.

2.2 On the Common Chapter, the Body will provide views to assist Ministers in drawing up their Structural Funds Plans.

2.3 The Body will be responsible for preparing, for the approval of NSMC and in close consultation with the Finance Departments and other relevant Departments, detailed Programme proposals under the new CIs (likely to be INTERREG III, LEADER III and EQUAL and possibly a successor to PEACE). These will reflect the Guidelines for the CIs as agreed by the EU and any guidance issued, following agreement in NSMC, by the Finance Ministers. Before the proposals are put to NSMC, there will be consultation and agreement on the proposed programmes between the Body, the Finance Departments and the appropriate lead Departments in order to provide a clear basis for discussion in NSMC. The Body will contribute as appropriate to negotiations with the European Commission on these matters undertaken by representatives of the British and Irish Governments.

2.4 The proposals will include recommendations on:

(a) the structure of Measures for inclusion;

(b) the allocations to Measures;

(c) the objectives of each Measure, so that clear output objectives and eligibility criteria can be drawn up; and

(d) the implementation mechanism ie what body would have the role of authorising specific grant allocations to programmes and projects.

2.5 The arrangements set out at paragraph 1.1 will be continued for the CIs as appropriate having regard to the particular features of the Programmes under these Initiatives.

2.6 The Body will be responsible for grant-making and other managerial functions in respect of INTERREG III and of North/South elements of Programmes under other Initiatives, within the framework of the relevant overall policies of the Irish Government and Northern Ireland Ministers respectively, and subject to the expenditure allocations agreed between the two administrations and specific Programme parameters. The Body will be given guidance on these matters, which will be issued, following agreement in NSMC, by the Finance Ministers. When the Programmes are formally approved, they will be overseen

by the relevant Monitoring Committee, and the latter will be serviced by the Body which will also provide analysis and advice on any subsequent amendments that may be appropriate. In developing these, there will be consultation in order to secure agreement between the Body, the Finance Departments and the appropriate lead Northern Ireland and Irish Departments to provide a clear basis for discussion and agreement in NSMC.

2.7 For INTERREG III and the North/South elements of Programmes under other Initiatives, the Body will, as appropriate, pay grant directly or contract with government Departments (which in turn might subcontract as appropriate to other agencies) or contract directly with other agencies to deliver the Measures. In all cases, it will be the responsibility of the Body to agree with the Finance Ministers and the Ministers of the lead Departments, as appropriate, how to ensure that the specific funding proposals are consistent with the relevant overall policies of the Irish Government and Northern Ireland Ministers respectively and with the expenditure allocations agreed by the two administrations.

2.8 The Body will be responsible for monitoring and promoting implementation of North/South co-operative actions through the medium of the Common Chapter; the Common Chapter to set out the allocation of funding for such actions. The Body may commission studies as appropriate to identify and alleviate constraints affecting such co-operation, for which purpose a specific budget will be allocated to the Body.

3. The Body will ensure that all the relevant reporting requirements of the EU are met. The Body will also be responsible for producing the full documentation, including progress reports and a technical annual report, for the Monitoring Committees.

4. The Body's operations will be overseen by the relevant Monitoring Committees established according to the EU Structural Funds Regulations.

5. The Finance Ministers will each appoint a senior official to each Monitoring Committee to work closely with the Chief Executive and ensure that the accountability obligations of each jurisdiction are fulfilled.

6. The Body will have all the powers necessary for, or incidental to, the exercise of its functions. Structure

7.1 The Body will have a Chief Executive, appointed by NSMC.

7.2 The functions of the Body will be exercised by the Chief Executive or another member of the staff of the Body authorised by the Chief Executive. In exercising its functions the Body will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

Part 5. Language

Exercise of Functions

Part 5 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

1.1 The functions of Bord na Gaeilge in regard to the promotion of the Irish language and its staff, assets and obligations will be transferred to the Body. Bord na Gaeilge will be dissolved. The functions of the Irish Minister for Arts, Heritage, Gaeltacht and the Islands in relation to financial support for certain voluntary Irish language organisations will also be transferred to the Body.

1.2 In carrying out its functions of developing terminology and dictionaries and supporting Irish-medium education and the teaching of Irish, the Body, having regard to the legislative and other curriculum requirements applicable to each jurisdiction-

(a) (i) may review the curriculum resources made available for Irish-medium education and the teaching of Irish, including the provision of appropriate textbooks, other teaching materials and teaching aids;

(ii) may conduct research into any matters relating to the provision of Irish-medium education and the teaching of Irish in schools or other places, including the methods of teaching employed, the curricula taught and the assessment procedures adopted;

(iii) may publish, in such form as it considers appropriate, the outcomes of its research and reviews, including recommendations for action;

(b) will exercise the functions exercised prior to the establishment of the Body by the Irish Department of Education and Science, through An Gúm, with respect to the publication of books in Irish in support of Irish-medium education and the teaching of Irish in schools and elsewhere;

(c) will exercise the functions exercised prior to the establishment of the Body by the Irish Department of Education and Science, through An Coiste Téarmaíochta with respect to the development of terminology and vocabulary in Irish; and

(d) will facilitate co-operation between the body to be established in accordance with Section 31 of the Irish Education Act, 1998 and any promotional body funded under Article 89 of the Education (Northern Ireland) Order 1998.

1.3 Arising out of research or a review carried out under paragraph 1.2 (a) the Body may give advice or make recommendations for action in relation to Irish-medium education and the teaching of Irish.

1.4 The functions of the Body in relation to the Irish language will be exercised by an Irish language agency of the Body. The working language of the agency will be Irish, subject to the provisions of the Financial Memorandum. Subject to the agreement of the Body, the agency will decide its own title. In carrying out the Body's functions, the Irish language agency will have regard to the positions of the Irish language in the two jurisdictions. In Northern Ireland this position will be the British Government's commitments in respect of the Rights, Safeguards and Equality of Opportunity section of the Multi-Party Agreement and any relevant legislation. In Ireland, this position will be the constitutional and legal position of the Irish language, Irish Government policy and the measures and practices built up to foster and promote the language.

1.5 An Education Unit within this agency will carry out the functions outlined in paragraphs 1.2 and 1.3.

1.6 In carrying out its functions in relation to Ullans and Ulster-Scots cultural issues the Body may, having regard to the contexts in both jurisdictions-

(a) provide advice to both administrations, public bodies and other groups in the private and voluntary sectors;

(b) undertake research and promotional campaigns; and

(c) undertake support of projects and grant-aid bodies and groups as necessary; but this does not exclude Ulster-Scots bodies and groups operating exclusively in Northern Ireland from accessing Northern Ireland Government funding programmes.

1.7 "Ullans" is to be understood as the variety of the Scots language traditionally found in parts of Northern Ireland and Donegal. "Ulster-Scots cultural issues" relate to the cultural traditions of the part of the population of Northern Ireland and the border counties which is of Scottish ancestry and the influence of their cultural traditions on others, both within the island of Ireland and in the rest of the world.

1.8 The functions of the Body in relation to Ullans and Ulster-Scots cultural issues will be exercised by an Ulster-Scots agency of the Body. Subject to the agreement of the Body, the agency will decide its own title.

1.9 The Body will have all the powers necessary for, or incidental to, the exercise of its functions.

1.10 The annual report of the Body will incorporate reports of the agencies on their activities.

1.11 NSMC will designate the amounts of the grants received under paragraph 2.1 of Part 7 to be applied for

(a) the functions of the Body in relation to the Irish language; and

(b) the functions of the Body in relation to Ullans and Ulster-Scots cultural issues.

1.12 The Body will require each of the agencies to keep proper accounts and financial records and to prepare a statement of accounts in respect of each year.

Structure

2.1 The Body will have a Board of 24 members appointed by NSMC. Of those members-

(a) 16 will be drawn from among persons appearing to NSMC to have an interest in, or experience of, matters relating to the functions of the Body in relation to Irish language and

(b) 8 will be drawn from among persons appearing to NSMC to have an interest in, or experience of, matters relating to the functions of the Body in relation to Ullans and Ulster-Scots cultural issues.

2.2 The 16 members appointed under paragraph 2.1(a) will have responsibility for the exercise of the functions of the Body through the Irish language agency. One member will be appointed by NSMC as Chairperson of that agency. In exercising the functions of the Body, the agency will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

2.3 The 8 members appointed under paragraph 2.1 (b) will have responsibility for the exercise of the functions of the Body through the Ulster-Scots agency. One member will be appointed by NSMC as Chairperson of that agency. In exercising the functions of the Body, the agency will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

2.4 The Chairperson of the Irish language agency and the Chairperson of the Ulster-Scots agency will be joint Chairpersons of the Body.

2.5 Subject to the other provisions in this Annex, the remuneration, allowances and expenses of the Chairpersons and other members, and any other terms and conditions on which they hold office, will be determined by NSMC, with the approval of the Finance Ministers.

2.6 The term of office of the first members of the Board will be 3 years. The term of subsequent appointments may be varied by NSMC to facilitate continuity of membership but shall not exceed 5 years. Members will not serve more than two consecutive terms.

2.7 A person may resign as a member or as a Chairperson by notice in writing to NSMC. NSMC may dismiss a person from his or her office as a member, or as a Chairperson, if -

(a) he or she fails without reasonable excuse to discharge his or her functions for a continuous period of 3 months;

(b) he or she is convicted of a criminal offence;

(c) a bankruptcy order is made against him or her, or he or she makes a composition or arrangement with his or her creditors; or

(d) he or she is unable or unfit to carry out his or her functions.

2.8 If a member dies, resigns or is removed from office, NSMC may appoint a person to fill the vacancy, and the person so appointed will be appointed in the same manner as the member who occasioned the vacancy. The person so appointed will hold office for the remainder of the term of office of the member who occasioned the vacancy and will be eligible for re-appointment as a member.

2.9 The staff assigned to each agency will be responsible to and report to the Body through that agency.

2.10 The Body will appoint a Chief Executive for each agency subject to the approval of NSMC. The Chief Executive will be responsible for the management and control generally of the administration and business of the agency.

Part 6. Aquaculture and Marine Matters

Exercise of Functions

Part 6 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

1. Promotion of development of Lough Foyle and Carlingford Lough for commercial and recreational purposes:

1.1 This function is restricted to marine, fishery and aquaculture matters and will include the preparation of a strategic plan for commercial and recreational development of the Foyle and Carlingford Areas, and the promotion (including by grant aid) and co-ordination of the delivery of the development strategy;

2. Existing functions of the Foyle Fisheries Commission in regard to inland fisheries conservation, protection, management and development, and equivalent functions in respect of Carlingford Lough:

2.1 The Body will exercise the functions formerly exercised by the Foyle Fisheries Commission, which will be dissolved, and corresponding functions in relation to the Car-

lingford Area. Legislation will be introduced to provide for the exercise of an inland fisheries development function in relation to the Foyle and Carlingford Areas as set out in paragraph 6 below.

3. Development and licensing of aquaculture:

3.1 Legislation will be required to provide for the aquaculture development and licensing functions in the Foyle and Carlingford Areas. This will be introduced as set out in paragraph 6 below.

4. Development of marine tourism:

4.1 This function will include the preparation of a strategic plan for marine tourism in the Foyle and Carlingford Areas and the promotion and marketing of those Areas (including by grant aid) and co-ordination of the delivery of the development strategy.

5. The Carlingford Area means -

(a) the whole of the sea along the coast between the low water line of the most southerly point of Cranfield Point in the County of Down and the low water line of the most easterly point of Ballaghan Point, in the County of Louth, and within a straight line between those points, and any islands or rocks within the same, with the whole of the tideway along the said coast; and

(b) the whole of all lakes, rivers and their tributaries which flow into the sea within the area defined in sub-paragraph (a) and all of the land catchment from which water drains into those lakes and rivers.

6. The legislation required to provide for the development and licensing of aquaculture and for the exercise of a development function in relation to inland fisheries in the Foyle and Carlingford Areas will, following consultation with NSMC, be brought forward in both jurisdictions before the end of 1999. Pending the enactment of such legislation, the existing statutory provisions in each jurisdiction will continue to apply.

7. Existing functions of the Commissioners of Irish Lights in respect of providing and maintaining aids to navigation along the coast of the whole island of Ireland and its adjacent seas and islands:

7.1 United Kingdom and Irish legislation will be required for the Body to become the General Lighthouse Authority for the island of Ireland. Such legislation will be brought forward by the British and Irish Governments, if possible, before the entry into force of this Agreement or, in any event, as soon as possible thereafter. In the event that the functions of the Body as the General Lighthouse Authority are not brought within the competence of Northern Ireland Ministers, the two Governments agree to determine any additional arrangements necessary to enable the Body to exercise the functions of the General Lighthouse Authority for the island of Ireland in accordance with Article 4 of this Agreement. The Body will receive funding from the General Lighthouse Fund, subject to financial arrangements with the Trustees of the Fund.

8. The Body will have all the powers necessary for, or incidental to, the exercise of its functions. Structure

9.1 The Body will have a Board of not more than 12 members, including a Chairperson and a Vice-Chairperson. NSMC will appoint the members, including one member as Chairperson and one member as Vice-Chairperson.

9.2 The functions of the Body will be exercised by the Board. In exercising its functions the Body will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

9.3 Subject to the other provisions in this Annex, the remuneration, allowances and expenses of the Chairperson, Vice-Chairperson and other members, and any other terms and conditions on which they hold office, will be determined by NSMC, with the approval of the Finance Ministers.

10.1 The term of office of the first members of the Board will be 3 years. The term of subsequent appointments may be varied by NSMC to facilitate continuity of membership but shall not exceed 5 years. Members will not serve more than 2 consecutive terms.

10.2 A person may resign as a member or as Chairperson or Vice-Chairperson by notice in writing to NSMC. NSMC may dismiss a person from his or her office as a member or as Chairperson or Vice-Chairperson, if -

(a) he or she fails without reasonable excuse to discharge his or her functions for a continuous period of 3 months;

(b) he or she is convicted of a criminal offence;

(c) a bankruptcy order is made against him or her, or he or she makes a composition or arrangement with his or her creditors; or

(d) he or she is unable or unfit to carry out his or her functions.

10.3 If a member dies, resigns or is removed from office, NSMC may appoint a person to fill the vacancy, and the person so appointed will be appointed in the same manner as the member who occasioned the vacancy. The person so appointed will hold office for the remainder of the term of office of the member who occasioned the vacancy and will be eligible for re-appointment as a member.

10.4 The functions of the Body in relation to the Foyle and Carlingford Areas will be exercised through an agency of the Body known as the Loughs Agency. The functions of the Body referred to in paragraph 7 above will be exercised through an agency of the Body known as the Lights Agency.

10.5 The Body will appoint a Chief Executive to each agency subject to the approval of NSMC. The Chief Executives will be responsible for the management and control generally of the administration and business of the agencies.

Part 7. Common Arrangements

The following arrangements will apply to all six implementation bodies.

Accountability and Reporting

1.1 The Body will prepare annually a corporate plan, subject to the approval of NSMC, including Finance Ministers. The Plan will include a description of the proposed activities of the Body and the funding implications.

1.2 The Body will submit a report on its activities in each year to NSMC at such date and in such form as NSMC may direct.

1.3 A copy of the report will be laid before the Northern Ireland Assembly and both Houses of the Oireachtas.

1.4 The Body will provide NSMC or a relevant Minister with such other reports and information as NSMC or the Minister may from time to time require.

1.5 A member of the Body or of its staff will, if so requested; appear before, or otherwise co-operate with-

(a) a Northern Ireland Assembly Committee or a Committee or sub-Committee of either House or both Houses of the Oireachtas, in accordance with normal practice and relevant legislation within each jurisdiction;

(b) NSMC.

Financial Arrangements

2.1 The Body will receive grants from money voted by the Northern Ireland Assembly and Dáil Eireann. NSMC will, with the approval of the Finance Ministers, make recommendations as to the amount of such grants. The initial grants will be made from money appropriated by the Appropriation (Northern Ireland) Order 1999 and from money voted by Dáil Eireann.

2.2 The Body will comply with the provisions of a Financial Memorandum drawn up for the Body by the Northern Ireland and Irish departments paying grants to the Body and the Finance Departments. It will prescribe the detailed financial arrangements, including those in relation to accounts, the accounting year and currency, to be complied with by the Body. Subject to any terms and conditions specified in the Financial Memorandum, the Body may borrow money for the purposes of its functions.

2.3 For the purposes of its functions the Body may provide financial assistance to any body or person whether directly or indirectly in accordance with arrangements to be approved by NSMC and Finance Ministers. Such assistance may be by any description of investment or lending or by making grants.

2.4 The Body will keep proper accounts and financial records and will prepare a statement of accounts in respect of each year containing such information and in such form as the Northern Ireland and Irish departments paying grants to the Body may direct with the approval of the Finance Departments.

2.5 The Body will submit copies of the above statement to NSMC as well as to the Comptroller and Auditor General for Northern Ireland and the Irish Comptroller and Auditor General who will in co-operation examine and certify the accounts.

2.6 The statement will be laid before the Northern Ireland Assembly and both Houses of the Oireachtas. Any report concerning the Body by the Comptroller and Auditor General for Northern Ireland will be laid before the Northern Ireland Assembly and any such report by the Irish Comptroller and Auditor General will be laid before both such Houses.

2.7 The Body will also permit officers of the Comptroller and Auditor General for Northern Ireland and the Irish Comptroller and Auditor General access to all records as may

be required to carry out the above functions or value for money examinations and will require any person or body receiving grant from the Body to permit such access.

Staffing Arrangements

3.1 The Body may for the purposes of its functions-

(a) employ staff; and

(b) employ the services of such other persons as the Body considers expedient for any particular purpose.

3.2 The Body may be staffed by open recruitment, temporary secondment and the transfer of staff. The Body will, with the approval of NSMC and the Finance Ministers, determine the remuneration, grading, numbers and other conditions of service of the Chief Executive and other staff of the Body. The Body may, in the case of such of its staff as may be determined by it with the approval of NSMC and the Finance Ministers, pay such pensions, allowances or gratuities, or provide and maintain such pension schemes, as may be so determined.

3.3 Remuneration and other conditions of service for transferred staff will not be less favourable than those to which the transferred staff were subject immediately before their transfer, save in accordance with a collective agreement negotiated with a recognised trade union. Superannuation arrangements for transferred staff will not be less favourable than those to which transferred staff were subject immediately before their transfer and any dispute relating thereto shall be determined by the Irish Minister for Finance or the Department of Finance and Personnel, as may be appropriate.

3.4 The Finance Departments will draw up staffing principles.

3.5 Pending the appointment of the first Chief Executive of the Body, or of an agency of the Body, the functions of the Chief Executive will be exercised by such person as will, prior to the entry into force of this Agreement, have been designated by the Irish Government and the British Government.

Procedure

4.1 The Body will determine its own procedures.

4.2 The Body will have a seal, the application of which will be authenticated by the signature of-

(a) the Chief Executive of the Body or of an agency of the Body; or

(b) another member of the staff of the Body authorised in that behalf by the Chief Executive of the Body or of an agency of the Body.

Ombudsman

5. The Body will be brought within the jurisdiction of the Northern Ireland Assembly Ombudsman and of the Irish Ombudsman who will liaise and consult with each other.

Code of Conduct

6.1 The Body will as soon as practicable draw up a code of conduct for approval by NSMC.

6.2 The code will cover the Body's aims and values, its obligations to the public, and the accountability and conduct of its members and staff (including membership of or em-

ployment by other organisations, acceptance of gifts or other benefits and the disclosure of other interests relevant to the work of the Body and confidentiality).

Freedom of Information

7. The Irish and Northern Ireland Ministers with responsibility for freedom of information will as soon as practicable draw up a code of practice on access to information for approval by NSMC.

Data Protection

8. The Body will be subject to the data protection legislation applicable in each jurisdiction. In carrying out investigations into complaints relating to the Body the United Kingdom Data Protection Commissioner and the Irish Data Protection Commissioner will liaise and consult with each other.