

# **Memorandum of Understanding and supplementary agreements**

**between the United Kingdom Government, Scottish Ministers, the Cabinet of the National Assembly for Wales and the Northern Ireland Executive Committee**

Laid before the Northern Ireland Assembly by Northern Ireland Ministers  
June 2000

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## **Explanatory Note**

The paper, superseding Command Paper Cm4444 published in October 1999, comprises a series of agreements between the UK Government and the devolved administrations in Scotland, Wales and Northern Ireland setting out the principles which underlie relations between them. It is not intended that these agreements should be legally binding.

The principal agreement is the Memorandum of Understanding (MoU). It provides for the establishment of a Joint Ministerial Committee, which is the subject of a separate agreement pursuant to paragraph 3 of the MoU. In addition to the JMC agreement, four separate overarching Concordats apply broadly uniform arrangements across Government to the handling of matters with an EU dimension; financial assistance to industry; international relations touching on the responsibilities of the devolved administrations; and statistical work across the UK.

Individual UK Government Departments have also entered into bilateral Concordats with their counterparts in the devolved administrations. At the time of writing, most of the bilateral Concordats between UK Government Departments and their counterparts in Scotland and Wales have been agreed and published. Bilateral Concordats between UK Government Departments and their counterparts in Northern Ireland are in preparation and will be published in due course by the Departments concerned.

Ministerial responsibility within the UK Government for the MoU and JMC agreements lies with the Lord Chancellor in his capacity as Chairman of the Cabinet's Devolution Policy Committee. The Foreign and Commonwealth Secretary is responsible for the Concordats on the Co-ordination of European Union Policy Issues and on International Relations. The Chief Secretary to the Treasury is responsible for the Concordat on Financial Assistance to Industry; and the Economic Secretary for the Concordat on Statistics. The Secretaries of State for Scotland, Wales and Northern Ireland also have responsibilities within the UK Government for promoting the devolution settlement, for ensuring effective working relations between the Government and the devolved administrations, and for helping to resolve any disputes which may arise.

## **PART I : MEMORANDUM OF UNDERSTANDING**

### **Introduction**

1. This Memorandum sets out the understanding of on the one hand, the United Kingdom Government, and on the other, Scottish Ministers, the Cabinet of the National Assembly for Wales and the Northern Ireland Executive Committee (“the devolved administrations”) of the principles that will underlie relations between them. The UK Government represents the UK interest in matters which are not devolved in Scotland, Wales or Northern Ireland<sup>1</sup>. Policy responsibility for these non-devolved areas is within the exclusive responsibility of the relevant UK Ministers and Departments. It is recognised by these Ministers and Departments that, within the UK Government, the Secretaries of State for Scotland, Wales and Northern Ireland are responsible for ensuring that the interests of those parts of the UK in non-devolved matters are properly represented and considered. Other UK Ministers and their departments represent the interests of England in all matters.

2. This memorandum is a statement of political intent, and should not be interpreted as a binding agreement. It does not create legal obligations between the parties. It is intended to be binding in honour only. Nothing in this Memorandum should be construed as conflicting with the Belfast Agreement<sup>2</sup>.

3. This memorandum is supplemented by agreements on the establishment of a Joint Ministerial Committee and for certain other areas where it is necessary to ensure uniform arrangements for relations between the UK Government and the three devolved administrations. In particular, broadly uniform arrangements need to apply to: handling of matters with an EU dimension; financial assistance to industry; international relations touching on the responsibilities of the devolved administrations; and statistical work across the UK. In addition, the four administrations may prepare Concordats or make other less formal arrangements to deal with the handling of procedural, practical or policy matters between them. Concordats are not intended to be legally binding, but to serve as working documents.

### **Communication and Consultation**

4. All four administrations are committed to the principle of good communication with each other, and especially where one administration’s work may have some bearing upon the responsibilities of another administration. The primary aim is not to constrain the discretion of any administration but to allow administrations to make representations to each other in sufficient time for those representations to be fully considered.

5. Against this background, and in confidence where necessary (see paragraph 11 below), the administrations will seek:

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<sup>1</sup> The three Acts of Parliament dealing with devolution - the Scotland Act 1998, the Government of Wales Act 1998 and the Northern Ireland Act 1998 - define the respective functions of the UK Government and the devolved administrations in different ways. This Memorandum simply uses the terms ‘devolved’ and ‘non-devolved’. ‘Devolved’ means in the Scottish context any function not reserved to the UK Government or Parliament under Schedule 5 of the Scotland Act or transferred to the Scottish Ministers under other legislation; in the Welsh context, any function transferred or conferred on the Assembly by Order or by primary legislation; and in the Northern Ireland context, any function which is not an excepted or reserved matter under Schedules 2 and 3 of the Northern Ireland Act. ‘Non-devolved’ means anything else.

<sup>2</sup> The British-Irish Agreement done at Belfast on 10 April 1998 and the Multi-Party Agreement reached on the same date and annexed thereto.

- a. to alert each other as soon as practicable to relevant developments within their areas of responsibility, wherever possible prior to publication;
- b. to give appropriate consideration to the views of the other administrations; and
- c. where appropriate, to establish arrangements that allow for policies for which responsibility is shared to be drawn up and developed jointly between the administrations.

It is recognised that there are certain areas of Government action - Budget proposals and national security are two examples - in which, as a matter of pre-existing practice, advance notification did not take place or was very limited. These practices have been unaffected by devolution.

6. The Acts provide for statutory consultation by the UK Government with the devolved administrations in relation to certain specific matters and vice versa. This memorandum does not create any equivalent or other legal right to be consulted.

### **Co-operation**

7. All four administrations want to work together, where appropriate, on matters of mutual interest. The administrations recognise the importance of co-operation across a range of areas. They also recognise that it may be appropriate for them to undertake activities on each other's behalf, which may be covered in agency arrangements or other agreements.

8. Various public bodies deal with matters within the responsibilities both of the UK Government and of one or more of the devolved administrations. The UK Government and devolved administrations affirm their commitment to work, together where appropriate, to ensure that such bodies continue to operate effectively.

### **Exchange of information, statistics and research**

9. In order to enable each administration to operate effectively, the administrations will aim to provide each other with as full and open as possible access to scientific, technical and policy information including statistics and research and, where appropriate, representations from third parties. These exchanges between administrations may be subject to restrictions or requirements, such as those relating to confidentiality or freedom of information.



13. The United Kingdom Parliament retains authority to legislate on any issue, whether devolved or not. It is ultimately for Parliament to decide what use to make of that power. However, the UK Government will proceed in accordance with the convention that the UK Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature. The devolved administrations will be responsible for seeking such agreement as may be required for this purpose on an approach from the UK Government.

14. The United Kingdom Parliament retains the absolute right to debate, enquire into or make representations about devolved matters. It is ultimately for Parliament to decide what use to make of that power, but the UK Government will encourage the UK Parliament to bear in mind the primary responsibility of devolved legislatures and administrations in these fields and to recognise that it is a consequence of Parliament's decision to devolve certain matters that Parliament itself will in future be more restricted in its field of operation.

15. The devolved legislatures will be entitled to debate non-devolved matters, but the devolved executives will encourage each devolved legislature to bear in mind the responsibility of the UK Parliament in these matters.

16. These same principles will be applied to other aspects of each administration's responsibilities towards its Parliament or Assembly. The administrations will provide each other, so far as appropriate and practicable, with information necessary to meet these responsibilities.

## **International and EU Relations**

17. As a matter of law, international relations and relations with the European Union remain the responsibility of the United Kingdom Government and the UK Parliament. However, the UK Government recognises that the devolved administrations will have an interest in international and European policy making in relation to devolved matters, notably where implementing action by the devolved administrations may be required. They will have a particular interest in those many aspects of European Union business which affect devolved areas, and a significant role to play in them.

18. Arrangements for the handling of devolved administrations' interests outside the United Kingdom are set out in the international relations and EU concordats. The devolved administrations are able to develop bilateral or multilateral arrangements with other members of the British-Irish Council, including the Republic of Ireland, and to participate in the British-Irish Council itself, as set out in the Belfast Agreement. The Northern Ireland Executive Committee is also able to develop relations with the Irish Government through the North/South Ministerial Council provided for in that Agreement.

19. The UK Government will involve the devolved administrations as fully as possible in discussions about the formulation of the UK's policy position on all EU and international issues which touch on devolved matters. This must, obviously, be subject to mutual respect for the confidentiality of those discussions and adherence to the resultant UK line, without which it would be impossible to maintain such close working relationships.

20. The devolved administrations are responsible for implementing international, ECHR and EU obligations which concern devolved matters. In law, UK Ministers have powers to intervene in order to ensure the implementation of these obligations. If the devolved administrations wish, it is open to them to ask the UK Government to extend UK legislation to cover their EU obligations. The devolved administrations are directly accountable through













A2.5 It is recognised that the staff of the UK Government and the devolved administrations who make up the component sections of the Joint Secretariat are likely also to be involved in co-ordinating their own administrations' stance towards JMC business. The UK Government and the devolved administrations recognise that there will sometimes come a point in discussions between the administrations at which the different parties will need to reserve their position or, especially when legal proceedings seem likely, cease to participate in joint discussion of an issue.

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- they should ensure that the UK can negotiate effectively, in pursuit of a single UK policy line, but with the flexibility that fast-moving negotiations require; and
- they should ensure EU obligations are implemented with consistency of effect and where appropriate of timing.

Such mechanisms should also ensure that the Scottish Executive and the UK Government inform each other of any relevant policy proposals which might impact on either existing or new EU proposals or requirements. They should also ensure that, when required by EC legislation, relevant obligations or initiatives are reported to the Commission and when necessary the other Member States.

The arrangements in the common Annex (B4) are intended to be adaptable to suit the differing circumstances of individual cases.



- they should ensure that the UK can negotiate effectively, in pursuit of a single UK policy line, but with the flexibility that fast-moving negotiations require; and
- they should ensure EU obligations are implemented with consistency of effect and where appropriate of timing.

Such mechanisms should also ensure that the Assembly Cabinet and the UK Government inform each other of any relevant policy proposals which might impact on either existing or new EU proposals or requirements. They should also ensure that, when required by EC legislation, relevant obligations or initiatives are reported to the Commission and when necessary the other Member States.

The arrangements in the common Annex (B4) are intended to be adaptable to suit the differing circumstances of individual cases.



- they should ensure that the UK can negotiate effectively, in pursuit of a single UK policy line, but with the flexibility that fast-moving negotiations require; and
- they should ensure EU obligations are implemented with consistency of effect and where appropriate of timing.

Such mechanisms should also ensure that the Northern Ireland Executive Committee and the UK Government inform each other of any relevant policy proposals which might impact on either existing or new EU proposals or requirements. They should also ensure that, when required by EC legislation, relevant obligations or initiatives are reported to the Commission and when necessary the other Member States.

The arrangements in the common Annex (B4) are intended to be adaptable to suit the differing circumstances of individual cases.

### **North/South Arrangements**

B3.5 As required by the Belfast Agreement, the North/South Ministerial Council brings together those with executive responsibilities in Northern Ireland and the Irish Government to develop consultation, co-operation and action within the island of Ireland on matters of mutual interest within the competence of the administrations. This includes consideration of the European Union dimension of relevant matters, including the implementation of EU policies and programmes. The Special EU Programmes Body has a clear operational remit as set out in the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999. This concordat applies to the Northern Ireland Executive Committee's participation in North/South arrangements. In accordance with paragraph 17 of Strand II of the Belfast Agreement, arrangements are to be made to ensure that the views of the North/South Ministerial Council are taken into account and represented appropriately at relevant EU meetings.



B4.5 Many issues will be capable of being dealt with bilaterally between the lead Whitehall Department and the devolved administrations.

B4.6 Even where EU issues require wider inter-departmental consultation, it may often be possible (as at present) to resolve the matter through correspondence; and the arrangements described in this document for copying papers widely to the devolved administrations will help to ensure that matters are resolved in this way wherever possible. EU business operates to an externally imposed timetable and the UK will need to determine its negotiating position in good time. Potential areas of contention will therefore be identified as early as possible, and every effort made to resolve them without escalating discussions to senior levels.

B4.7 Where it is not possible to resolve matters bilaterally or by correspondence as described above, the Government envisage that such EU issues will be considered by the Joint Ministerial Committee in European format (paragraph A1.9 of the supplementary agreement on the JMC), which will bring together UK Ministers and Ministers of the devolved administrations to discuss non-devolved matters which touch on matters which fall within the responsibility of the devolved administrations, and where appropriate the treatment of matters falling within the responsibility of the devolved administrations in different parts of the UK. In the case of EU matters, the JMC will be the forum for seeking to resolve differences between the UK Government and the devolved administrations. The procedure to be followed for handling EU business within the JMC is laid down in the supplementary agreement on the JMC.

B4.8 In the case of implementation of European Community (EC) obligations, the wider provisions for resolution of vires disputes through reference to the Judicial Committee of the Privy Council will apply, with the UK Parliament and UK Ministers retaining the power, as provided under the devolution legislation, to legislate to implement EC obligations throughout the UK.

### **Official Involvement**

B4.9 In line with paragraphs B4.2 and B4.3 above, lead Whitehall departments and UKRep (within its normal reporting responsibilities) will inform officials of the devolved administrations of developments in EU business which touch on matters which fall within the responsibility of the devolved administrations. Such information will be shared both with the devolved administrations and with other interested Government Departments from the outset. Officials of the devolved administrations will have access to relevant papers (including telegrams) which are copied inter-departmentally by UKRep and lead Whitehall departments.

B4.10 The EU official sub-committee of the JMC will provide an important forum for discussing EU issues. In addition, informal communications and meetings at official level will continue to make a major contribution to the resolution of EU issues. Officials of the devolved administrations will be included in these contacts.

B4.11 Clearly, the nature of consultation procedures in individual cases will depend on the nature of the issue, on previous practice and on the degree of urgency. Depending on the circumstances, issues might be dealt with bilaterally between the lead Whitehall department and the devolved administrations without the need for wider inter-departmental consultation. In cases where wider inter-departmental consultation is necessary, individual Departments could choose to consult bilaterally with their opposite numbers in the devolved administrations on a particular subject, before consulting more widely on the basis of an agreed approach. In other cases, they could include the devolved administrations from the outset in a multi-lateral consultation process.

## **Attendance at Council of Ministers and related meetings**

B4.12 Ministers and officials of the devolved administrations should have a role to play in relevant Council meetings, and other negotiations with EU partners.

B4.13 Decisions on Ministerial attendance at Council meetings will be taken on a case-by-case basis by the lead UK Minister. In reaching decisions on the composition of the UK team, the lead Minister will take into account that the devolved administrations should have a role to play in meetings of the Council of Ministers at which substantive discussion is expected of matters likely to have a significant impact on their devolved responsibilities.

B4.14 Policy does not remain static in negotiations and continuing involvement is a necessary extension of involvement in formulating the UK's initial policy position. The role of Ministers and officials from the devolved administrations will be to support and advance the single UK negotiating line which they will have played a part in developing. The emphasis in negotiations has to be on working as a UK team; and the UK lead Minister will retain overall responsibility for the negotiations and determine how each member of the team can best contribute to securing the agreed policy position. In appropriate cases, the leader of the delegation could agree to Ministers from the devolved administrations speaking for the UK in Council, and that they would do so with the full weight of the UK behind them, because the policy positions advanced will have been agreed among the UK interests.

B4.15 Attendance by officials of the devolved administrations at EU meetings will continue, as at present, to be agreed bilaterally with the lead Whitehall Department. Such agreement would also cover attendance at Presidency and Commission chaired meetings, including those discussing implementation matters. The role of officials from the devolved administrations will be to support and advance the single UK negotiating line which they will have played a part in developing.

## **Implementation of European Union Obligations**

B4.16 It will be the responsibility of the lead Whitehall Department formally to notify the devolved administrations at official level of any new EU obligation which concerns devolved matters and which it will be the responsibility of the devolved administrations to implement in Scotland, Wales or Northern Ireland (although the arrangements for policy formulation and negotiation described above should ensure that the devolved administrations are already aware of new obligations). In addition, Whitehall Departments will, as necessary, liaise closely with the devolved administrations about the implementation by UK legislation of obligations in non-devolved areas, particularly where these could touch on areas which fall within the responsibility of the devolved administrations.

B4.17 For matters falling within the responsibility of the devolved administrations, it is for the devolved administrations to consider, in bilateral consultation with the lead Whitehall Department, and other Departments and devolved administrations if appropriate, how the obligation should be implemented and administratively enforced (if appropriate) within the required timescale, including whether the devolved administrations should implement separately, or opt for GB or UK legislation. Where a devolved administration opts to implement separately, it will have a responsibility to consult the lead Whitehall Department bilaterally, and other Departments as necessary, on its implementation proposals, to ensure that any differences of approach nonetheless produce consistency of effect and, where appropriate, of timing. The same official and Ministerial mechanisms as for policy formulation will operate where wider inter-Departmental discussion is necessary.













C19 The designation of assisted areas, including related domestic legislation, is a reserved function and will remain the responsibility of the UK Government. There will, however, be adequate consultation to a reasonable timescale by the UK Government with the devolved administrations on the methodology and detail of any proposed revisions to the assisted areas map prior to putting proposals to the European Commission.

### **Consultation and Dispute Resolution**

C20 Where there is a need for consultation or where disputes arise between the UK Government and the devolved administrations on the matters covered by this concordat, the majority of matters should be capable of being handled routinely among officials of the Departments in question. Where it proves impossible to reach a consensus between officials in relation to particular cases or policy matters, remaining differences will need to be resolved through discussions between Ministers.











D3.5 The parties to this Concordat recognise that the conduct of international relations is likely to have implications for the devolved responsibilities of the Northern Ireland Executive Committee and that the exercise of these responsibilities is likely to have implications for international relations. This Concordat therefore reflects a mutual determination to ensure that there is close co-operation in these areas between the United Kingdom Government and the Northern Ireland Executive Committee with the objective of promoting the overseas interests of the United Kingdom and all its constituent parts.

### **Review and dispute resolution**

D3.6 The United Kingdom Government and the Northern Ireland Executive Committee will maintain full and detailed working-level contacts in regard to international relations. The Secretary of State for Foreign and Commonwealth Affairs and the First Minister and Deputy First Minister or their nominees will meet annually or at the request of either party to review co-operation in regard to international relations.

D3.7 The Memorandum of Understanding sets out the procedures to be followed in the event of disputes. Issues will normally be resolved by bilateral consultations between the responsible officials. Where a dispute cannot be resolved by this means, the issue will be reported to the First Minister and Deputy First Minister and the Secretary of State for Foreign and Commonwealth Affairs who will seek to resolve the issue within the framework of the Joint Ministerial Committee. Except in cases of genuine urgency, the statutory powers referred to in the Annex (D4) will not be exercised until after an ample opportunity has been allowed for consultation and discussion under this paragraph.

D3.8 This Concordat will be reviewed annually.





correspondence, or proposal that is novel or contentious, might create a contingent international liability or may have implications for international relations.

D4.8 Where international negotiations bear directly on devolved matters, it may be appropriate for Ministers or officials from the devolved administrations to form part of a UK negotiating team. The role of Ministers or officials from the devolved administrations will be as part of a UK team to support and advance the single UK negotiating line which they will have played a part in developing. The UK lead Minister will retain responsibility for the negotiations and will determine how each member of the team can best contribute to securing the agreed position. In appropriate cases, and by agreement with the FCO (or where appropriate another lead UK department) Ministers or officials from the devolved administrations could speak for the UK in international meetings.

### **Implementation of international commitments**

D4.9 Under the devolution legislation, the devolved administrations are responsible for observing and implementing international obligations which relate to devolved matters<sup>6</sup>. They are similarly responsible in areas where they or the UK Government have made commitments under informal instruments<sup>7</sup>. In common with other parts of the UK, the devolved administrations expect to observe the terms of these informal instruments which have been entered into in good faith. The FCO or other lead UK Department will formally notify the devolved administration of any new international commitment concerning devolved matters which it will be the responsibility of the devolved administration to implement (although the arrangements described in paragraphs 2-4 should ensure that the devolved administrations are already aware of new commitments). Such notification should take place as soon as the instrument has been concluded in order to allow sufficient time for the devolved legislatures to make any necessary legislation prior to ratification.

D4.10 Under the devolution legislation, the UK Government may by subordinate legislation split a quantitative international obligation, such as a quota, and transfer part of it to the devolved administration<sup>8</sup>. The size of the devolved administrations' shares will be a matter for negotiation, taking into account the extent of the powers of the devolved legislatures and administrations and the range of measures relating to devolved and non-devolved matters which might be taken to fulfil an obligation. The devolved administrations must be consulted before any order is made to apportion their share of such an obligation, and the UK Government has made it clear to Parliament that it would expect to use its best endeavours to reach agreement with them.

D4.11 It will be for the devolved administration and the FCO, or other lead UK Government Department, to consider how to implement an international commitment which relates to devolved matters. Where the commitment is to be implemented separately by the devolved

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<sup>6</sup> It is essential that the UK Government is in a position to implement international obligations it has undertaken in good faith. The UK Government therefore has power to ensure that the devolved administrations take action to give effect to the UK's international obligations and do not take actions which would be incompatible with these obligations. Section 58 of the Scotland Act 1998, section 26 of the Northern Ireland Act 1998, and section 108 of the Government of Wales Act 1998, give the UK Government power to order that a proposed action by a devolved administration should not be taken if it would be incompatible with any international obligation of the UK or direct that action be taken to give effect to any such obligation. Under section 35 of the Scotland Act, the Secretary of State may make an order prohibiting the Presiding Officer from submitting a Bill of the Scottish Parliament for Royal Assent if he has reasonable grounds to believe that it contains provisions which would be incompatible with any international obligations of the UK. Similarly, under section 14 of the Northern Ireland Act the Secretary of State may decide not to submit a Bill of the Northern Ireland Assembly for Royal Assent which contains a provision which he considers would be incompatible with any international obligations of the UK. The UK Government may also revoke any subordinate legislation made by a devolved legislature if it contains provisions which would be incompatible with any international obligations.

<sup>7</sup> The term "informal instruments" covers international instruments which have no binding force in international law, but which evidence a political commitment by the States accepting them. It can include instruments describing themselves as "recommendation", "resolution", "declaration", "conclusions" and "charter".

<sup>8</sup> Section 27 of the Northern Ireland Act 1998, section 106 of the Scotland Act 1998, and sections 106 and 108 of the Government of Wales Act 1998

administration, they will consult and agree their implementation proposals with the FCO or other lead UK Government Department to ensure that any differences of approach are compatible with the need for consistency of effect and of timing, where that is appropriate. Where the commitment is to be implemented by UK legislation, the FCO or other lead UK Government Department will consult and agree their implementation proposals with the devolved administrations where these may impact on devolved matters. The devolved administrations will ensure that when necessary UK legislation making provision about devolved matters is laid before the devolved legislatures.

D4.12 The UK Government will, under normal circumstances, not ask the UK Parliament to legislate in any area for which legislative competence has been devolved except with the agreement of the devolved legislature. But instances may arise, for reasons such as urgency, where full consultation and agreement is impractical. The UK Government intends, for example, to continue the practice of implementing UN Security Council Resolutions by means of Orders in Council under the United Nations Act 1946<sup>9</sup>. The Foreign Secretary will remain the responsible authority for the preparation of such orders.

### **Co-operation over legal proceedings**

D4.13 The FCO will continue to act as the Agent of the UK Government in responding to all applications brought against the United Kingdom under the European Convention on Human Rights including those arising from devolved matters. Where the case relates wholly or partly to implementation of a devolved matter, the devolved administrations will advise the FCO on the facts and the domestic law, contribute on those issues to any instructions to counsel, take part in the UK team for any hearings etc. The competent legal authorities<sup>10</sup> should also be consulted as to which counsel should be appointed. In the event of a decision against the UK, the devolved administrations will be responsible for putting in place any domestic measures necessary to implement the judgement. The UK is obliged under the Convention to implement judgements against it.

D4.14 The FCO, in its established role in handling proceedings in which the UK is involved before the International Court of Justice or other international courts or tribunals, will consult fully with the devolved administrations where such proceedings bear upon the exercise of the devolved matters.

D4.15 The devolved administrations will be responsible for the payment of any compensation and costs awarded against the UK by international courts or tribunals and for payment of Counsel's fees, to the extent that these arise from the failure of the devolved administration to implement or enforce an obligation or failure to meet their share of an international quota.

### **Representation Overseas**

D4.16 The devolved administrations may establish offices overseas within the framework of their responsibility for devolved matters (including for the provision of information on devolved matters to the public, regional governments and institutions, and promotion of trade and inward investment). They will do so in consultation with the FCO. Where appropriate, such representation might form part of a UK Diplomatic or Consular Mission. The representatives of the devolved administration could then make use of the diplomatic bag, the

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<sup>9</sup> Despite the general devolution of the functions of observing and implementing international obligations, powers under any Order in Council made under section 1 of the 1946 Act may be exercised concurrently in or as regards Scotland by UK Ministers.

<sup>10</sup> The Lord Advocate in Scotland, Northern Ireland Legal Advisers, and the Counsel General to the National Assembly for Wales.

FCO telegram and other communications systems, and be accorded diplomatic status in accordance with local customs and operational requirements. The FCO will recover the costs of the services provided in line with its practice for charging UK Government Departments. UK Embassies, High Commissions and other Missions overseas will continue to serve the interests of the UK as a whole and to co-ordinate all official activity.

### **Secondments and training co-operation**

D4.17 The FCO and the devolved administrations will work to build effective institutional links including through reciprocal exchange and secondment of officials and co-operation on training. This should provide significant benefits to all parties, strengthen relationships and contribute towards good working arrangements; and assist the career and personal development of the personnel involved.

### **Visits**

D4.18 The FCO will provide appropriate support to Ministers of the devolved administrations, members of the devolved legislatures and officials travelling overseas. The FCO will recover the cost of this support as appropriate in line with its practice for charging other UK Government Departments.

D4.19 The FCO, other UK Departments, and the devolved administrations will co-operate in arranging programmes in Northern Ireland, Scotland and Wales for official guests of the UK Government. Early consultation regarding possible visits will help to ensure the success of those visits. The FCO and, where appropriate, lead UK Departments will also continue to co-operate with the devolved administrations in arranging international meetings and Summit conferences in Northern Ireland, Scotland and Wales hosted by the Prime Minister or by other UK Ministers. The devolved administrations will keep the FCO and, where appropriate, the lead UK Department, informed of proposals for other visits and meetings in Northern Ireland, Scotland and Wales involving foreign government ministers, members of foreign regional governments, senior officials and representatives of international organisations. The Government Hospitality Fund (GHF) and the devolved administrations will co-operate in organising official entertainment in Northern Ireland, Scotland and Wales on behalf of UK Ministers. The devolved administrations may also make use of GHF services on a repayment basis.

### **Public diplomacy, the British Council and BBC World Service**

D4.20 The FCO will continue to promote the UK and all its constituent parts through public diplomacy overseas and will work closely on this with the devolved administrations. FCO information products – including films, publications and the Internet site – will continue to present the diversity of England, Scotland, Wales and Northern Ireland.

D4.21 The British Council will continue to promote the UK and all its constituent parts. The British Council will maintain operational links with the devolved administrations through its office in Belfast, Edinburgh and Cardiff and will invite two senior officials from each devolved administration to sit respectively on its advisory Northern Ireland, Scottish or Welsh Committees. The devolved administrations will also be able to use the Council's expertise for specific tasks on a contract basis.

D4.22 The BBC World Service aims to bring benefit to the UK and all its constituent parts by broadcasting authoritative and impartial news and information. The devolved administrations are invited to maintain direct links with the BBC World Service on matters of mutual interest.

### **Trade and inward investment promotion**

D4.23 The devolved administrations and the UK Government have concurrent powers to promote exports. British Trade International has lead UK responsibility for the provision of support and assistance to new and existing exporters of goods and services and outward investors both at home and overseas. The devolved administrations are responsible for devising and implementing additional programmes to meet the particular needs of companies in Northern Ireland, Scotland and Wales. British Trade International, the FCO, DTI, other lead UK Government Departments and devolved administrations will consult each other on policy developments and activities to avoid duplication of effort, including double funding of activities, and to avoid contradictory actions. The devolved administrations will be represented on the Board of British Trade International.

D4.24 The devolved administrations and the UK Government have concurrent powers to promote inward investment. The Invest in Britain Bureau (IBB) has lead responsibility for promoting the UK and all its constituent parts to foreign investors. The devolved administrations are responsible for the promotion of Northern Ireland, Scotland and Wales. The IBB, the FCO, DTI, other lead UK Government Departments and devolved administrations will consult each other on strategic policy developments and activities. Promotion of the UK to foreign investors will be co-ordinated through adherence of all concerned to guidelines agreed by the Committee on Overseas Promotion on which the devolved administrations will be represented.

### **Diplomatic and consular relations**

D4.25 The FCO will continue to be responsible for policy on diplomatic and consular relations with other countries and on all matters concerning international organisations represented in the UK. The FCO will continue to be the channels for all official communications on matters relating to Foreign and Commonwealth consulates and international organisations and their staff in Northern Ireland, Scotland and Wales. The FCO will inform the devolved administrations of all career consular appointments in Northern Ireland, Scotland and Wales. The FCO will consult the devolved administrations about the establishment of new consular offices, new honorary consular appointments, and other new offices where personnel will have privileges and immunities (e.g. certain cultural centres and trade offices) in Northern Ireland, Scotland and Wales. The devolved administrations will immediately pass on to the FCO any representations made by diplomatic/consular missions and international organisations. The devolved administrations will also promptly notify the FCO of any alleged breaches within their devolved competences. The FCO will then take the appropriate action under the Vienna Conventions on Diplomatic and Consular Relations or any applicable Consular Convention or Headquarters Agreement.



E6 The basic principles underlying the implementation of the concordat are as specified in the Memorandum of Understanding. If statistical matters cannot be resolved by the parties directly involved, the Head of the GSS will attempt to broker an agreement before the Joint Ministerial Committee procedures are invoked.

### **Other Concordats**

E7 Where bilateral concordats describe arrangements to be made in relation to statistical matters, these arrangements are based on the principles set out in this document, unless explicitly stated otherwise.

E8 In particular, some of the devolved administrations may establish concordats with the Office for National Statistics (ONS), which deal with a number of professional and other issues.

### **Scope of the Concordat**

E9 The Concordat covers:

- any government activity involving the use of information for statistical purposes, including information obtained from administrative, statistical or other sources, where two or more of the administrations have a direct interest as information providers or users: this includes, but is not restricted to, work carried out by the Government Statistical Service;
- activity associated with ensuring the maintenance of consistently high professional standards across the administrations in the provision and use of statistical information.

### **Basis on which administrations will work together**

E10 This section describes the basis on which the four administrations agree to work together on statistical issues.

**E10.1 The administrations will provide each other with the information for statistical purposes which they agree is required to meet business needs, subject to availability, agreements about cost sharing, and adherence to the other terms of this agreement.**

E10.1.1 Each administration collects and processes statistical information that may be required by the others to meet their business needs. Unless there are exceptional circumstances that can be clearly demonstrated, or legal barriers which cannot be overcome, each administration will make this information available to the others, in line with any specific agreements about how the terms of this concordat are to be applied. In deciding whether and how to exchange information, any principles which apply within administrations will apply between administrations, except that administrations will not be required to provide information to each other about the statistical advice which has been given to policy makers or Ministers (although they may agree to do so). Information provided by one administration to another or others will also be accompanied on request by supporting information on the quality of what is provided.

**E10.2 Administrations will reach agreements about cost sharing where appropriate.**

E10.2.1 Existing arrangements for cost sharing will continue until one or more parties propose change. Any party may propose change where new demands are made, where the costs to the providers change, or where circumstances change. The arrangements will then be negotiated.

**E10.3 The administrations will work together to ensure the provision of agreed coherent, reliable, consistent and timely statistics about and across the UK.**

E10.3.1 In addition to ensuring exchanges of information, the administrations will co-operate to ensure that there are readily available, high quality and timely statistics about the UK, disaggregated as appropriate. They will agree mechanisms which ensure that these statistics are readily available to all four administrations - the Parliaments/Assemblies, international organisations, data providers and users, and the public - either by providing them directly or by providing information about sources. They will work together to ensure that all the statistics which are provided are coherent, reliable, are collected and compiled in a way which represents good value for money, and are consistent as far as data sources permit.

E10.3.2 Heads of Profession in Scotland, Wales and Northern Ireland will work with their UK Government counterparts and the Head of the Government Statistical Service as appropriate where statistics are required to be submitted on a UK basis to the EU or other international bodies. Subject to the terms of the concordats on EU and international relations, the Head of the GSS will retain responsibility for the fulfilment of UK statistical obligations to the EU and international bodies and for EU/international liaisons and co-operation on statistical matters.

**E10.4 The administrations will each consult on statistical developments, and proposed publications, which could have an impact on the other.**

E10.4.1 It is the responsibility of each administration to inform, and seek comment from, the others about any proposed significant changes to existing activity, or proposed release of statistical information, which might be considered relevant to the others. Statistics (and related commentary) to be published or released about Scotland, Wales or Northern Ireland by a different administration will be checked as necessary with the relevant devolved administration(s) for statistical validity before the final version is agreed. Statistics (and related commentary) to be published or released about the UK or England by a devolved administration will be checked as necessary with the relevant UK Department(s) for statistical validity before the final version is agreed. It is the responsibility of those quoting statistics about another part of the UK to decide when it is necessary to consult explicitly with the relevant administration(s): in many cases, this will not be necessary.

**E10.5 Statistical work will be carried out to common professional standards.**

E10.5.1 Statistical work in the four administrations will be carried out in line with the Code of Practice on Official Statistics. Heads of Profession in Scotland, Wales and Northern Ireland will liaise with the Head of the GSS to ensure that, where appropriate, statistics in devolved areas satisfy any criteria set for GSS outputs. Similarly, Heads of Profession in UK Departments will liaise with the Head of the GSS to ensure that statistics about the UK and England provided by their own departments, where appropriate, also satisfy such criteria.

E10.5.2 The basis on which statistical information given in confidence can be used and exchanged is described in the Official Statistics Code of Practice.

E10.5.3 The administrations recognise their responsibility to monitor, and where appropriate to control, the compliance costs associated with surveys on businesses and local authorities.

They will work together to minimise the total compliance cost burden, while seeking to ensure that each administration has access to the information that it needs.

E10.5.4 The recruitment, development and promotion of Government Statistical Service professional staff will be based on a common set of professional competences and in accordance with the GSS Human Resource Strategy. Heads of Profession and the Head of the GSS will work together to promote, and ensure adherence to, high technical and ethical standards, and to facilitate the movement of statistical staff between the administrations.

#### **E10.6 The administrations will share statistical expertise and development.**

E10.6.1 Statistical staff will co-operate to ensure best value for the resources invested in technical and staff development. They will keep each other informed of developments - to reduce duplication, and promote good practice. They will agree to share specific development tasks, both to maximise the use of available specialist expertise, and as one means of cost sharing. They will identify, and reach agreement on, any commercial considerations (such as charging to external customers - or to each other) before any development work starts.

#### **E10.7 The Office for National Statistics will provide the GB administrations with a range of professional, technical and personnel services.**

E10.7.1 ONS will provide a staff recruitment and transfer service to the three GB administrations, whereby they will manage the recruitment and initial deployment of members of the statistician group, advertise vacant posts across the GSS, broker transfers among GSS staff, and provide information and advice about recruitment of statistical staff (NB. statistical staff working in Northern Ireland are not part of the GSS). ONS will provide methodological advice to the UK administrations. These arrangements will be subject to cost sharing agreements as described in 10.2 above.

#### **E10.8 GSS staff will contribute to the work of the GSS, and promote its values.**

E10.8.1 In its role of co-ordinating the work of the GSS, ONS will invite statistics staff across the administrations (including those who are not members of the GSS) to participate in, and keep them informed about, GSS activities, and consult them about issues of statistical policy and methodology. GSS staff across the administrations will make a constructive contribution to the work of the GSS, including serving on its committees. Heads of Profession will serve on the GSS Policy and Management Committee, will consult with and be consulted by the Head of the GSS on key issues relating to professionalism and integrity, and will promote GSS outputs and agreed GSS policy and values.