

# **Dermot Nally Papers**

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## **Briefing Note on the Peace Process**

### **1. General Background to the Joint Declaration and the Joint Framework Documents**

In the course of the political talks, initiated in March 1991 by the then N.I. Secretary of State Peter Brooke, involving the Irish and British Governments and four of Northern Ireland's main political parties, the two Governments were requested by the parties to formulate their joint understanding on the broad outlines of a political settlement. While those talks ended inconclusively in November 1992, the two Governments had by that time commenced an intergovernmental process of discussion and negotiation on the development of a shared position to assist dialogue towards a fair accommodation between Nationalism and Unionism. That process has yielded two important intergovernmental understandings - namely the **Joint Declaration of 15 December 1993** and the **Joint Framework Document of 22 February 1995**.

As far back as 26 March 1991, the two Governments, the Ulster Unionist Party, the Democratic Unionist Party, the SDLP and the Alliance Party all agreed, inter alia, that '*a broadly based agreement rests on finding a way to give adequate expression to the totality of relationships - those within Northern Ireland, among the people of the island of Ireland, and between the two Governments*'. That totality of relationships concept sets the context for both the Joint Declaration and the Framework Document.

### **2. Joint Declaration**

The Joint Declaration sets out a carefully balanced set of principles and affirmations. The British Government reaffirms that it will uphold the democratic wish of a greater number of the people of Northern Ireland, whether they prefer to support the Union or a sovereign United Ireland. The Irish Government, for its part, accepts that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with the consent of a majority of the people of Northern Ireland. The document also reflects the desire and willingness of the Irish Government to respond generously to the concerns and fears of the Unionists. (Paragraphs 6-8).

Paragraphs 10 and 11 address the problem of admitting democratically mandated parties to the political process as soon as possible after a cessation of violence. They contain a



commitment to establish a Forum for Peace and Reconciliation and confirm that, after a cessation of violence, democratically mandated parties which establish a commitment to exclusively peaceful methods can 'join in dialogue in due course between the Governments and the political parties on the way ahead.'

The set of principles, realities and rights set out in the Declaration were intended, in the first instance, to provide a balanced framework within which an agreed political settlement, acceptable to both traditions, could be reached. Another core objective lay in offering an alternative to violence in pursuit of political aims. In that regard, Sinn Féin and the Loyalist representatives were challenged to follow exclusively the constitutional route because the Declaration was presented to them as removing any perceived justification for the use of violence to advance political objectives.

### **3. Cessation of Violence**

After a protracted process of clarification on the Declaration with Sinn Féin, the IRA announced on 31 August 1994 a 'complete cessation of all military operations'. On 13 October 1994, a similar cessation of violence was announced by the Combined Loyalist Military Command. Since the ceasefires, the Irish Government have treated Sinn Féin and the Loyalist political representatives (the UDP and the PUP) as bona fide political parties.

### **4. The Forum for Peace and Reconciliation**

The **Forum for Peace and Reconciliation** was established at the end of October 1994 to advise on ways in which trust could be promoted and established between the two traditions. Sinn Féin are full participants and while the main Unionist parties have failed to attend, the Alliance Party are full members. Various other outreach efforts have been made to the Unionist tradition and some political representatives have participated in an individual capacity. Community groups and other bodies from both traditions have made contributions.

### **5. Joint Framework Document - Overview**

On 22 February 1995, the Irish and British Governments issued the *A New Framework for Agreement*, commonly known as the *Joint Framework Document*. The Document is not a blueprint to be imposed. It is the shared understanding of the two Governments on the

parameters of a settlement that would be capable of securing the support of the two main traditions on this island. Its purpose is to give impetus, focus and direction to a process of negotiation involving the two Governments and the political parties in Northern Ireland.

The Document seeks to provide a framework for political agreement in four key areas:

- (1) Constitutional issues; (2) North/South institutions; (3) East/West structures; and
- (4) touching on Structures within Northern Ireland

### 5.1 Constitutional Issues

- As part of an overall agreed settlement, the two Governments commit themselves to a new balanced constitutional accommodation;
- In paragraph 21, the Irish Government undertake to introduce and support change in the Constitution which will 'fully reflect the principle of consent in Northern Ireland and demonstrably be such that no territorial claim of right to jurisdiction over Northern Ireland contrary to the will of a majority of its people is asserted';
- In paragraph 20, the British Government undertake that should the people of Northern Ireland freely determine to become part of a united Ireland, they will give legislative effect to that wish;
- Commitments are also given that the existing birthright of everyone born in either jurisdiction in Ireland to be part as of right of the Irish nation would be maintained.

### 5.2 North/South Institutions

- The Framework Document proposes a **North/South body**, comprising elected representatives from, and accountable to, a **Northern Ireland Assembly** and the Oireachtas, to deal with matters designated in the first instance by the two Governments in agreement with the Northern Ireland parties;
- The functions to be designated to the body in the first instance would be of an executive, harmonising and consultative nature. Further functions could be designated subsequently by the Northern Ireland Assembly and the Oireachtas;
- The two Governments propose that executive functions should cover sectors of a natural all-Ireland framework, EU programmes, marketing and promotion activities abroad, and culture and heritage (paragraph 31). Harmonising functions would cover inter alia aspects of agriculture and fisheries, transport, energy and health (paragraph 32). Consultative functions, it is envisaged, would cover a wide range of other areas;
- All decisions within the North/South body would be by agreement between the two sides.



### 5.3 East/West Structures

- In the Framework Document, the two Governments envisage a **Parliamentary Forum**, with representatives from the Northern Ireland Assembly and the Oireachtas, to consider matters of mutual interest;
- They envisage a new and more broadly-based Agreement between the Irish and British Governments to develop and extend co-operation and under which would operate a standing Intergovernmental Conference;
- The Conference would be chaired by an Irish Minister and by the Secretary of State for Northern Ireland. It would consider matters of mutual interest not covered by other specific arrangements;
- The Conference would consider ways of enhancing community identification with policing in Northern Ireland; would review the workings of the Agreement and underwrite its fair and effective operation; and would provide a framework for consultation and co-ordination between both Governments and new North/South institutions.

### 6. British Government Paper on Structures within Northern Ireland

While the Framework Document commends direct dialogue between the political parties in Northern Ireland to develop new internal political structures, specific proposals in that regard are not included. Such proposals however are contained in a British Government paper released on the same day called *Accountable Government in Northern Ireland*. The development of political structures within Northern Ireland is essentially a matter for the political parties there and the British Government. The British paper proposes the establishment of an Assembly, a Panel and Assembly Committees.

#### (1) The Assembly

- A single unicameral Assembly of about 90 members elected for a fixed 4 to 5 year term and by means of PR;
- It would be presided over by a Speaker elected by a weighted majority of Assembly member votes;
- All legislation would require the support of at least a majority of the relevant Assembly Committee and the Assembly itself;
- Matters having financial or constitutional implications would require weighted majority approval. Though ultimately to be determined by agreement between the Northern Ireland parties, the British paper envisages that it could be in the order of 65% to 75%;

- Matters not requiring weighted majority approval could be subject to minimum threshold votes. If, for example, 25% to 35% of Assembly members voted for a particular piece of legislation to be dealt with through weighted majority approval or to be referred to the Panel, then that would be facilitated;
- The Assembly would debate reports from, and call for the minutes of, each Assembly Committee;
- Matters not transferred to it, such as law and order issues, would rest with the Secretary of State for Northern Ireland;
- Non-departmental Committees of the Assembly would include, inter alia, a Business Committee to co-ordinate Assembly business; a General Purposes Committee to co-ordinate on issues crossing Departmental boundaries; and a Public Accounts Committee.

## **(2) The Panel**

- A Panel of 3 people elected by PR from a single Northern Ireland constituency would make decisions by consensus and would essentially have a monitoring and referral role over the Assembly;
- It would have powers to scrutinise and if necessary block legislation referred to it; and would arbitrate on public expenditure disputes;
- It would develop a Code of Practice to specify the relationships between the Assembly, its Committees and Departments;
- It would nominate Assembly Committee Chairmen and Deputy Chairmen.

## **(3) Assembly Committees**

- The Chairman and Deputy Chairman of each Committee would be allocated by the Assembly from amongst its members, acting by weighted majority, and on the unanimous nomination of the Panel;
- The Committees would be constituted broadly in proportion to party strengths in the Assembly and each would have an Assembly Departmental Committee whose Chairman would be the Head of the relevant Department;
- Departmental estimates, policies and actions would be subject to scrutiny by the relevant Committee, which would have the power to compel attendance and call for papers.

## **7. Irish and British Government representations of Framework Document**

The Taoiseach, speaking in the Dáil on the day of the Framework Document's publication, said that 'its purpose is to assist discussion and negotiation involving the Northern Ireland



political parties'. He described it as the shared view of the two Governments 'on the points that need to be met if the three relationships are to be satisfactorily accommodated'. It represents their assessment of 'what might be an agreed outcome from future talks involving the Governments and the Northern Ireland political parties'. He added: 'We believe we have got it right. We are open to persuasion by anyone who believes otherwise'. The Taoiseach, in reply to a Dáil Question, on the eve of the publication of the Document, emphasised that it is 'not a blueprint to be imposed; its purpose is to facilitate, not pre-empt, dialogue; and at the end of the day, the people on this island, North and South, will have the final say.'

The British Prime Minister described the Document as balanced and that 'nobody - Unionist or Nationalist - is going to like everything that is in this Document, its purpose is not to create a fait accompli but rather to challenge the parties to table their own proposals for discussion in conjunction with the Framework Document'. The Prime Minister also said that the proposals 'are based throughout on the principle of consent' and that 'nothing will be imposed'.

#### **8. Developments since the publication of the Joint Framework Document**

- On 24 May the White House Conference for Trade and Investment in Ireland opened in Washington. The Conference was targeted at both Northern Ireland and the Border counties of this State, which gave it an all-Ireland dimension. It was intended to open the way for a significant expansion of US economic involvement in Ireland and was described by the Tánaiste and Minister for Foreign Affairs Mr. Dick Spring as a watershed in the development of economic relations between the US and Ireland. Its success however can only be judged in the longer term.
- On 27 June the Taoiseach and the British Prime Minister met on the fringes of an EU Summit in Cannes, where they undertook a bilateral stock-taking of the peace process. They focused on mainly two issues : how to advance their agreed objective of comprehensive political talks and how to make progress on the decommissioning of illegal weapons. Intensive discussions have continued on these matters in advance of

the Anglo-Irish Summit planned for September. ( See attached article by the Taoiseach in Irish Times of 31 August 1995 for further detail.)

- President Clinton confirmed on the 6 July that he planned to visit London, Belfast and Dublin in November and December to underscore his support for the 'joint efforts of the Irish and British Governments and the people of Northern Ireland to achieve a lasting and peaceful settlement.'
- On 29 July 12 IRA prisoners were released early from prison in this State, bringing to 32 the number of Republican inmates freed under the Government's early release programme since the beginning of the year.
- Sir Patrick Mayhew announced, on 25 August, the British Government's intention to seek early legislation to increase the rate of remission for paramilitary prisoners to the 50 per cent level that applied up to 1989.
- On 28 August James Molyneaux resigned as leader of the Ulster Unionist Party. As of 31 August there were three declared candidates for the UUP leadership - the East Derry MP, Mr. William Ross; the Fermanagh South-Tyrone MP, Mr. Ken Maginnis; and the South Belfast MP and head of the Orange Order, the Rev. Martin Smyth. The Strangford MP, Mr. John Taylor, is expected to confirm his candidature at the weekend and yesterday, the Upper Bann MP, Mr. David Trimble, said that he was considering running.