

DEC 97 74.

## NORTH-SOUTH AND EAST-WEST STRUCTURES: A REVIEW OF UNIONIST AND NATIONALIST PERSPECTIVES

The major causes of dissension which occur between unionists and nationalists are those concerning North-South bodies and East-West relationships. There is a widely held nationalist expectation which suggests that closer economic cooperation between both parts of the island will induce the unionist community to shift their loyalties away from Britain and towards the Irish Republic. As a result of this gradual process, the political foundations will be laid for the unification of Ireland. This view is best described as 'rolling integration', and it closely resembles the neo-functional account of integration inside the European Union. Neo-functionalism sets out to explain the process whereby political actors in separate national settings are persuaded to shift their traditional loyalties, expectations and activities from a well established political formation towards a new constitutional order. A key proposition of this literature is that once different national political and economic elites decide to deepen co-operation between themselves, even in fairly proscribed policy areas, they will find that the scope or boundaries of the integration agenda expands quickly.

Neo-functionalism is held to be inherently cumulative and dynamic. At the start, the integration process is seen as involving governments horse-trading to conclude package deals. Deals of this kind oblige some governments to take action on a particular matter in return for other governments agreeing to do something in another policy sphere. Because these reciprocal actions invariably have unintended consequences in yet other unrelated areas, governments feel compelled to further spread the integration arena. After a time it is not only the political and administrative elites who are engaged in the integration process, but citizens too. The spillover dynamic, by creating new centres of decision-making, will encourage citizens to turn away from existing jurisdictions. This is largely because their general well being will be increasingly tied to the integration process. Eventually citizens are persuaded to regard the institutional apparatus associated with integration as representing a legitimate new political community, thereby rendering the old jurisdictions obsolete.

The unionist position is identified with intergovernmentalism. Cross border co-operation organised along intergovernmental lines normally have two distinct features. One is that the objective of the integration process is not to wither away existing constitutional borders, but the promotion of peaceful co-existence between different nations. Secondly, the institutional design of intergovernmentalism ensures that the participating countries control the decision-making process. Thus, should any country disapprove of a specific proposal it has the capacity to say no. In practice narrow and broad versions of intergovernmentalism can be found. Under the narrow version, the participating countries keep a tight grip on the collaboration process so that no spillover or incremental dynamic comes into play. Although autonomous organisational structures can be established these normally have no strong decision-making powers. Examples of narrow governmentalism would be the Nordic Council which



promotes cooperation between the Scandinavian countries and, at the international level, the United Nations.

The broad version of intergovernmentalism is not so tightly controlled by the involved nations. A limited form of autonomy is enjoyed by the intergration centre to pursue quasi-independent programmes. Moreover, a range of collaborative economic and social initiatives emerge which are associated with the formal intergration project but are not under the direct control of national governments. Thus, the intergovernmentalist structure is augmented by the activities of interest groups, business lobbies and so on. As a result, additional support structures for the intergration process are created that at once legitimises cross national collaboration and generates pressure for further initiatives. Overall, the intergration project is made more dynamic and less tied to the interests of governments. In the end, dense commercial, policy and social interdependencies emerge across frontiers. But these interactions are contained inside an institutional structure committed to respecting sovereign boundaries. Perhaps the best example of broad or augmented intergovernmentalism is the EU itself.

Ultimately, a nationalist might wish to see the establishment of structures which could develop into joint authority or sovereignty, between the British and Irish Governments over Northern Ireland, or a form of Dublin-Belfast form of joint authority or sovereignty, created by a neo-functionalist process. A working illustration of this is the co-principality of Andorra in the eastern Pyrennes which is the oldest and most successful example of condominium in the world. For over 700 years, since 1278, it has survived as a tiny republic between France and Spain, by involving both of them in guaranteeing its liberties. The pareage of 1278 placed Andorra under the joint rule of the Comte de Foix and the Bishop of Urgel. Today, this joint sovereignty is exercised by the President of France and the Bishop of Urgel, who are represented in Andorra by the Veguer de Franca and the Veguer Episcopal, respectively. Internal affairs are generally left to the Andorran people, while the foreign relations of Andorra are handled by France. Andorra has its own flag, anthem and language. A working example of intergovernmentalism, as unionists would prefer, is provided by the Nordic Council (see below).

#### **Examples of Intergovernmental Bodies in Europe**

During the 1992 Talks the SDLP proposed a Council Of Ministers, based upon the European Union. The Council of Ministers is the principal meeting place of the national governments and is the EU's main decision-making institution. The principal responsibility of the Council is to take policy and legislative decisions. Virtually all proposals for politically important and/or sensitive legislation have to receive Council approval in order to be adopted. It alone decides, apart from under the co-decision legislative procedure where final decision-making powers are shared with the European Parliament.

The European treaties provide for three basic ways in which the Council can take a decision: unanimously; by a qualified majority vote; or by a simple majority vote. Unanimity used to be the



normal requirement where a new policy was being initiated or an existing policy framework was being modified or further developed; this has been greatly reduced by the Single European Act and the Treaty on European Union. Qualified majority voting now applies to most types of decisions in most policy areas. Under the qualified majority voting rules, France, Germany, Italy and the United Kingdom have 10 votes each. Of a total of 76 votes, 54 votes constitutes a qualified majority. Simple majority voting, in which all states have one vote each, is used for procedural purposes.

In Scandinavia, a Nordic Council of Ministers was established in 1971. This introduced a fundamental change in traditional forms of Nordic co-operation. Previously, much of the co-operation between the governments had been restricted to informal conferences between ministers who had agreed to meet and find a solution to common problems. After these meetings they returned home and each attempted to implement that which had been agreed upon. The 1971 Helsinki Agreement, however, created the Council of Ministers on a treaty basis as the official joint organ for co-operation between the Nordic governments. The Council was given authority, when certain formalities had been observed, to make decisions which were binding for the individual countries; only in matters where the national constitution calls for parliamentary approval, the country is not bound by the decision until it has been approved by its parliament.

Prior to the establishment of the Nordic Council of Ministers, the primary focus of Scandinavian co-operation was the Nordic Council is a consultative assembly of MPs from the five Scandinavian countries of Denmark, Finland, Iceland, Norway and Sweden. Its operating principle is one of unanimity at the lowest common denominator of agreement, with plenary sessions being reduced to routine acceptance of Committee Reports. The ethos of inter-Scandinavian relations is co-operation. Co-operation is defined as fostering similarities, eliminating hampering differences in legal systems, social policy, transport regulations, educational structures, and economic opportunities. The aim is to retain individuality rather than the establishment of a superstate. Scandinavia is a passport union, a common employment market, and a reciprocal social security areas.

The Nordic Council came into being in 1952. It consists of delegations from the five parliaments. There is a Presidium of five, which must not only represent different outlines but different political opinions. There are five Standing Committees - Cultural Affairs, Judiciary, Social Policy, Economic Matters, and Communications. Civil servants of the member states come together as departmental representatives on permanent intergovernmental organs of co-operation on anything and everything. It was never intended that the Nordic Council would replace these administrative organs of co-operation.

A third, limited, form of a council of ministers is the Anglo-Irish Intergovernmental Council, created during talks between the British and Irish Prime Ministers from 1981 to 1982. The Council has flexible characteristics, permitting it to subsume many of the existing patterns of contact between the executive branches of government, although informal contact between ministers, and between

officials, on a non-institutional basis could continue where appropriate. The body meets at Head of Government, ministerial or official level. The Council is an informal organisation, with no legislative basis in either country, which does not publish agendas. Different counterpart ministers can meet in pairs or groups, with each such meeting constituting a meeting of Council whenever both sides so agreed in advance. The framework of the Council would allow for discussion of matters of common interest and concern to the two Governments, including cross-border co-operation and other matters of common concern between the Republic of Ireland and Northern Ireland.



### **SDLP Submission 1992 Inter-Party Talks: An All-Ireland Council of Ministers**

For the SDLP, new North-South structures had to contain certain characteristics, among which the SDLP regarded the following to be essential: - a capacity to represent both the nationalist and unionist identities in a manner which would attract the support of people in both parts of Ireland; - a capacity to address all matters of mutual concern and interest to the people of the whole island; - a capacity to promote and achieve harmonious action between institutions and agencies in both parts of Ireland; - a capacity to promote co-operation and uniformity in relation to matters affecting the whole of Ireland; - a capacity to provide for the administration of services on a mutually agreed basis. - a capacity to break down barriers of distrust which led to past divisions and to lead to a unity, based on agreement, of the people who inhabit the island of Ireland, accepting both diversity within Ireland and the unique relationships between the people of Ireland and Britain.

The SDLP proposed the establishment of a North-South Council/Council of Ministers as an expression of relationships between the people of the whole island. Such a Council would have responsibility for the overall development of relationships between both parts of the island. The SDLP envisaged the remit of such a Council as covering:

- economic development, including industrial investment,
- agriculture and rural development,
- tourism and transport,
- security and legal affairs, including matters relating to human, civil and communal rights,
- environment,
- health and social welfare,
- cultural and educational matters.

A special function which the SDLP envisaged becoming a responsibility of the Council was with respect to European Community issues with implications for the whole island. The membership of such a Council would consist of the relevant Head of Department from Northern Ireland and his/her Ministerial counterpart from the South, depending on the issues under discussion. It would be necessary to make provision for Council meetings involving more than one Minister from each part of the island, as well as meetings of all Ministers with relevant responsibilities to review overall policy and to ensure harmonious action between institutions North and South.

By virtue of the scope of its responsibilities and the nature of its operation and to ensure the efficient discharge thereof the SDLP envisage that it would require the support and services of an established secretariat.

#### **UUP Submission 1992 Inter-Party Talks: A Council of the British Isles**

The UUP proposed the establishment of a Council of the British Isles, based on the Nordic Council. The Council of the British Isles would consist of the British and Irish Governments, plus representatives of regional administration. The existing regional administrations of the Isle of Man and the Channel Islands, which are not part of the United Kingdom would be invited to take part. Consideration would also be given to representation of the English regions, as well as devolved Scottish or Welsh administrations.

The Council would have a varied and flexible structure. Provision would be made for meetings at various levels, i.e. government only, governments plus representatives of some or all regional interests, meetings at regional level and meetings at official levels. It was envisaged that an Inter-Irish Relations Committee would be a committee of the Council.

The role of such a committee would be to provide a vehicle for dealing with economic, environmental and other matters where it is deemed by the two administrations that there is a common interest and to facilitate better understanding between both Irish traditions and both political entities in Ireland. The UUP argued that Northern Ireland shared with the Republic of Ireland a range of common economic and social problems which could benefit from a co-ordinated cross-border approach to their solution. An initial list of areas for increased economic co-operation included:

Transport

Energy

Industrial Development

Skills and education

Agriculture

Environment

Tourism

It was emphasised, however, that the UUP's willingness to participate in such a committee was dependent on it being established within the framework of the Council of the British Isles; that is the UUP was firmly opposed to any free standing body relating to the island of Ireland as a whole.

The Council could be a forum within which consideration would be given to maintaining and enhancing the recognition and protection of human, civil and cultural rights of individuals and communities within the British Isles. Consideration could also be given to co-operation on economic and environmental matters either at a British Isles level or at an inter-regional level. Provision would also be made to ensure that any of the above matters which fell within the jurisdiction of the EC were integrated into the relevant European procedures. Provision would also be made for consideration of security and



counter terrorist measures, and making effective arrangements relating to the control of movement of persons and extradition.

The Council would not have, nor would it acquire, any direct executive function. It would, however, be the place where mutual co-operation would be discussed and it could be the place where agreements on inter-governmental or inter-regional co-operation could be made. Matters discussed within the Council, whether at governmental, regional or official level, might result in a government or regional administration deciding to take action within its own area of responsibility.

Such discussions might result in agreement between two or more governments and/or regional administrations. The implementation of these agreements, whether by means of legislation or administrative action, would be the responsibility of the particular governments or regional administrations that had entered into the agreement in question. It could, however, be appropriate to create agencies to deal with specific matters on an intergovernmental or inter-regional basis. Any such agency would be distinct from the Council and would be directly responsible to the governments or regional administrations that created it, thus ensuring that the Council remained purely a forum for discussion and agreement. The creation of an agency would not prevent further discussion of the matter within the Council. the Foyle Fisheries Commission could act as a model in this respect. It was envisaged that any inter-parliamentary body should be distinct from the Council.

#### **The Framework Document**

*A New framework for Agreement 1995* referred to North-South institutions which were to 'promote agreement among the people of the island of Ireland; to carry out on a democratically accountable basis delegated executive, harmonising and consultative functions over a range of designated matters to be agreed; and to serve to acknowledge and reconcile the rights, identities and aspirations of the two major traditions'. Such institutions would be created to 'cater for the present and future political, social and economic inter-connections on the island of Ireland, enabling representatives, North and South, to 'enter agreed dynamic' co-operative and constructive relationships. Membership would consist of department heads from the Northern Ireland assembly and the Republic, and areas where harmonization would take place would include agriculture and fisheries; industrial development; consumer affairs; transport; energy; trade; health; social welfare; education and economic policy. The overall objective of the new North-South body would to 'provide a forum for acknowledging the respective identities and requirements of the two major traditions; express and enlarge the mutual acceptance of the validity of those traditions; and promote understanding and agreement among the people and institutions in both parts of the island.' The remit of the body would be 'dynamic', enabling the progressive extension, by agreement, of its functions to new areas, with its role developing to keep pace with the 'growth of harmonisation' and with 'greater integration' between the two economies.



Crucially, although it was stated that the source of a new North/South body or bodies would 'stem from the administrations in Belfast and Dublin' and 'All decisions of the North/South body or bodies would be by agreement between the two sides', this new body or bodies 'could operate through, or oversee, a range of functionally-related subsidiary bodies or other entities established to administer designated functions on an all-island or cross-border basis'. It would also be for the two Governments to 'establish the body's term of reference, legal status and arrangements for political, legal status and administrative and financial accountability'. The British Government agreed that the North/South body, which would be an autonomous institution and not dependent on any devolved Northern Ireland assembly to approve its decisions, would, in the event that devolved institutions in Northern Ireland ceased to operate, and direct rule was reintroduced, ensure that the 'co-operation that had been developed through the North/South body be maintained'.

### **Summary**

In terms of North/South and East/West relationships, the fundamental difference between unionism and nationalism is that the latter wish to see a political arrangement being exclusively based on the island of Ireland whereas the former see a new political arrangement as based on the wider perspective, reflecting the totality of relationships, and therefore, based on the British Isles as a whole. The Council of the British Isles provides for the British identity whereas the Framework Documents undermines the British identity, creating political structures which over a period of time would diminish the British identity of Northern Ireland and enhances the Irish identity.

The key for unionists is that any North-South co-operation which would take place must have the source of its authority in a devolved Northern Ireland administration and that it must be for that administration alone to determine the level and nature of co-operation, rather than having some sort of externally imposed structure. This was the case with the Foyle Fisheries Commission, which was established in 1952 after a High Court decision in the Republic affected the ownership of fishing rights in a branch stream of the Foyle in the Republic. This decision, with a level of poaching, threatened the management of valuable salmon fisheries in the Foyle, and the Northern Government approached the Republic's authorities to try and achieve a solution. The result saw parallel legislation in both jurisdictions establishing the Commission, which consisted of four members, two from the North and two from the South. After the previous fishing rights were bought out, those rights and the management vested in the Commission. The legislation created a number of criminal offences which gave Commission officers in the North the power to arrest a resident of the Irish Republic, who was then delivered to the Republic and prosecuted there, and vice versa.

Co-operation on matters of mutual concern, such as the Commission, present no difficulty. Problems arise when co-operation is proposed for political reasons or when institutional relationships are proposed. When formalised arrangements are proposed, Unionists want to know what the ultimate object of any relationship is to be, and whether the relationship will not be prejudicial to the continued



existence of Northern Ireland. Both the SDLP's 1992 Council of Ministers and the Framework proposals envisaged an autonomous and executive North/South body. For Unionists, any form of North/ South co-operation must be set in the context of a wider Britannic framework and this co-operation, whether North/South or, for example, between Northern Ireland and Scotland, must be subject to ratification or rejection by a Northern Ireland assembly.