

Annex C

Achieving a Political Settlement

1. The purpose of this paper is to recapitulate the case for seeking a comprehensive political settlement in relation to Northern Ireland; set out the likely elements of such a settlement; and identify the major obstacles to its achievement.

The need for a political settlement

2. The community in Northern Ireland is deeply divided: a series of fundamental divisions - political, religious, ethnic, cultural - largely coincide with and reinforce each other. Historical antagonisms, going back centuries, continue to be reinforced by differential experience of social and economic advances and ongoing disagreements on fundamental political questions. There is a long history of inter-communal tension and violence and extremists on both sides have a long tradition of functional (ie, in their eyes, successful) terrorism.
3. The direct human and financial costs of terrorism and inter-communal violence in Northern Ireland since the late 1960s are huge and major terrorist atrocities have also taken place in the Republic and Great Britain and against British diplomatic and military personnel overseas. In addition there are vast indirect costs (chiefly in Northern Ireland, but also in Great Britain and the Republic) arising from magnified inter-communal suspicion, preventative security, investment and tourist revenue forgone and so on. The problems of Northern Ireland also damage the UK's international reputation.

4. In the absence of political consensus on how Northern Ireland should be governed there is no local political accountability for day to day decisions. This has given rise to the "democratic deficit" - the absence of any political decision taking machinery between the UK Cabinet and the 26 Northern Ireland District Councils (with their relatively very low levels of responsibility). This produces serious practical disadvantages for the people of Northern Ireland. Meanwhile, without any responsibility for taking and implementing hard decisions, many in Northern Ireland politics enjoy the luxury of opposition, staking out extreme positions and criticising compromise.

The genesis of the talks process

5. Successive political initiatives in Northern Ireland since 1972 have been predicated on the twin assessment that
 - (a) political stability in Northern Ireland will only emerge following a fundamental political accommodation between the two main parts of the community, allowing Unionist and nationalist politicians to work together in new political institutions and address the many sources of division and tension within the community which would still remain. As such new and widely acceptable political institutions are intended to reflect and contribute to a deeper inter-communal reconciliation, and are bound to involve compromise, it follows that the politicians who will need to operate the institutions and respect the compromises must be involved in the negotiations which lead to their establishment. Equally, it is clear that a functioning political accommodation of the character which has been sought could not be

imposed: without the positive support or at least acquiescence of the parties concerned and widespread support within the community no such accommodation could be claimed to exist;

- (b) **any such political accommodation**, while respecting the views of the majority on the fundamental issue of Northern Ireland's constitutional status, **must adequately acknowledge and recognise the Irish nationalist identity of the minority community.**

6. After the overthrow of the 1973/74 power sharing/Sunningdale initiative, a series of efforts were made to achieve these desiderata sequentially. But whether the focus was on the search for widely acceptable political institutions in Northern Ireland (as in the Constitutional Convention of 1975/76, the Constitutional Conference of 1980/81 or the Northern Ireland Assembly of 1982/86) or on the Irish dimension (as with the New Ireland Forum of nationalist parties sponsored by the Irish Government in 1982/84 and the Anglo-Irish Agreement of 1985) it proved impossible to engage the positive support of one or other of the two main parts of the community.
7. The talks process which began in 1991, building on the ground covered in the "talks about talks" which began in 1987, has attempted to address all the relevant relationships at one and the same time. As such it offers the maximum opportunity to elected representatives of both main parts of the community to achieve their political objectives while being confident of their ability to protect their fundamental political interests. It maximises the scope for trade-offs and its potential to lead to a fully comprehensive settlement should avoid the danger of leaving any loose ends.

8. The elements of a possible settlement arising from the talks process are discussed in more detail below but it is important to note that the process as a whole relies on the assessment that a deal can be done - that there is a pattern of understandings, touching on all the relevant relationships, which would protect the essential political interests of all concerned and achieve enough of their political objectives to secure their support. Where the talks participants have discussed substantive issues this assessment has been borne out and in the view of officials remains valid.

The link with the peace process

9. The fundamental purpose of the talks process has always been to bring politically motivated violence in Northern Ireland to an end. Initially it was hoped that this could be achieved indirectly, that a fair political settlement endorsed by referendums in both parts of Ireland would undermine the whole rationale for Republican terrorism and lead to a reduction in support for the paramilitaries, thus putting pressure on them to give up their campaigns; and that the development of new broadly-based political institutions would lead to growing support for the RUC in their task of protecting such institutions and defeating terrorism. The 1991/92 talks had an observable effect on terrorist violence. The first CLMC ceasefire held throughout the 1992 talks (April - November 1992) and that period saw the lowest rate of terrorist incidents in Northern Ireland since 1971. The demonstrated potential of the talks process may have been decisive in persuading the Republican Movement to seek Sinn Fein participation.
10. The opportunity to engage Sinn Fein in the talks process has opened up the attractive possibility that the process could be used

directly to achieve a total peace settlement in which all the various consequential of bringing the IRA and Loyalist campaigns to a permanent end could be resolved in the context of the broader political settlement. Although there are divergent views within the SDLP and within the Irish political establishment, the SDLP and Irish Government have consistently promoted the project of seeking to bring the Republican Movement in from the cold in this way. Given the history of Irish Republicanism since the beginning of the 20th Century, they see the potential value of engineering a situation in which at least the great majority of the Republican Movement is directly engaged in and committed to any political settlement.

11. In seeking to promote a political settlement, the engagement or potential engagement of Sinn Fein gives rise to enormous complications but a settlement which did involve them and secured the support of the Republican Movement more generally would undeniably be far more robust than one which did not.

ELEMENTS OF A POLITICAL SETTLEMENT

12. The Framework Documents published in February 1995 are widely acknowledged within the British and Irish political systems and among informed observers as embracing the key elements of any eventual political settlement in relation to Northern Ireland. They were published as an aid to discussion, not a blueprint - "a shared understanding on the parameters of a possible outcome to the talks process". However, the Framework Documents, especially the "New Framework for Agreement" published by the British and Irish Governments together, have been opposed by virtually the whole spectrum of Unionist opinion. Some of the reasons for this emerge from a consideration of the individual elements of the package. The key components are discussed below.

(a) Widely acceptable political institutions in Northern Ireland

13. The first of the Framework Documents, "A Framework for Accountable Government", was published under the authority of HMG alone and builds largely on the provisional agreement between the four main political parties engaged in the 1992 Talks. It envisages substantial legislative and administrative devolution with responsibility shared proportionately in a system of Committees with numerous safeguards for the minority community, including a directly-elected three member Panel with consultative, monitoring, referral and representational functions. There is an argument that this is over-elaborate and could inhibit sensible decision-taking, but the conflicting desiderata which led to this model are likely to continue to exist unless particular parties achieve compensating gains elsewhere in the negotiations.
14. Besides the mechanisms necessary to cater for the implications of Northern Ireland's divided community, the proposals deal with more conventional difficult issues such as financing arrangements, securing a local input into the UK Government's handling of EU matters and other non-devolved issues (which would probably include security matters) and the enforcement of EU and human rights obligations. It seems very likely that in any resumption of substantive negotiations on this package the nationalist parties at least (and perhaps the Loyalists) will wish to place a considerable emphasis on the establishment of **new policing arrangements** with which the whole community can identify. The Government's own proposals in this area could have an important role to play.

(b) A new and constructive relationship between the two parts of Ireland

15. This is the area which has so far been least canvassed in substantive inter-party discussions. It will have a major bearing on the overall outcome. The SDLP specifically linked their provisional acceptance of the outcome of the "strand one" discussions in 1992 to the achievement of a satisfactory outcome to "strand two". The "Framework for a new Agreement" postulated a new North/South body with a range of executive, harmonising and consultative functions and the Irish Government and the nationalist parties are likely to hold out for something pretty substantial in this area to help give practical and institutional expression to the Irish nationalist identity of the minority community in Northern Ireland. However, this is a highly neuralgic area for Unionists and the limits of what might be feasible have not yet been tested in direct exchanges with the Unionist parties. They all support the development of "good neighbourly" relations between the two parts of Ireland but remain strongly opposed to the Framework proposals: they are suspicious that the establishment of any institutions with all-Ireland executive authority would constitute a one-way ratchet to de facto Irish unity. Although the joint Framework Document envisages that the Northern Ireland interest in these bodies would be firmly under the control of the Northern Ireland political institutions, with their Unionist majority, Unionist fears arise from their (exaggerated) interpretation of several aspects of the proposals. As nationalists have an equal, albeit opposite, interest in inflating the likely implications of establishing such bodies it has proved difficult to tackle Unionist concerns (many of which are beyond the bounds of rational argument anyway).
16. Quite apart from the fundamental underlying political question, the establishment of cross-border institutions would throw up a range of difficult technical questions about accountability, financial

controls and the necessary administrative infrastructure. The Framework for a new Agreement suggests answers to most of these questions, and envisages a fairly radical approach to the handling of EU matters on an all-Ireland basis.

(c) The relationship between the two Governments

17. This is the formal focus of "strand three" of the talks but it is central to Unionist objectives in the talks process that it should lead to "an alternative to and replacement for" the Anglo-Irish Agreement of 1985. They oppose this because its exclusive focus on Northern Ireland puts into question Northern Ireland's constitutional status as an integral part of the United Kingdom. They also resent the fact that the machinery of the Anglo-Irish Conference and Secretariat appears to give the Irish Government more of a "say" in how Northern Ireland is governed than local elected representatives. In fact the Agreement - like the joint Framework Document - explicitly envisages that the role of the Conference would contract in the event of devolution and at the time the Agreement was being negotiated the Northern Ireland Assembly provided a strong platform for exercising local political influence - over 70% of its detailed recommendations on policy and draft legislation were accepted by HMG - and it was only the Unionist reaction to the Agreement which led to it being closed down.
18. There is of course a vibrant and robust relationship between the Republic and the UK generally and it is not immediately obvious that any particular inter-governmental machinery is needed to encourage it. Some formal broadening of the scope of the inter-governmental relationship could no doubt be achieved and in that context Unionists might be persuaded to take up their seats in the

British/Irish Inter-Parliamentary Body. Unionist concerns in this area may be significantly reduced by any agreement on constitutional issues (see below); by any arrangement for formally associating devolved institutions with the work of the Conference (as envisaged in the joint Framework Document); and if the Irish Government's input to HMG's decision-making in relation to Northern Ireland were matched by an input for local elected representatives.

(d) A shared understanding of constitutional issues

19. The 1992 talks effectively stalled on the then Fianna Fail Government's refusal formally to accept the principle of consent or to agree, even contingently, to support the amendment of Articles 2 and 3 of the Irish Constitution. The rest of the Irish political system, led by John Hume and Dr Garret Fitzgerald had long since accepted the concept of an "agreed" Ireland and the right of the people of Northern Ireland to determine their own constitutional future.
20. The most important feature of the dialogue between the SDLP and Sinn Fein from 1988 was the development of a new concept of Irish self-determination (a central Republican objective) in which it was argued that if the Irish people had a right to self-determination they also had the right to determine how that right should be exercised. This led ultimately to the formula in the Downing Street Declaration of December 1993 in which the Prime Minister acknowledged the right to Irish national self determination on a basis consistent with the principle of consent and the (Fianna Fail) Taoiseach accepted that Irish national self-determination must be subject to the agreement and consent of a majority of the people of Northern Ireland. So far as the Republican Movement is concerned

the significance of the Declaration is that it potentially enables the Republican leadership to argue that an act of Irish national self determination on these lines is an adequate substitute for the original Republican objective of a united, independent, socialist Ireland; but they have not yet felt able formally to adopt that position.

21. The approach to the constitutional issue which was set out in the Declaration, supported by the whole spectrum of political opinion in the Republic outside Sinn Fein, was enshrined and elaborated in the Framework for a new Agreement and in the main report of the Dublin Forum for Peace and Reconciliation (January 1996). There is also widespread political support for amending Articles 2 and 3 of the Irish Constitution in the context of an overall settlement. Although Unionists appear distrustful of these developments, they are hugely significant and provide good grounds for believing that this crucial component of any successful outcome from the talks process is indeed achievable.

(e) Security/Human Rights/other matters

22. There is a range of issues which cut across all the "strands" of the negotiation and might need to be addressed in a "global" way. The objective would be to provide reassurance to all concerned that matters of importance to them would be properly dealt with under any conceivable future situation. The protection of human rights is an obvious example: the Framework for a new Agreement canvasses the idea that both Governments would encourage democratic representatives from both jurisdictions in Ireland to adopt a charter or covenant to reflect and endorse agreed measures for the protection of the fundamental rights of everyone living in Ireland.

(f) Definitive commitment to non-violence

23. The Downing Street Declaration of December 1993 set out the terms on which the two Governments would be prepared to see paramilitary-related political parties engaged in the talks process. The upshot is that if any paramilitary-related party is involved in the negotiations, machinery will need to be put in place to achieve the final and total elimination of that paramilitary group's terrorist capability.

THE PROSPECTS FOR REACHING A SETTLEMENT

24. As indicated above there has been progress over recent years in relation to certain of the elements of any deal. The main focus in any new round of substantive negotiations is likely to be on "strand two" issues - the North/South relationship - and the outcome of that will be crucial to the project as a whole.
25. A number of other difficult issues remain to be addressed in detail - finance, EC issues, policing, human rights, the relationship between any new institutions in Northern Ireland and the Westminster Parliament, the scope of any new inter-governmental Agreement etc. Some of these will have echoes in the debates on Scottish and Welsh devolution, although they may be more highly charged in Northern Ireland. None of these issues will be easy to resolve and the cumulative strain may be too much to bear; but the problems are not intrinsically insuperable.

The Unionist world view

26. The most significant obstacle to reaching a comprehensive political settlement on the lines sketched out above is the fear and insecurity of the Unionist community, and the apparent reluctance of its political representatives to engage wholeheartedly in substantive political negotiations. (At various times the same might be said of nationalists!) There are a number of factors underlying this, with deep cultural and historical origins, although reinforced by recent experience of the real world, including the terrorist threat. It includes distrust of HMG and its long term intentions; a fear, arguably exaggerated, of the demographic implications for Northern Ireland's future; and, in some cases, a hard headed calculation that negotiations are unlikely to lead to an unqualified improvement on Direct Rule, whatever its shortcomings. There is also a well justified understanding that negotiations involve compromise, which in Northern Ireland has proved politically and sometimes actually fatal. All of this can manifest itself as, and sometimes be misunderstood as being no more than, intransigence (e.g. by some nationalists, Irish Government and US observers).
27. Over the years constitutional nationalists have reconciled themselves to a settlement on broadly the lines sketched out above and there are occasional signs that the Republican leadership at least has recognised and accepted that this is the best they can reasonably expect to achieve (although they have done virtually nothing to acclimatise their followers). The Unionist community in general, however, interprets virtually every word and action of the whole spectrum of nationalism/Republicanism as designed to lead to the achievement of the Unionists' worst fear - a united Ireland. The talks process is widely perceived within the Unionist community as a dangerous project, partly because of the leading role of the Irish Government but mainly because they fear the price they would be required to pay to achieve some of their objectives

would be too high, because it would represent movement towards de facto Irish unity. The Joint Framework Document is widely quoted as illustrating that fear. Their hopes of achieving a definite renunciation of the Irish constitutional claim were dashed in 1992 and they demonstrate a grudging distrust in subsequent developments on this front.

28. The development of the "peace process" and the potential for involving Sinn Fein in the negotiations adds a new dimension of concern: that the Unionist negotiating position will be further undermined by the Republican Movement's ability to use the threat of renewed violence to toughen up the negotiating position of the Irish Government and SDLP and maximise the incentive on the British Government to enforce Unionist acquiescence in a pro-nationalist outcome.

29. The ability of those Unionist politicians (principally in the UUP) who might be prepared to work constructively towards a settlement on the lines summarised above is adversely affected by the severe political tensions within Unionism. Mr Trimble's own rise to power illustrates the advantages to any Unionist politician of maintaining an uncompromising position. Equally, his leadership is not secure and could be under threat if the UUP fails to recover the electoral ground lost to the DUP last May. Throughout the pre-election period and certainly since the beginning of 1997 the UUP's stance in the multi-party negotiations was dictated by the need to avoid exposing itself to simplistic criticisms (especially on political/constitutional issues and decommissioning) from the DUP and UKUP while at the same time differentiating itself from them by presenting itself as relatively moderate and willing to engage constructively with the other parties in the talks. The publication of "Pathways to Peace" on 4 March can be seen as an essentially

"defensive" measure, designed to show that the UUP was negotiating constructively in the talks right up to the last minute, but without standing out from the DUP/UKUP on any fundamental issue.

30. It is possible that with the elections out of the way, and if the party does well in relation to the DUP, the UUP could be persuaded to engage rather more constructively in the talks and participate in an agreement on how decommissioning should be handled. However, there are also grounds for fearing that "Pathways to Peace", which reflects Mr Trimble's long-held views on a range of subjects, represents an attempt to move decisively away from the inclusive three-stranded talks process (with all its perceived dangers for Unionism) and to pursue a more traditional Unionist agenda, including

- the development of the Northern Ireland Grand Committee;
- changes to Northern Ireland legislative procedures at Westminster, leading inevitably to greater integration;
- local government reform, perhaps leading to greater powers for local councils;
- greater local political input, but without formal powersharing;
- good neighbourly relations with the Republic outside the Agreement;
- the deletion of Articles 2 and 3 of the Irish constitution and replacement of the Anglo-Irish Agreement;

- commitment to the international principles of territorial integrity.

31. A crucial question in the immediate aftermath of the election will be whether the UUP can be persuaded to accept that the talks process offers a means to secure Unionist objectives without prejudice to fundamental principles, and that any alternative course is unlikely to achieve anything. The UUP leadership will also need to assess whether it can sustain contained and constructive participation in the talks while retaining the support of the party and of the wider Unionist community when any compromise on the emotive issue of decommissioning is bound to attract virulent criticism from the DUP and UKUP and Sinn Fein's participation would almost certainly lead the two latter parties to walk out.

The Decommissioning Issue

32. The most immediate obstacle facing the talks process is the inability thus far to find an agreed way through the issue of decommissioning, which is itself a proxy for the concerns which many people (particularly Unionists) feel about engaging the political representatives of violent Republicanism (and indeed Loyalism) in a democratic talks process without knowing whether they have definitively renounced the physical force option. Officials have developed a set of propositions which we believe might be acceptable to the UUP as a basis for resolving the issue of decommissioning in a post electoral situation. These propositions are consistent with the report of the International Body and therefore do not add to the terms the Republican Movement would have to fulfil in seeking to join the talks process. The Irish side is considering these suggestions: if the two Governments can, shortly after 3 June, present firm proposals for resolving this issue and secure the launch of the three strands of substantive political

negotiations it would give considerable new impetus to the talks process and restore its credibility. That in turn could have a positive, albeit probably minor, impact on communal tensions during the marching season and add to the pressure on the Republican Movement to make it possible for Sinn Fein to join the substantive negotiations when they begin.

Constitutional and Political Division

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