

POLITICAL TALKS: THE BONES OF A SETTLEMENT

ANNEX A

The bones or skeleton of a settlement can already be discerned from the first few weeks of substantive talks. The parties have for the most part confined themselves to stating their opening positions. The bottom line to which they might be brought in negotiations will no doubt be somewhat different.

Nonetheless if there is a deal it will probably involve at least the six elements identified below. That is because each of these six elements has been credibly insisted on by at least one of the major players. In each case that insistence does not seem tactical or likely to be traded for other elements of the package. If that analysis is right there can accordingly be a deal only if sufficient consensus can be achieved for each of these six elements, and for the package incorporating them as a whole.

Much will of course turn on the detail. But in very general terms the six elements are these:

1. A balanced constitutional accommodation based on the acceptance of the consent principle in all its aspects, with consequential amendments to Articles 2 and 3 and to British constitutional legislation. This will of course involve recognising partition while a majority of the people of Northern Ireland want to stay in the UK.
2. Locally elected and accountable institutions of government in Northern Ireland with significant administrative, and probably legislative, powers. This too means accepting partition.
3. North South institutional arrangements, with at least some functions covering the island as a whole and with purposes and powers which appear significant, at least at the symbolic level. These institutions will be dependent on and accountable to the institutions of government in Northern Ireland on the one hand and the Irish Government on the other.
4. Standing intergovernmental machinery (that is between the British and Irish Governments) with at least the profile of the machinery under the Anglo-Irish Agreement, enabling the Irish Government to express views on matters concerning Northern Ireland.
5. East West institutional architecture, involving at least the British and Irish Governments and the Northern Ireland administration, and perhaps also representatives of devolved institutions in England, Scotland and Wales: a Council of these Islands. This architecture should embrace and

to some extent camouflage the North South institutional arrangements and intergovernmental machinery (that is 3 and 4 above).

6. Some address to the equality and justice agenda in Northern Ireland, with some underpinning of entrenched Rights and Safeguards.

Against that background, it may be worth analysing where, judging from opening positions only, the principal difficulties arise.

Sinn Fein

Constitutional Nationalism

Sinn Fein have not yet admitted that they will accept, or acquiesce in, the kind of constitutional dispensation (1) which will be on offer, including in particular the principle of consent. Similarly, they have not yet acknowledged that their ambition for a united Ireland will not be met and that they must accept institutions of government in Northern Ireland (2). Both of these elements mean of course that they must accept partition, at least as part of what they may characterise as an interim arrangement. On the other hand Sinn Fein's agreement is not needed to achieve sufficient consensus; and in addition they have signalled very clearly that they expect to move from their opening positions as the negotiations proceed.

UUP

The Unionists have not yet acknowledged, at least in the Talks, that they will accept North South institutional arrangements (3) with a significant role. There have, however, been disguised hints that they might be in the market for this if three pre-conditions were met:

- Articles 2 and 3 must be amended to remove the Irish Republic's claim on Northern Ireland.
- The North South institutions must not be "free-standing": ie they must be accountable to an administration in Northern Ireland.
- They must be encompassed, and perhaps disguised, within broader East West institutional architecture.

It is clear from the "Frameworks Documents" that Nationalists will have no difficulty in principle about the first two conditions; and they may be brought to accept the third.

The Unionists also maintain their objections to the Anglo-Irish Agreement and accordingly do not acknowledge that part of the outcome is likely to be standing intergovernmental arrangements (4) of the kind that agreement established. On the other hand in the 1992 Talks even the DUP acknowledged privately that they accepted that the Irish Government would hardly settle in the process for less than they had achieved in 1985. The UUP is also likely to accept this reality; once again the camouflage of wider East West architecture may be crucial.

Constitutional Nationalists

The Irish Government and the SDLP may have difficulties with only one of the six elements: namely wider East West architecture (5), particularly if it camouflages or buries too heavily the special arrangements (North/South and intergovernmental) focused on Ireland. Of course Sinn Fein may also have difficulties with this. The other elements are likely to be acceptable to Nationalists in principle, though there will of course be haggling about the detail.

As was apparent from the outset, the essential trade-offs among the parties will go across all three Strands. Of course the division of the negotiations into Strands does not facilitate this. It will accordingly be necessary to be alert for the right time and context in which to attempt to achieve convergence around these six elements.