



# An Chartlann Náisiúnta National Archives

**Reference Code:** 2021/100/4

**Creator(s):** Department of the Taoiseach

**Accession Conditions:** Open

**Copyright:** National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

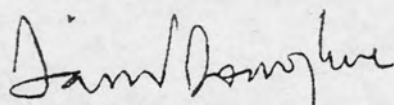
ConfidentialMulti-Party TalksDaily Report - 31 March 1998

1. In summary:
  - We had intensive bilaterals today with most of the parties;
  - This included a discouraging meeting with the UUP, at which Trimble represented our proposed Constitutional amendments as insufficient and ruled out any linkage between the North/South Council and implementation bodies;
  - Senator Mitchell met all the parties today and is to have a further round of bilaterals tomorrow. His plans for later this week remain unchanged. He will show the parties his draft of a final agreement at meetings beginning on Friday afternoon, he will meet them again on Saturday afternoon and Sunday morning and he will table his paper formally on Monday morning;
  - Work continued at official level today between the two Governments (in advance of tomorrow evening's meeting between the Taoiseach and the Prime Minister) on aspects of the draft to be supplied to Senator Mitchell on Thursday morning.
2. The Government delegation today was led by the Minister for Foreign Affairs and the Minister of State.
3. Our first bilateral was with the UUP and is the subject of a separate report (already circulated). In essence, Trimble declared that our proposed Constitutional amendments did not go far enough and insisted on a clear separation between a North/South Council and the implementation bodies. He was also opposed to enshrining the Council in legislation, preferring to found it on a treaty. It was not an encouraging meeting.
4. // At a subsequent bilateral, however, Alliance thought it important that Trimble had at least accepted the need for both a Council and implementation bodies. They regarded his argument against a linkage between both as unconvincing and felt that this could be exposed in further discussion with him. They were, however, sympathetic to Trimble's point about legislation. On Strand One arrangements, they favoured a voluntary coalition which would require 60% support, were flatly opposed to a sufficient consensus rule in the Assembly and, as for the electoral system, were hostile to any "top-up" provision but could compromise on an 18 x 6 model.

5. The PUP made clear to us their strong reservations about "all-Ireland implementation bodies", particularly any advance designation of these. They were opposed to the involvement of the Irish Government in the envisaged failsafe mechanism in Strand Three. In Strand One, they favoured a committee system in order to achieve the maximum level of participation.
6. The NIWC, whom we met this afternoon, were reconciled to not getting a "top-up" provision but hoped to be able to shift the British Government from a 18 x 5 electoral system to a 18 x 6 model. The Secretary of State had suggested to them that parties in the process who failed to secure election to the Assembly might be co-opted (to a maximum of two per party). They had emphasised to Senator Mitchell, whom they had also met, that they would not be party to an agreement which did not contain adequate checks and balances for nationalists. They were gratified by the support offered by the Taoiseach today for the inclusion of civic society in new arrangements.
7. The UDP asked to see our current proposals for Constitutional amendments. Responding to our account of the UUP's position on North/South structures, they saw—the lines of accountability for implementation bodies running through the respective Departments North and South (and subsequently the Minister/Head of Department in each instance). They were concerned, however, about the designation of certain implementation bodies from the outset. As for the relationship between these bodies and the Council, they were more receptive than the UUP to arguments about the practical need for a continuing linkage but asked us for a written account of our thinking in this regard. We agreed to meet them again tomorrow.
8. Sinn Féin, whom we met this evening, briefed us on their contacts today. Adams had told the Prime Minister in a phone conversation that Sinn Féin wished to see changes in all relevant British constitutional legislation and that this included the Act of Union. (The Secretary of State had indicated a willingness to answer questions from Sinn Féin on the latter issue).
9. At meetings with the Secretary of State and the Chairmen, Sinn Féin had reiterated the key points made at their five-hour meeting with Irish officials last Thursday. They had stressed to the Secretary of State the centrality of policing and their view that the task of the prospective Commission should be to establish a new police service rather than merely review existing structures. (It is worth mentioning that Senator Mitchell drew particular attention to this as a key issue at a subsequent meeting with the two Governments). They envisaged the Commission reporting within six to nine months and containing international representation. They had also pressed for an approach to symbolic issues which would recognise the reality of a divided society (suggesting that public buildings such as Stormont should either fly no flag or should fly both the Union Jack and the tricolour).
10. We also had a brief bilateral today with the SDLP and a meeting with Labour is envisaged for tomorrow.

3

11. Senator Mitchell, who circulated his list of key issues today (attached), had bilaterals with all the parties. He reported to the Governments afterwards that a number of the parties had, not surprisingly, used these discussions to present him with wish-lists for incorporation in the draft which he was preparing. Today's discussions had focussed on Strand One matters and tomorrow's would deal with the remainder of his list of key issues. Papers which he received today from the NIWC and Alliance respectively (in response to a request of his own) are attached.
12. Assuming that the Governments supply him on Thursday morning (as he very much hopes) with their completed draft of the final agreement, Senator Mitchell will spend the remainder of Thursday and the first half of Friday working on this draft. He will present his paper to the parties at meetings beginning on Friday afternoon. Having invited them to further meetings on Saturday afternoon and Sunday morning, he will table his paper in final form on Monday morning.
13. In discussion with the Governments, the Senator concurred broadly with our presumption that there would be no significant changes between the Friday and Monday versions of his paper. He presumed that officials of both Governments would be on hand to help him with whatever work he did on Sunday afternoon. He had told the parties that he had asked the Governments for their views on the substance of his paper but did not expect to receive anything from them until Thursday.
14. The SDLP impressed on both Senator Mitchell and the British Government today their unhappiness with the proposed Strand One arrangements, in particular the absence of a sufficient consensus provision and their strong preference for a Cabinet-style executive.
15. We worked with British officials throughout the day on various aspects of the draft final agreement, in particular policing, security issues and prisons, rights and safeguards and social, economic and cultural issues. We also gave some preliminary views on the revised Strand Two draft forwarded from No. 10 today.
16. Finally, there was a low-key meeting today of the Liaison Sub-Committee on confidence-building measures which dealt with equality issues, in particular the British Government's recent White Paper arising from the employment equality review. A separate report follows.



David Donoghue  
31 March 1998

*D. Donoghue*

*Recd for Chair's Office  
(1-30) 31.3.98*

**ISSUES TO BE CONSIDERED FROM MONDAY, MARCH 30, THROUGH THURSDAY, APRIL 2, IN INTENSIVE BILATERALS AND, AS NECESSARY, GROUP MEETINGS**

Constitutional issues. (Initial basis for discussion to be the paper on Constitutional Issues circulated by the Governments on March 12, 1998.)

**Northern Ireland Structures:**

- How is the Assembly to be chosen;
- Extent of powers to be devolved to Assembly; whether Assembly should have legislative as well as executive functions;
- Arrangements for the exercise of executive functions; whether there should be arrangements for collective responsibility;
- Checks and balances;
- Relationship to other institutions.

Policing and justice issues in Northern

Provisions for equality and parity of esteem within Northern Ireland.

Security measures in the context of a settlement.

East/West Structures:

- Nature and extent of functions of the Intergovernmental Council;
- Role of Standing British/Irish Intergovernmental Machinery.

North/South Structures:

- Nature and extent of functions of the North/South Ministerial Council;
- Implementation of decisions;
- Relationship with Oireachtas and Assembly;
- Relationship with Intergovernmental Council.

Decommissioning.

Protection of rights.

Prisoners issues.

Arrangements for review of operation of overall settlement.

01/04 '98 WED 08:55 FAX

NIWC

3/13

NORTH/SOUTH COUNCIL

Women's Coalition

1. Responsibility for the particular functions (see Appendix) which are specified in the Agreement (and therefore in the legislation reflecting that Agreement at Westminster and in Dublin) would be exercised by a North/South Ministerial Council.
2. In respect of any such function, the Council would consist of the relevant Minister(s) in each jurisdiction.
3. Decisions would be taken within the Council [on the basis of unanimity] [by agreement].
4. The Council would make such arrangements as it deemed appropriate to discharge its responsibilities, whether through existing Departments/agencies in both jurisdictions [or otherwise] [partnership between agencies or subsidiary bodies North/South and / or integrated all-island implementation bodies].
5. The Council would attract transition funding in its first three years through initial grants from the EU and the US in addition to any funding which might be provided by the British and Irish Governments.
6. [Thereafter the Council's proposals would have to be approved - and the monies for implementation of those proposals voted - by the legislatures in both Belfast and Dublin] [Thereafter the Council's annual programme and budget would be approved by legislatures in both Belfast and Dublin].
7. The Council would be held accountable for the proper and effective use of voted monies by a Public Accounts Committee comprising equal numbers of members of both legislatures.
8. In the circumstances where the Government either in Belfast or Dublin felt that good faith efforts were not being made to operate the arrangements or that the arrangements were being unreasonably breached, that Government could refer the matter for adjudication by the European Court. The "breadth of functions" process in para 10 beneath would not be subject to the jurisdiction of the Court.
9. In the event of failure by the Government of Northern Ireland to comply with the Court's ruling, a Commissioner would be appointed by the UK Government to discharge all the functions of a Minister and with the same powers and responsibilities. Monies for the discharge of the Commissioner's functions would be a first charge on monies voted by Westminster for the Government of Northern Ireland. The role of the Commissioner would cease immediately upon compliance with the Court's ruling.

10. In the event of failure by the Government of the Republic to comply with the Court's ruling, the arrangements for the Council of Ministers in respect of the function(s) in question would be suspended pending compliance.
11. The Council of Ministers, consisting in this instance of such Ministers as each administration might deem appropriate, would meet at least once a year (or more frequently by agreement) to review the operation of the Council. The Council, so constituted, would be able to decide (again, on the basis of unanimity) that, where it was considered that it would be to the benefit of both jurisdictions, functions should be added to - or removed from - those specified in the Agreement. Any such decision would have to be ratified by both legislatures. The above arrangements would apply to any additional functions.

#### Notes.

1. Care has been taken to avoid the language in which the issue is usually discussed.
2. If anyone wished to do so, the above arrangements could be regarded as 'free-standing', in the sense that they would depend on the originating Agreement and its related legislation. Any development of the scope of the arrangements would be by subsequent agreement.
3. Thereafter, in their operation, the arrangements are democratically accountable. Otherwise, the existing democratic deficit in Northern Ireland would merely be extended to the whole island.
4. In their operation, there is absolute symmetry between North and South. Both are equal partners.
5. Failure by either party to operate the arrangements in good faith or unreasonable breach by either party would be subject to independent adjudication and would be subject to sanctions. It is difficult to devise symmetrical sanctions but the sanctions proposed in points 8 and 9 would be likely to provide an equivalence of deterrent effect.



## APPENDIX - FUNCTIONS

Functions of the North/South Council would derive from the purpose of the Council

- To build trust between North and South
- To uphold diversity in expression of culture and identity
- To maximise mutual benefit
- To deliver practical benefits from co-management of common interests
- To reduce disadvantage and unfair competition

In fulfilling its functions the North/South Council would

- Jointly identify problems and opportunities and share analyses
- Strategically develop [a framework of proposals] [an annual programme] for the Council
- Oversee the arrangements for and implementation of the Council's proposals

Specific functions might include

- Development of a physical infrastructure including road, rail and communications networks
- Promotion of economic development, trade potential and tourism
- Effective environmental protection
- Proposals for youth affairs
- Promotion of culture and the arts
- Development of fisheries and marine interests
- Joint action on common agricultural policy
- Harmonisation of education accreditation standards
- Equal opportunity for employment in either jurisdiction
- Implementation of European policies and funding programmes

31st March, 1998

Althaus

31/3

## North-South Structures

This paper, which refers to 'Strand 2 matters', assumes that in Strand 1, there will be established an Assembly of elected representatives for Northern Ireland, from which will be drawn members who will function as political 'head of department' for those areas of governance which are devolved from Westminster. It is assumed that these areas will cover at least as wide a remit as the six current Northern Ireland Departments (Agriculture, Economic Development, Education, Environment, Finance and Personnel, Health and Social Services).

### North-South Ministerial Council

There shall be a North-South Ministerial Council. This Council may meet in various formats from summit level, to the level of individual ministers.

When meeting at summit level the Taoiseach will meet with the Chief Minister of the Northern Ireland Assembly. The Taoiseach would commonly be accompanied by the minister charged with relations with Northern Ireland. This may be the Minister for Foreign Affairs, or another minister charged with relations with Northern Ireland. The Chief Minister would commonly be accompanied by the Deputy Chief Minister and/or a minister charged with external relations. Relevant civil service back-up from both sides, would be expected to facilitate the meetings. Such meetings would be expected to be regular, and to be able to be requested by either side. At least one summit meeting each year, would be expected to be held in the North, and one meeting in the South.

Meetings of the Council would also take the form of meetings between ministers from North and South, who held portfolios which dealt with similar issues, (for example the Ministers of Agriculture from North and South) and would meet in the same format as described above.

In some circumstances it might be deemed helpful for a Minister to be present from more than one department. As an example, if the matter under discussion was Food Safety, it might be regarded as helpful to have both the Ministers of Agriculture and Health from the two jurisdictions in attendance.

All decisions of the North-South Council would be by agreement. It would be necessary that matters to be agreed would canvas the appropriate level of support from elected representatives in the parliamentary bodies, North and South. This might be expressed in advance, or ratified subsequently.

The limits of competence and accountability, would be the only limits on the range of areas, on which agreement could be reached in the North-South Council.

### **Servicing of the North-South Council**

It would be helpful to establish a lead department both North and South, to facilitate contacts and provide civil service back-up.

In the North this could be the Department of the Chief Minister, or of the Deputy Chief Minister, or of a Department of External Affairs. In the South this could be the Department of the Taoiseach, the Department of Foreign Affairs or a new Department for Cross-Border Co-operation. The agreed Northern and Southern Departments would then ensure that all necessary arrangements were in order for the functioning of the North-South Council, and would be responsible for the production of an Annual Report to the parliamentary bodies, North and South, on the functioning of the Council.

### **Implementation of North-South Council Agreements**

When a meeting of the Council reaches a decision on any matter, its implementation may be accomplished in a number of ways.

- Civil servants from the relevant departments, North and South, may meet and implement the decision.
- Where necessary, legislation may be prepared and carried through the legislatures, North and South.
- Bodies may be established, to which appointments would be made by the appropriate procedures, North and South. These bodies may be mandated to prepare plans of annual activity. If approved the bodies would oversee the execution of these policy agreement. A report of this activity would be conveyed to the North-South Council at least once a year, and would also be provided in an appropriate form to the parliamentary bodies, North and South.

#### *For example*

A body established to deal with Animal Health might function as follows:

- At commencement, the Ministers in the North-South Council would agree a plan of activity.
- It might be agreed that the first year of activity would address the problem of BSE.
- Agreement would be reached on the membership of the body (which should be equal from North and South), on the convening of meetings (joint chairs, from North and South), and on the funding necessary to fulfil the work.

- At the end of the year the North-South Council, and the parliamentary bodies, North and South, would receive a report of the activity of the Animal Health body, with proposals for work for the following year, for agreement by the North-South Council.
- The continuing work on BSE, might be added to with other areas of work (eg diseases of fowl, or sheep).
- The report might also suggest that harmonisation of computer-tracing systems, or veterinary practice, or housing of animals, would be of advantage.
- These proposals would be brought to the North-South Council.
- If the Ministers of Agriculture, North and South agreed, the remit of the body would be extended to fulfil this work, and if legislation was required in either or both jurisdictions, then the Ministers would undertake to have the necessary bills prepared and submitted to their individual legislatures for approval.

As an undertaking of good faith the settlement should identify a number of areas where implementation bodies will be established, from the outset. Suggested areas are:

Agricultural Marketing, Animal Health, Economic Co-operation, Energy, Environmental Protection, Fisheries, Food Safety, Specialist Healthcare, Railways, Tourism Marketing.

It is important to point out that these bodies would not, from the start have authority or responsibility for all aspects of these remits. They would have to produce plans for agreement by the North-South Council, as outlined above.

The North-South Council would be at liberty to establish, develop, change, merge or set aside such bodies, but only and always by agreement, accountable to the respective legislatures.