

Confidential

F22/DC

To: Members of the Drafting Committee
From: Walter Kirwan, Secretary-General

Meeting of the Drafting Committee on 15 December, 1995

1. Following discussion at the conclusion of the Drafting Committee's meeting on 8 December, during which it emerged that some difficulties might lie in the way of holding a meeting on 15 December, the Chairperson concluded that a meeting should be scheduled and expressed the hope that delegations would only query proceeding if they were faced with insuperable difficulties. The Chairperson considers that, with the co-operation and commitment of all delegations, worthwhile progress was made on 8 December. She would be anxious to build on this. Accordingly, the Secretariat have reflected the results of the 8 December meeting in a new consolidated document (F19/DC Rev 1) and this and an agenda are being circulated herewith, as the basis for proceeding with a meeting on 15 December, subject to review if insuperable difficulties arise.
2. The revised consolidated document reflects the points agreed on 8 December in regard to
 - paragraph 8 of Principles and Requirements
 - the Preamble
 - paragraphs (a) - (e) and (f) and (k) - formerly (e) and (j) - of the Realities - the Chairperson and Secretariat feel that para (k) - former (j) - is the more logical home for the material, previously in square brackets in para 8 in the Fianna Fail proposal, which it was agreed to transfer from Principles to Realities

The consolidated draft also, of course, incorporates points on (d) and (k) - former (j) - agreed at the meeting on 24 November.
3. Because of the placing of certain, largely agreed, material in a separate (e), what were previously points (e) - (q) now all moved up one letter, becoming (f) - (r).
4. While the new consolidated draft contains amendments to (f) and (k) which were agreed in the course of discussion on other paragraphs, the formal position is that (f) has not yet been considered substantively, while (k) - former (j) - will presumably be reviewed again as it is re-met in the sequence.

11 December 1995

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F21/DC

FORUM FOR PEACE AND RECONCILIATION

Tenth Meeting of the Drafting Committee, Dublin Castle,
Friday 15 December, 1995, 9am.

DRAFT AGENDA

- 1 Further consideration of Secretariat Draft Material on Realities/Principles/Requirements as per consolidated document F19/DC Rev1, dated 11 December, 1995. It is proposed to begin with (f) of the Realities material, the point where the discussion on 8 December was left off.
- 2 Timetable for completing consideration of document

Forum Secretariat
11 December 1995

F19/DC Rev 1

ConfidentialPaths to a Political Settlement in Ireland: Realities, Principles and RequirementsPreamble

The peace process has provided an historic opportunity for a new start for the people in Northern Ireland, on the island as a whole and in relations between the peoples of Ireland and Britain. It has already transformed the daily lives of people in Northern Ireland. It has opened up the possibility of negotiating a lasting political settlement that would be based on parity of esteem and inclusiveness. And it promises the hope that conflict and a security-dominated way of life can be replaced with co-operative structures and new relationships, on a basis of trust. But the beginning of peace has also brought anxiety and uncertainty - both about its permanence and about the risks and requirements of compromise. Healing the pain and grief of those who have suffered, overcoming the legacies of the past, building trust and reconciliation, and establishing a lasting political settlement and a fair and inclusive society represent formidable challenges that must urgently be addressed.

The Forum for Peace and Reconciliation was established as part of this process. One of the initial issues which it looked at was the concept of a common understanding of the problems we face, and of the principles which might underlie their resolution, as intermediary steps along the path to an overall settlement. Accordingly, each Forum party presented policy statements on the idea - subsequently published under the title "Paths to a Political Settlement in Ireland" - debated and examined them in detail in the Forum and explored whether, arising from these statements and debates, an agreed position between the parties was possible. The result of that process is this document, setting out (a) the key present realities which require to be addressed and (b) the principles and requirements which should characterise an acceptable political accommodation.

In framing its approach to the twin objectives of the document, the Forum was guided by the reality that there is no commonly accepted analysis, historical or otherwise, of the roots of division and mistrust. Each tradition has its own perspective on history, in common with its own aspirations for the future. The minimal treatment in the document of the historical origins and causes of the conflict reflects the extreme sensitivity of this issue. Notwithstanding the differing historical perspectives, however, it is the Forum's view that progress is possible towards a lasting accommodation.

The document was prepared without the direct input of the main unionist parties, who, so far, have felt unable to take up the invitation to membership of the Forum. However, the Forum, through its process of inclusive dialogue, has had the benefit of the views of many significant groups and organisations whose membership is drawn primarily from the unionist and loyalist traditions. The Forum parties have sought to reflect and take full account of these perspectives in drafting this document. They look forward to a constructive dialogue, embracing as wide and comprehensive a cross-section as possible of the communities North and South, on the approaches proposed in the document.

Present Realities

Arising from its discussions on the nature of the problem, the Forum has identified the following key realities as, in its view, requiring to be addressed:

- (a) The most urgent and important challenge facing the people of Ireland, North and South, and the British and Irish Governments together, is to remove the causes of conflict, to overcome the legacy of history and to heal the divisions which have resulted.
- (b) The peace process provides an unprecedentedly favourable climate in which to face this challenge. The opportunity now available needs to be grasped to the full.
- (c) Divisions within Northern Ireland and within the island are part of the historic legacy of wider British-Irish relations. The origins and context of those divisions, therefore, transcend Northern Ireland itself and encompass the totality of relationships involved - ie. those within Northern Ireland, within the island of Ireland as a whole and between the peoples of these islands.
- (d) In terms of the way ahead, a central role rests with the Irish and British Governments. Building on the evolution of agreed arrangements and positions - starting with the Sunningdale communiqué, followed by the 1980 Summits, which placed the relationship on a formal footing, and leading over time to the deepened level of co-operation represented by the Anglo-Irish Agreement, the Joint Declaration [and] the Joint Framework Document [and the Downing St Communique of 28 November 1995] - the two Governments have accepted that they have a responsibility to lead the process of overcoming the divisions of the past, and the search for a new accommodation acceptable to all. Both Governments having acknowledged their responsibility, it will be essential that they discharge it actively and fully. The British Government, having declared that it has no selfish strategic or economic interest in Northern Ireland, has accepted that its role will be to encourage, facilitate and enable the achievement of agreement [among the people of Ireland] through a process of dialogue and co-operation and that it will legislate for any such agreement, while the Irish Government has committed itself to the principle that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland.
- (e) We also note that [the Irish Government] has said that no individual party can have a veto over negotiations and discussions over their outcome, ¹ and the British Government has said no group or organisation has a veto over the policy of a democratically elected government. ² The two Governments have also agreed that in political dialogue no outcome is either predetermined or ruled out ³ and that other positions, apart from theirs, will be given full consideration in all-party talks.

¹ The then Taoiseach Albert Reynolds' Cork Speech, 21 July 1994

² British Government clarification of Joint Declaration to Sinn Fein, 19 May 1994

³ Ditto

- (f) The engagement of the political parties, together with the two Governments, in all-inclusive talks will also be crucial to the achievement of a comprehensive agreement. The political parties will bring to the talks their own analysis and positions on the political and constitutional changes required for the achievement of a new accommodation acceptable to all. To ensure their success, such talks will require careful and sensitive preparation.
- (g) Violence, from whatever source and whatever its rationale, served - particularly in Northern Ireland, but also as between North and South - to deepen divisions, reinforce the barriers of fear and hatred, retard cross-community contact and reconciliation, and impede the search for agreement. It caused immense human suffering. For many, the burden of that suffering remains a living and profoundly difficult reality. A compassionate acknowledgement of that reality and a commitment to devote sufficient resources to necessary treatment and support programmes will be important elements of building a true process of reconciliation. Moreover, the cost of violence in economic terms was also on an enormous scale.
- (h) By the same token, the ceasefires announced in Autumn 1994 have profoundly altered the situation in Northern Ireland and represent a strongly positive contribution to the process of establishing an agreed settlement. The bringing about of the ceasefires was made possible by the efforts of many: the climate created by the commitment of the two Governments to a common approach on core issues, together with the work of many individuals and groups within the republican and wider nationalist communities and within the loyalist and wider unionist communities, and the support and influence of the US Administration and the European Union. In a more general sense, tribute should also be paid to the many groups and individuals, including within the Churches, who during the years of conflict maintained and developed links across the community divisions, seeking to break down barriers of mistrust and misunderstanding. At a wider level, the ceasefires, and the new climate which they have helped create, have given rise to a deep determination throughout Ireland, North and South, that the advances that have been made must be consolidated and built upon.
- (i) Conflict and division now in Northern Ireland primarily result from profound disagreement on its constitutional status and on what shape a durable political settlement should take. The absence of consensus on these issues gives rise to many other divisions, including on policing, the administration of justice and a range of economic issues. There is however a more open acknowledgement than in the past of the depth and complexity of divisions that exist and a greater awareness of the need to address them.
- (j) The profound disagreement on the constitutional status of Northern Ireland derives from the fact that the two major traditions define their identities, allegiances and aspirations in terms which transcend Northern Ireland, viz looking broadly to Britain and Ireland. The Joint Declaration acknowledges that there can be no stability under a system rejected on grounds of identity by a significant minority and there is widespread acceptance of the need for both traditions to feel secure about their future.

- (k) The issues of self-determination and consent are critical. While it is a view shared by a majority of the people of this island, though not by all its people, that the Irish people as a whole have a right to national self-determination, the exercise of self-determination is a matter for agreement between the people of Ireland, and must be based on consent. There is not full agreement about how the principles of self-determination and consent should be exercised. Given their central role in the process overall, the approach reflected in the agreed position of the two Governments on this crucial matter is of particular importance. The British Government recognise that it is for the people of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right to self-determination on the basis of consent freely and concurrently given, North and South, to bring about a united Ireland if that is their wish; the Irish Government accept that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland. This integrated approach by the two Governments to the issues of self-determination and consent has been accepted by the majority - though not all - of the political parties, North and South, representing a large majority of the people of Ireland as a whole. Two further realities apply in this regard: (1) Northern Ireland's current constitutional status reflects [and relies upon] the present wish of a majority of people there and (2) nationalist support for the above approach to the principle of consent does not imply that the existing status of Northern Ireland commands nationalist consent.
- (l) Current attitudes to the constitutional status of Northern Ireland, therefore, may be summarised as follows: The present wish of a majority of the people of Northern Ireland is for no change in its constitutional status. Conversely, a substantial minority of its people wish for a sovereign united Ireland, overwhelmingly on the basis that this objective is achieved by peaceful, democratic means. It is recognised that the option of a sovereign united Ireland, which is also the preferred option of a majority of the people of Ireland, does not command the consent of the unionist tradition, nor, as indicated, does the existing status of Northern Ireland, which is the preferred option of a majority of its people, command the consent of the nationalist tradition. Against this background, and addressing the totality of relationships involved, there is a need for new arrangements and structures which, on the basis of a new and balanced constitutional accommodation, will reflect the reality of diverse aspirations, reconcile as fully as possible the rights of both traditions, promote co-operation between them, and afford each, on the basis of equality of treatment, secure and satisfactory expression and protection in all spheres of public life.
- (m) The divisions between the two communities in Northern Ireland, and between the two traditions on the island as a whole, have been perpetuated and accentuated by an absence, to a large extent, of mutual understanding, of contact and of dialogue between them. This absence of trust, which in some areas of Northern Ireland in particular is compounded by a mutual sense of threat, represents a major obstacle to the negotiation in good faith of an overall political settlement.
- (n) Each of the two major traditions has the critical mass to prevent the imposition upon it

by the other of a political settlement to which it is opposed. The corollary is that only through an even-handed and just compromise, achieved without violence or coercion and acceptable to both communities and to both traditions on the island, can a lasting and stable settlement be reached. While the accommodation of the two major traditions remains the primary requirement, such a settlement must also take account of the minority of people, particularly in Northern Ireland, who define themselves as neither unionist or nationalist in any traditional sense (the "third strand").

- (o) The existence of severe deprivation within both communities in Northern Ireland, and of persistent socio-economic inequalities between them, quite apart from their intrinsic unacceptability, represent a barrier to the search for a lasting and comprehensive political settlement. The coming of peace will undoubtedly be of substantial economic benefit to Northern Ireland and the island of Ireland as a whole. The Forum's own study of the social and economic consequences of peace and economic reconstruction suggests that the "peace dividend" will be substantially greater in the context of a political settlement than in that of simple continuation of the ceasefires. It will be essential to ensure that the economic benefits of peace are fully realised, that they accrue to communities, families and individuals most severely affected by the conflict, that they promote social inclusion and that economic discrimination is redressed.
- (p) In North/South terms, the numerous common economic interests, the convergence between the structures of the two economies and the increasing inter-action in the context of peace between the business communities in both parts, in other economic spheres and indeed across a broad range of human activity, bear testimony in practical terms to the need for joint or common approaches.
- (q) Major economic, social and cultural changes have taken place in the South over recent decades. These have led to the creation of a more prosperous, diverse and pluralistic society, very different from that which existed prior to 1969. One consequence of this is a significant development in understanding among many towards Northern Ireland and a greater willingness to accept Northern unionists in terms of their own self-perception. This has led to a greater openness to examine with the latter any element of the democratic life of the South that is seen as a threat to them.
- (r) The development of European integration will require new approaches between the two parts of the island to serve their economic interests. Participation in the process of European integration has been a significant ingredient in Ireland's recent political and economic development. While the effects of membership have not been felt to the same extent in Northern Ireland, the European Union's supportive response to the ceasefires has served to highlight the positive potential of the European dimension. Already, co-operation on social and economic issues in the EU context has helped to bring people together across the divide in Northern Ireland. Common involvement in the European Union has injected new and constructive elements into relations between Ireland and Britain. European integration holds enormous potential for an accommodation in Ireland, both as a model for the resolution of deep-seated conflicts and as an incentive for a more co-operative approach to the many shared economic, environmental and social problems

confronting the two parts of the island.

Principles and Requirements

Having identified and considered these Realities, the Forum proposes the following Principles and Requirements as necessary elements of a political accommodation and settlement - and the process of achieving them - acceptable to all the people of Ireland, North and South.

1. The first principle must be the right to peace. Flowing from this right is the principle that the pursuit of all political goals, including the establishment of an overall political settlement, must be undertaken by exclusively democratic and peaceful means, characterised by dialogue and without resort to violence or coercion.
2. An essential requirement of an approach based on dialogue and non-coercion will be the building of a true process of trust and reconciliation. Such an approach must take particular account of, and be sensitive to, the position of those who have suffered directly from violence and injustice - from whatever source.
3. A new beginning, if it is to lead to a comprehensive, lasting resolution of the conflict, must adequately address the totality of the three central relationships involved - within Northern Ireland, within the island of Ireland and between the peoples of these islands.
4. It will be essential that the commitment of the Irish and British Governments to a common approach, as identified in paragraph (d) in "Present Realities" above, is met and that they work in close partnership and collaboration. In addition to their shared functions, each Government will have important separate roles in the process also, some of which were set out in the Joint Declaration and the two Framework Documents. Above all, both Governments must actively and fully honour their commitment to foster agreement and reconciliation, leading to a new political accommodation founded on consent and encompassing all the relationships involved.
5. The achievement of such a new accommodation will require the establishment of an inclusive talks process - carefully and sensitively prepared - involving the political parties as well as the two Governments. Addressing all the relationships involved, the task of the process will be to secure agreement on the nature and form of future constitutional, political and institutional arrangements and structures. The outcome of this process should be ratified by the people of Ireland, North and South.
6. The objective of the talks process must be a new political dispensation, representing an honourable accommodation between the two major traditions with which both can live and which is based on consent and on equal respect for the concerns, rights and identities of each. There must be a rejection of any concept of victory or defeat.

7. Agreement on an overall settlement will require, *inter alia*, a balanced accommodation of the differing views of the two main traditions on the constitutional issues in relation to the special position of Northern Ireland. Such an accommodation will require changes, on a balanced and even-handed basis founded on consent, in British constitutional legislation and in the Irish Constitution, which take full account of the conflict of identity and allegiances at the heart of the problem. In specific terms, the two Governments must discharge the commitments they have undertaken respectively in this regard in paragraphs 20 and 21 of "A New Framework for Agreement". In particular, they must ensure that, in regard to the people of Northern Ireland, the constitutional changes proposed should be such as not to diminish in any way their existing citizenship rights and their birthright to be accepted as being British or being part of the Irish nation - or both - as appropriate and desired.
8. In determining the nature and extent of constitutional change, the issues of self-determination and consent will be crucial. The Forum believes that in this respect the following principles and requirements should apply:
 - It is for the people of Ireland alone, North and South, to determine their own future by agreement and consent. While there continues to be disagreement on how the principle of self-determination is to be exercised, a substantial consensus has developed, as indicated in paragraph (k) in "Present Realities" above, around the approach reflected in the agreed position of the British and Irish Governments, viz: the British Government recognise that it is for the people of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish; the Irish Government accept that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland.
 - Full account must be taken of the realities (a) that Northern Ireland's current constitutional status reflects [and relies upon] the present wish of a majority of people there and (b) that nationalist support for the above approach to the principle of consent does not imply that the existing status of Northern Ireland commands nationalist consent.
 - Securing an agreement which can earn and enjoy the allegiance of the different traditions on the island will be a core task of the comprehensive, all-party talks described in paragraph 5 above. Should these talks result in an agreement, and if that agreement were democratically ratified North and South, then the result of that ratification process will represent a [full] valid and legitimate exercise by the people of Ireland as a whole of their right to self-determination.
9. Agreed arrangements based on a new and balanced constitutional accommodation must reflect the reality of diverse aspirations, reconcile as fully as possible the rights of both

- major traditions, and promote co-operation between them. They must even-handedly afford both traditions parity of esteem and equality of treatment in all spheres. They must enhance and facilitate the development of a truly pluralist ethos both North and South. While the central requirement of a lasting settlement is the forging of an accommodation between the two major traditions, the construction of new arrangements and structures must, against the foregoing background, take due account also of the position of the minority of people, particularly in Northern Ireland, who define their identity in terms which are not reflected by either of those traditions.
10. The consent of the governed is essential to the stability and legitimacy of any political arrangements. Institutions and structures forming part of new political arrangements must be accepted by both major traditions as essential elements of an overall settlement which is honourable and balanced, and must therefore enjoy widespread public support from within both traditions. In this context, and in the context of the totality of relations, it is widely accepted that there can be no internal Northern Ireland settlement. The precise structuring of relationships within Northern Ireland and their institutional expression will be a matter for the all-inclusive talks process. Equally, the securing of the endorsement and consent of both traditions will require the process to address relationships within Ireland and between Ireland and Britain. In this regard, institutions and structures will be needed, which while respecting both the requirements of identity and the diversity of the people of Ireland, would enable them to work together in all areas of common interest. Such structures would, of course, include institutional recognition of the special links that exist between the peoples of Britain and Ireland as part of the totality of relationships, while taking account of newly forged links with the rest of Europe (see also paragraph 16 below)
 11. Such institutions must be democratically accountable and must in their functions be open and transparent.
 12. The comprehensive, systematic, effective and entrenched protection of human rights - civil, political, economic and social - should underpin the establishment and operation of agreed institutions and structures. Human rights should be guaranteed, including, if necessary, internationally, on a basis of equivalence throughout all of Ireland, irrespective of the constitutional context and of any possible future changes to it. Critical issues in this regard, particularly in relation to Northern Ireland, will be the administration of justice and policing - specifically, the development in each case of changes and reforms which will secure the unequivocal support and confidence of all sections of the community. The cultural and linguistic diversity of the people of all traditions, North and South, should be preserved and fostered as a source of enrichment and vitality.
 13. Particular attention must be paid to the protection of the rights and identity of any community which in consequence of the application of the principle of consent finds itself in a minority position, whether within Northern Ireland or within the island as a whole. It should be the duty of the state in such a situation vigorously, imaginatively and sensitively to protect and promote the interests of such a community, while also upholding the equal rights of the majority tradition.

14. The achievement of greater and more equally-shared prosperity, the promotion of equality of opportunity and fair participation in the labour market, the eradication of discrimination, and the empowerment and inclusion of marginalised and deprived communities and groups, are not only vital in themselves, but also have the capacity to create a more stable social environment, in which new political arrangements are more likely to take root and command public confidence. These goals should be, and must be, vigorously pursued.
15. Mutual understanding and contact between individuals, groups, communities, organisations and institutions have an important role in the elimination of barriers of suspicion, in the creation of mutual trust and in the building of confidence and should be further promoted. Education will have a particularly significant function in this regard. Integrated education must be facilitated and encouraged - while remaining on a basis of choice - with greater emphasis and resources devoted to mutual understanding programmes in schools throughout Ireland.
16. New arrangements must also incorporate a strong European dimension. In the face of changes in the character and nature of the European Union which will have profound implications for its member states and regions, new approaches will be required to address the common challenges and opportunities which these developments hold for both parts of the island and for Ireland and Britain as partners in Europe.
17. Each of the foregoing principles and requirements would apply and have equal validity in all constitutional situations, and under all of the institutional frameworks, which may be envisaged.

Conclusion

The Forum parties are unanimous in their analysis of the nature of the problem as outlined in the Realities section of this document and in their commitment to the Principles and Requirements set out above. They believe that the opportunity that now exists for the healing of historic divisions, the creation of a lasting peace and the establishment of an honourable and enduring settlement acceptable to all is unprecedentedly favourable. But they acknowledge also that much difficult work lies ahead if the obstacles that remain are to be overcome and if the potential that currently exists is to be realised to the full. Such a process will require a total commitment to the principle of dialogue, to seeking to understand the fears, concerns and aspirations of the others engaged in the process, and to a spirit of compromise and reconciliation. Moreover, it will be essential that democratic solutions negotiated on this basis not be undermined by violence or the threat of violence. For their part, the Forum parties pledge their own commitment to these principles and approaches and earnestly ask all others involved to do the same. They look forward to a constructive dialogue on this document on as wide and comprehensive a basis as possible.

11 December 1995