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Informal is the new normal in North–South relations

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Abstract

North/South cooperation on the island of Ireland has grown significantly in the last twenty-six years. Still, it can be argued that the delivery of that growth has happened mainly outside the formal Strand Two structures of the Belfast/Good Friday Agreement with the North South Ministerial Council and its implementation bodies presently not directly involved in some of the main flagship cross-border projects in the areas of health, infrastructure, higher and further education, research, arts and culture. Instead, the Shared Island Unit, established in September 2020 and based within the Department of the Taoiseach, has been driving the delivery of the majority of projects in these areas, in many cases without direct input from the Northern Ireland Executive. This paper reviews how informal governance has been used to enhance cooperation and solve issues due to the deliberately limiting nature of the formal Strand Two institutions.

Keywords: Good Friday Agreement, informal governance, North/South cooperation, North South Ministerial Council, Strand Two institutions.

Introduction

The North South Ministerial Council (NSMC) was created as part of the Strand Two section of the Belfast Agreement (also known, and referred to in this paper, as the Good Friday Agreement (GFA)),

which referred to cooperation between the Irish Government and the Northern Ireland Executive (itself created within the Strand One section of the GFA). The NSMC is a forum (with executive powers) comprising all the members of the Irish Cabinet and all the senior ministers of the Northern Ireland (NI) Executive who have responsibility for a defined set of agreed areas of mutual cooperation. The NSMC is supported by a Joint Secretariat based in Armagh City, staffed by officials from both the Department of Foreign Affairs (DFA) in the Republic of Ireland and the Executive Office in Northern Ireland. The NSMC is also supported by six implementation bodies that have jurisdiction in both the Republic of Ireland and Northern Ireland. The governance framework for the GFA is outlined in Figure 1.

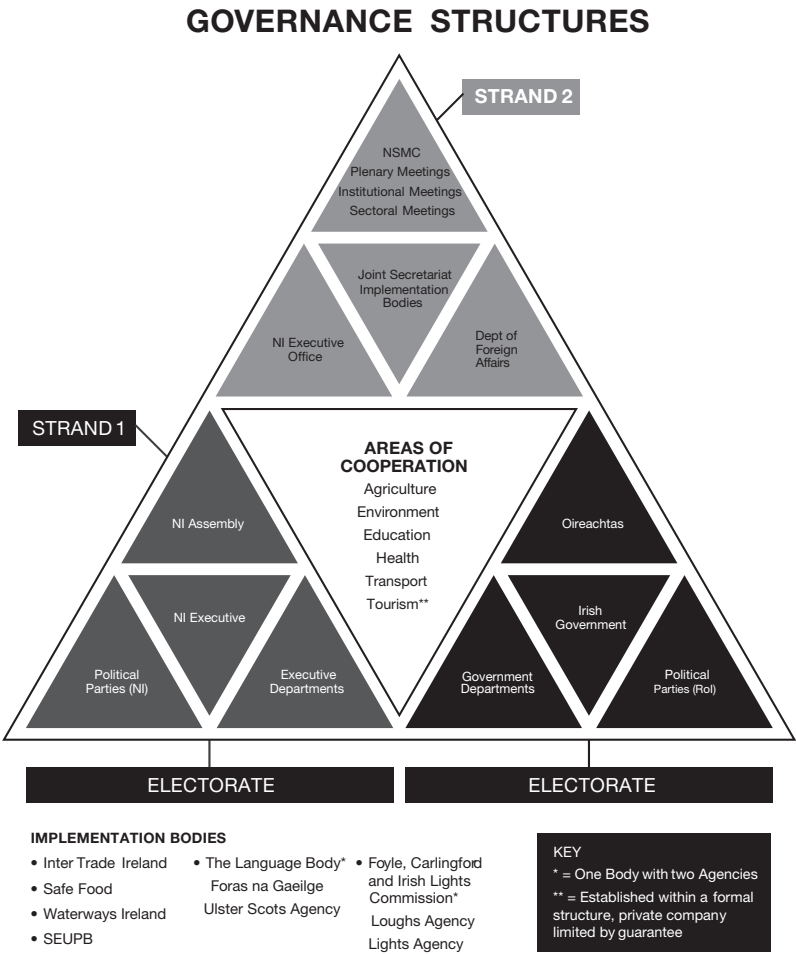
Methodology

This paper employs a qualitative research approach to analyse the confined nature of the Strand Two institutions of the GFA, with a specific focus on the formal structures and their limitations. The research is conducted through a review of primary and secondary sources, including the text of the GFA, parliamentary records, reports by the Governments of the United Kingdom (UK) and the Republic of Ireland, and academic studies on post-1999 political developments in NI.

The study examines the design and operation of the NSMC, the key Strand Two institution, to assess how the formal structures have shaped intergovernmental cooperation. Analysing the stop-and-start nature of the NI Executive, the paper evaluates the impact of political instability and periods of suspension on the functioning of these institutions.

Additionally, the paper explores informal cooperation between NI and the Republic of Ireland at both governmental and nongovernmental levels. Through interviews with key participants involved in the GFA peace talks, it demonstrates how, despite the limited formal interactions under Strand Two, informal channels of cooperation have flourished in areas such as health, education and cross-border community work. This includes cooperation between government agencies and nongovernmental organisations (NGOs), highlighting how these informal mechanisms have played an increasingly important role in maintaining cross-border relations. Interviews for this research were conducted during the twenty-fifth

Figure 1: Governance framework of the Good Friday Agreement



Abbreviations: NI = Northern Ireland, NSMC = North South Ministerial Council, RoI = Republic of Ireland, SEUPB = Special European Union Programmes Body.

anniversary of the GFA in 2023 when participants involved in the peace negotiations agreed to be interviewed. Some of those interviewed agreed to be named for the research, while other political representatives and officials asked to remain anonymous.

Context

Following on from the introductory section of the Agreement, an overview of the North–South cooperation within the Strand Two framework is explained. During the talks that resulted in the GFA and up until 2016, cooperation between NI and the Republic of Ireland was relatively easy due to both the UK and Ireland being members of the EU, so there was already a series of laws and regulations in place that were harmonised across the island and that allowed for practical cooperation. This has become more complicated in recent years, as in 2016 the UK (following a referendum) opted for a ‘hard’ Brexit, which enhanced divergence between the Republic of Ireland and NI. The Windsor Framework, a side agreement outside the overall EU/UK exit deal, has allowed for enhanced cooperation and harmonisation across the island of Ireland. As a result, some divergences between NI and Great Britain were created, and consequently the arrangement was strongly opposed by the Democratic Unionist Party (DUP).

Over the past twenty-six years, the NSMC has had three long periods of suspension as it cannot operate without the involvement of the NI Executive, which has not operated for ten of the twenty-five years in which it has been in existence due to various political events ranging from Irish Republican Army decommissioning, the mishandling of a renewable heating scheme, the lack of an official Irish language Act and most recently the fallout from the decision of the UK to leave the EU.

An overview of the NSMC timeline is as follows:

- December 1999 – GFA institutions established and in operation.
- October 2002 – Institutions suspended following a Police Service of NI raid on the offices of Sinn Féin in Stormont, the seat of regional government. The British and Irish Governments exchange letters to ensure that the Strand Two structures can function with UK direct rule, with national ministers assuming the roles of NI Executive ministers. There are three one-day technical suspensions during this period to allow the Executive to function.
- May 2007 – Institutions restored with the DUP and Sinn Féin replacing the Ulster Unionist Party (UUP) and Social Democratic and Labour Party (SDLP) as lead parties holding the joint Office of the First Minister and Deputy First Minister.

- January 2017 – Institutions collapsed following the resignation of Deputy First Minister Martin McGuinness due to First Minister Arlene Foster’s refusal to step aside to allow an investigation into a controversial renewable heating subsidy scheme during her time as Minister for Enterprise, Trade and Investment (now Minister for the Economy). The impact of Brexit and the hardening stance of the DUP on the matter and political turmoil in the governing Conservative Party also contributed to the collapse. The NSMC goes into complete suspension as both governments do not intervene to keep it operating.
- January 2020 – Institutions restored following an all-party agreement that allows the development of an Act that makes Irish an official language in NI.
- February 2022 – First Minister Paul Givan resigns, the NI Executive cannot meet for six months, and an election takes place in 2022 returning Sinn Féin as the largest party, securing it the First Minister post. No Executive is established after the election and a third suspension begins; again, Strand Two ceases to function.
- January 2024 – Executive and Assembly are restored and the NSMC holds a plenary meeting in Armagh.

Until April 1998 and the GFA, no formal North–South structures had been agreed by political leaders in both jurisdictions on the island of Ireland. The Anglo–Irish Secretariat, based in Maryfield outside Belfast and staffed by both Irish and UK civil servants, was established in 1985 as part of the Anglo–Irish Agreement, a direct treaty between the UK and Irish Governments that was strongly opposed by political unionism. Following April 1998, it took twenty months of further discussions and negotiations to get the institutions of the GFA operating, with the NSMC becoming operational on 2 December 1999, the same day on which the NI Assembly and Executive went live.

Strand Two of the GFA (UK Government/Government of Ireland, 1998, p. 11). states:

Under a new British/Irish Agreement dealing with the totality of relationships and related legislation at Westminster and in the Oireachtas, a North/South Ministerial Council [is] to be established to bring together those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, co-operation and action within the

island of Ireland – including through implementation on an all-island and cross-border basis – on matters of mutual interest within the competence of the Administrations, North and South.

There has always been tension on the remit and function of the formal institutions established within Strand Two and a growing informal relationship that exists between both the NI Executive and the Irish Government. The formal structures have enhanced cooperation alongside the growing and now sizable level of informal constructs such as NGOs, community groups and joint committees that are sponsored by the existing government structures both North and South that involve cross-border activity and cooperation, the majority of which operate outside of the formal Strand Two constructs. The late Lord David Trimble recalled the strategy of the UUP during the negotiations on the Strand Two area:

Relationships between the Irish Government and the UUP [in 1998] were constructive; there was a level of what I would describe as cautious trust. Therefore, it was our (the UUP's) assessment at the time that Strand Two could be a broad informal framework of cooperation within the EU context and the wider Anglo-Irish relationship as outlined in Strand Three. We suggested a series of areas of cooperation that were not limited with ongoing bilateral discussions between the Irish Government and the government structures of Northern Ireland. ... In fact, I told the SDLP on several occasions during the talks that formal institutions could limit cross-border cooperation instead of enhancing it and by including the UK/Irish dimension into the Strand Two area, it would strengthen the relevance of the cross-border approach. They were not convinced. (Trimble, 2022).

This statement underlines an important and fundamental question: twenty-six years later, has Lord Trimble been proven right? Has the formal approach to institutions limited cross-border cooperation? Or was the formal approach to the structures necessary to provide a springboard to developing meaningful cross-border governance in core areas with a wider impact on citizens right across the island?

The entire operation of the NSMC Joint Secretariat and thus the operations of the overall NSMC is based on one document, 'A Memorandum of Understanding on Procedure', which was

approved at a shadow meeting of the NSMC in December 1999 that involved three ministers: two from the NI Executive (First Minister and Deputy First Minister designate) and one from the Irish Government (Minister for Justice). The memorandum has no formal basis in legislation, but it was endorsed by both the Irish Government and NI Executive designate. It does not form part of any of treaty between the UK and Ireland that emerged from the GFA. From 1999 until the present day, this document remains the basis of how the NSMC operates and has not been amended or formalised during that period.

The document states at point 1.2:

The Memorandum is an **informal** understanding and is not legally binding. Nothing in it overrides the Multi-Party Agreement reached in Belfast on 10 April 1998. Subject to that understanding, both sides will act in accordance with the procedures set out in the Memorandum. (NSMC, 1999, p. 1).

The word informal is in bold and underlined in the original text. This statement indicates that the operations and functions of the Joint Secretariat and the overall NSMC are not embedded in statute in either jurisdiction, and are easily subject to change if required.

Point 4.2 states:

Representatives of the two sides will take decisions within the defined authority of those attending, though arrangements are in place for coordination of executive functions within each jurisdiction. (NSMC, 1999, p. 4).

This statement is important because it is a clear indication of the executive function of the NMSC within both jurisdictions – a decision made by the NSMC would impact a citizen of Cork in the same way it impacts someone living in Omagh. This is the first time that the programme or operations of meetings are clarified or outlined in a document. Once again, it enhances the role of the NSMC from the original GFA text.

The NSMC returned from its most recent suspension in April 2024, with the first plenary session taking place in Armagh after nearly three years. As outlined earlier in this paper, the structures had not been formally operating since autumn 2021 after DUP ministers commenced a boycott of the structures in protest against the Windsor

Framework; their boycott was ruled unlawful by the NI High Court in October 2021. According to media reports, the focus of the first plenary meeting was trade. However, paradoxically, all the announcements regarding the Irish Government's commitment of £800 million to North–South projects had been made public previously by the Shared Island Unit, established in September 2020 and based within the Department of the Taoiseach, with no involvement from the NI Executive. This resulted in the plenary acting as only an information briefing and media event.

Professor Katy Hayward (2014, p. 11) provides a solid assessment of the current operations of the NSMC:

As far as Strand Two is concerned, the North/South Ministerial Council (NSMC) was formed with a similar remit [as Strand One], namely, to facilitate consultation and cooperation between the Irish government and the Northern Ireland Executive on matters of mutual interest, but in this case, there was far greater potential for controversy. Because it established a formal institutional channel for high-level cooperation between the Republic of Ireland and Northern Ireland, the NSMC was vitally important if nationalist support was to be obtained for the Agreement, yet at the same time, it was something that was difficult for unionists to accept ... However, on the whole, the NSMC is a low-key operation and is much more likely to attract photo opportunities than controversy.

Hayward's final sentence accurately assesses the present standing of the NSMC within the government system. It has become essentially ceremonial rather than operational and, as she states, a low-key operation.

Brexit and the North–South mapping exercise

Following the Brexit referendum, to better understand the level of cross-border cooperation within the context of the post-Brexit relationship talks, the UK Government supported the Northern Ireland Civil Service (the NI Executive was suspended during this period) to develop a mapping exercise with the European Commission and the Irish Government to chart North–South cooperation in 2017. The result was an agreed technical explanatory note that includes a list of 156 areas.

Article 1.3 of the then EU–UK Protocol on Northern Ireland states that a core objective of the document is to ‘maintain the necessary conditions for continued North–South cooperation’ (draft of Protocol on Ireland/Northern Ireland cited in UK Government, 2017, p. 1). While Article 13 highlights the need to maintain ‘other areas of North–South cooperation’ (ibid.) and specifies several areas – ‘environment, health, agriculture, transport, education and tourism, as well as in the areas of energy, telecommunications, broadcasting, justice, higher education and sport’ (UK Government, 2017, p. 1) – it is important to note that none of the areas stated, with the exception of tourism, has a formal construct or is a formal legislative area of cooperation. Each area is informal in terms of the approach to cooperation, and each is directly highlighted in the Protocol text.

The report identified the following defined areas for the purposes of the mapping exercise and states:

North–South cooperation was understood to refer to:

The six areas of cooperation agreed by the NSMC, which are currently: **agriculture, environment, transport, health, tourism, and education**. Common policies and approaches in these areas are agreed in the NSMC, but implemented separately in each jurisdiction, in line with Strand Two of the Agreement. Each of these areas has a number of subcategories that significantly contribute to the total areas of cooperation. (UK Government, 2017, p. 5).

This level of cooperation (except tourism) can be defined as semi-formal in that the areas outlined are stated in the GFA, but there is no formal construct or legislative basis for the cooperation. Tourism Ireland is a limited company established in 1999 between Fáilte Ireland and Tourism NI and is therefore defined as formal cooperation and has operated as a de facto implementation body since its establishment.

An example of semi-formal cooperation would be the All-Island Congenital Heart Disease Network, which facilitates collaboration between healthcare providers in both jurisdictions to ensure that vulnerable children receive the required treatment on the island of Ireland. This body is informal and was established directly between both Departments of Health with a service level agreement and has driven the development of a single surgical centre in Dublin and a specialist children’s cardiology centre in Belfast supported by an

all-island academic programme. The NSMC Secretariat and the implementation bodies have a limited role in this construct; however, the body was established following a discussion at a plenary meeting of the NSMC and was driven by EU funding support from the Commission.

The paper further states:

The work and operation of the other six agreed areas of cooperation under the NSMC – Inland Waterways; Food Safety; Trade and Business Development; Special EU Programmes; Language; and Aquaculture and Marine matters – in which cooperation is taken forward by means of six North–South Implementation Bodies operating on an all-island basis in line with Strand II of the Agreement. The North–South implementation Bodies are: **The Foyle, Carlingford and Irish Lights Commission (The Loughs Agency), Waterways Ireland, the Special EU Programmes Body, The Food Safety Promotion Board (*safeFood*), the Trade and Business Development Body (InterTradeIreland), and The North–South Language Body (The Ulster Scots Agency and Foras na Gaeilge).** (UK Government, 2017, p. 5).

These areas are clearly defined as formal cooperation in that they have formal standing implementation bodies and a legislative basis in both the NI Assembly and the Oireachtas.

Finally, the paper outlines the following:

Broader North–South cooperation that takes place outside of the formal structures of the NSMC, which has developed in line with the principles of North–South cooperation laid down in the Agreement but in parallel to, rather than under the auspices of, the NSMC. This solely reflects agreed areas of current cooperation. **These currently include energy; telecommunications and broadcasting; justice and security; higher and further education; arts, culture and sport; and inland fisheries.** (UK Government, 2017, p. 5).

These areas would be clearly defined as informal. They are organised completely outside the formal implementation and are not listed as areas of cooperation within the GFA and have no legislative basis or formal implementation body. For example, Universities Ireland is an

informal advocacy body for higher education on the island of Ireland the board of which comprises the presidents of all Irish universities, but it has no formal remit and does not exist as a limited company, trust or NGO.

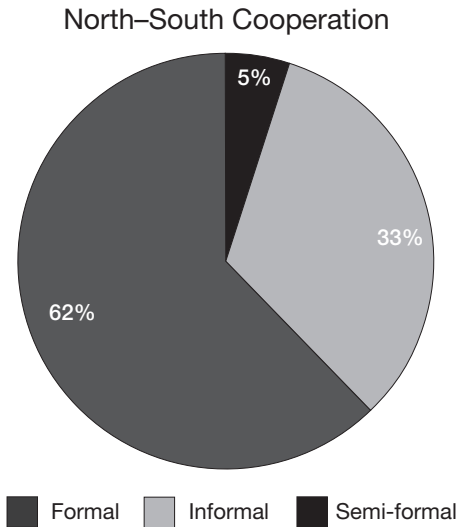
The paper also outlines:

The list reflects the range of formal and informal cooperation that currently occurs between Northern Ireland and Ireland, and in some cases cooperation pre-dates the Agreement. The mapping exercise considered specific areas of cooperation identified by the EU and the UK in advance of the exercise but also included additional elements which were identified during the course of the discussions. The mapping exercise highlighted that there were varying different levels of legal and policy links between North–South cooperation and EU policy and legal frameworks. Broadly speaking, cooperation falls into areas not at all underpinned by EU policy and legal frameworks (for example, the all-island free travel scheme for senior citizens); partially underpinned by EU legal and policy frameworks (for example, the All-Island Congenital Heart Disease Network, where although the Network is underpinned by a local Service Level Agreement, it relies on the continued supply of medicines and medical devices across the border); as well as areas directly underpinned by EU legal and policy frameworks (for example, Enterprise rail service from Belfast to Dublin). (UK Government, 2017, pp. 5–6).

Following a review of the 156 areas and using the definitions outlined above, a breakdown of each of the areas of cooperation defined them as formal, semi-formal and informal. Figure 2 provides a breakdown of the 156 identified areas of cooperation, using a personal assessment of the North–South mapping exercise.

The mapping exercise identifies various issues; firstly, the informal and semi-formal North–South cooperation has significantly expanded over the last twenty-five years and is now at the core of the delivery approach to Strand Two North–South cooperation. The formal structures and their remit have stood still with their relevance, budget and operational staffing levels having all been diminished over the last twenty-five years with the fall of the NI Assembly at the end of its first term in 2002 having a significant impact on the evolution of all the Strand Two structures.

Figure 2: Breakdown of North–South cooperation



There are different levels of cooperation on areas ranging from major issues such the economy, tourism and health to those that could be viewed as minor areas such as canals and food safety. Constructs such as the All-Island Congenital Heart Disease Network, Universities Ireland and the Centre for Cross Border Studies are completely informal in their cooperation approach, have had no link to the NSMC or its supporting structures and have delivered meaningful cooperation that has improved government targets and produced tangible results. The growth of North–South collaboration has grown not as planned through the establishment of new implementation bodies but through the development of informal or semi-formal structures that work on meaningful day-to-day issues. It would be argued that this is what Lord Trimble envisaged when he suggested an informal approach to NSMC structures, which would have allowed progress for nationalists (and the general public) and for him to argue to the unionist electorate that there was limited formal cooperation between NI and Ireland. The North–South Brexit mapping exercise is evidence that informal and semi-formal all-island constructs significantly outnumber the formal structures and that North–South cooperation has found a way to expand outside the formal Strand Two structures. One thing that has been established is that informality has many dimensions.

It can be argued that the existence of institutions can have the effect of limiting progress and stalling decision-making – something, according to those interviewed for the research, the UUP started to realise during the Strand Two discussions within the GFA talks. At a certain point, David Trimble and his team shifted from the policy of establishing an informal Strand Two construct operating on a case-by-case basis, so they could sell limited all-island activity to the unionist base, to a policy of having limited formal institutions that would confine activity and limit cross-border cooperation. This is why there was a red line from the UUP on Strand Two reporting to the NI Executive and the Irish Government rather than a UK/Irish Government reporting line and the development of a mutual destruction clause, meaning that if Strand One collapsed then Strand Two would as well – something the SDLP predicted when it proposed that the UK and Irish Governments should act as sponsors of the Strand Two structures, albeit giving way on this red line when it became clear that the UUP was prepared to collapse the talks on the Strand Two proposals.

The operations of the NSMC, one could further argue, tell us that progress can always find a way and that informal governance methods, as already stated, have been deployed from the outset to make the NSMC function, which led to a culture of informality developing within the structures that spun out from the institutions to the vast series of networks and groups that operate cross-border activity today. The fact that the operation of the Joint Secretariat, which is the core structure within the NSMC operational *modus operandi*, was established by an informal memo agreed by the shadow NI Executive and the Irish Government again strongly underlines the importance of informal governance within the entire GFA Strand Two. Also notable is that the majority of the civil servants (most of whom engaged in this research) involved in the development of the memorandum and the initial structures forgot that it existed and that it is still used today (with no amendments) as the basis for the operations of the Joint Secretariat.

In this context, it is evident that informal governance can be used as a solution to make progress in an institution (or organisation) that is limited by either formality, a lack of clarity on the perimeter of its operations or, in the case of the NSMC, by a difficult and limited decision-making process; informality can go where formality cannot go. Informality has, therefore, been vital to continuing North–South cooperation and central at all times to enhancing the relevance of the Strand Two structures.

Therefore, one could suggest that informality has been a key driver of progress from the establishment of the NSMC. While the legislative approach of Strand Two and the agreed structures were all designed and established formally, it is evident that limited thought was given to their operation. This could have been a deliberate ploy by the UUP to ensure that the operations would be limited; however, the absence of a clear operational framework was used by the Irish Government to put in place a series of interventions and informal structures to ensure the smooth initial operation of the structures during the first term of the new NI Assembly and Executive.

There was also no formal definition of the relationship between the implementation bodies and the relevant government departments in each jurisdiction, with the exception of the Office of the First Minister and Deputy First Minister and DFA acting as sponsor departments and supplying staff (still employed by each department) to the Secretariat. Another area that lacked clarity, which the NSMC Secretariat worked to fill during the first Assembly term, was the links between the various entities established in the GFA. It is clear from those interviewed who participated in designing and establishing the structures that the Secretariat informally became the link between the implementation bodies and the two governments, which seems to have been a deliberate strategy by the Irish Government in the initial phase of the establishment of the NSMC.

As indicated in interviews with civil servants from both jurisdictions, both the NI Executive Secretary and the Irish Government Secretary-General had full oversight and sign-off (subject to the relevant Executive/Government approval); effectively, both these roles acted as the joint secretaries to the NSMC with the official joint secretaries serving as operational support for logistics and general issues. While the secretary of the NI Executive was also the head of the Northern Ireland Civil Service and at that stage the permanent secretary of the NSMC sponsor department on the NI side, the Irish Government structure was more complicated in that the DFA served as the main sponsor department on the Irish side but none of the issues relevant to the NSMC were diplomatic or within the foreign affairs arena except for the link with the UK – they were all internal issues, and as such centrally coordinated by the Department of the Taoiseach.

The suspension of the Strand One structures from 2002–7 had a significant impact on the evolution and operations of the Strand Two structures. The general feeling among the majority of those

interviewed is that structures were ‘smothered at birth’ as they never got the chance to evolve and establish themselves within both government systems. By the time they were re-established in 2007, the DUP and Sinn Féin were in power, with the DUP more opposed to Strand Two than the UUP, and with Sinn Féin – according to some of those interviewed for this paper – ambivalent towards the entire Strand Two structure and the bodies. In the three-year suspension period of 2017–20, the NSMC made no decisions, meaning that if there was a board vacancy in the implementation bodies or in Tourism Ireland, it could not be filled. Furthermore, when the Chief Executive Officer of InterTradeIreland retired, the position could not be filled substantively until the NI Executive was reestablished and the NSMC was quorate. In advance of the NSMC plenary being organised, an institutional meeting was held on 11 March 2020, nearly two months after the Executive was reestablished to approve new board appointments for InterTradeIreland and Tourism Ireland and the process to appoint a Chief Executive Officer of InterTradeIreland and other senior staff within the implementation bodies. The Joint Secretariat produced an annual report and had the authority to undertake an informal programme of engagement in addition to keeping the implementation bodies active and thus relevant. However, all those interviewed were clear that the stalling in the Strand One structures that resulted in the political focus being on re-establishing the NI Executive and Assembly resulted in the Strand Two structures diminishing in stature and the opportunity for evaluation and growth being lost. All the past and present Irish Government officials interviewed were clear that they expected more implementation bodies to be established on other agreed areas of cooperation in due course, and both Mark Durkan and Monica McWilliams (who were leading figures in both the SDLP and Women’s Coalition) also had a strong expectation that this would be the case.

Another factor that was not considered within the operations of the Strand Two structures was that the Strand One structures (mostly the NI Executive) went through a restructuring following the 2016 Assembly election. In 2014, the Stormont House Agreement, which was put in place following months of all-party talks that were mostly focused on legacy issues and flags and culture, included a commitment to reducing twelve Executive departments (agreed in the post-GFA talks primarily by both the UUP and the SDLP) to nine new departments, and reducing the size of the Assembly from 108 members to 90. This was all pitched as cost-saving and highlighted the need for a more efficient, streamlined Executive. What is interesting is

that fifteen years after their establishment, the parties agreed to a significant restructuring of the Strand One institutions, but they have not undertaken a similar exercise with the Strand Two bodies.

The Windsor Framework

The UK leaving the EU had implications on both trade and the movement of people; it would also have an impact on the island of Ireland that would result in the prospect of a physical border between the two states on the island. Business and civic leaders immediately campaigned after the referendum result for NI to get special status as part of the Withdrawal Agreement negotiations.

Initially, this position was supported by the NI Executive, as outlined by Hayward (2021, p. 363):

The need to avoid a hard Irish Border was first most clearly set by the First Minister and deputy First Minister of Northern Ireland in a letter to the Prime Minister in August 2016. In this joint letter, they presented the NI Executive's initial assessment following the EU referendum result, including its analysis that the region is unique in that it is the only part of the UK that has a land border with an EU member state.

Brexit and its fallout had a detrimental impact on the operations of the NSMC and the implementation bodies to the extent that their overall operations were stalled. As outlined earlier, both the NI Executive and the Irish Government worked through the NSMC to try and reach a consensus on how they would work with the UK Government and the EU to resolve the significant border and customs issues that arose from the UK deciding to implement a hard Brexit deal, meaning that the country would leave the political union, the single market and the customs union.

A senior Sinn Féin representative along with Taoiseach Bertie Ahern and a senior NI civil servant all indicated that the decision to opt for a hard Brexit completely fractured the Strand Two institutions, which were designed with the harmonisation of EU membership for both Ireland and the UK at the core of their operations. A divided customs and regulatory policy has presented major difficulties for the operations of InterTradeIreland, Tourism Ireland, SafeFood and Waterways Ireland, and has significantly impacted on the work of the Special EU Programmes Body. The most significant unseen impact

has been on the operations within the NSMC Joint Secretariat. The civil servants interviewed stated that relationships between the UK and Irish Governments also diminished significantly, with both countries for the first time being on opposite sides within the overall EU framework – Ireland a full EU member, negotiating an outcome that would not impact on its economy, which heavily depended on trade with the UK, while the UK was working to get out of the entire EU structure and operate within its own set of regulations. The resulting casualty was Northern Ireland, which due to its unique geographical position was going to become an EU border area that did not acquiesce with previous British/Irish treaties and the GFA. The Windsor Framework Agreement between the UK Government and the EU did present a road map for re-establishing the GFA institutions; however, it did not take account of the NSMC, which will require a review in the new post-Brexit era. This review could be timely as the confined approach that has been in place for nearly twenty-five years is not fit for purpose in the modern era.

Therefore, there is an argument for the following statements:

- NSMC and the implementation bodies have become increasingly irrelevant within government structures both North and South, with a significant amount of cross-border work being undertaken on an informal/semi-formal department-to-department basis. The establishment of the Shared Island Unit, which was created so the Irish Government could go around the NSMC and engage in NI projects on its own, is evidence of the diminishing standing of the Strand Two bodies within the government systems in both jurisdictions.
- Cross-border cooperation is no longer as contentious as it was in 1998; however, the Brexit referendum has reignited some significant insecurity and suspicion on the unionist side of the political divide regarding the EU and Ireland. This impacted on the DUP operations of the NSMC, and it commenced a boycott of the Strand Two institutions in the previous Assembly mandate.
- Informal cross-border activity, as outlined in the EU/UK mapping exercise, is booming despite the limitations of the NSMC structures.

So, the future debate on Strand Two must centre on what the role of the NSMC and its implementation bodies is when cross-border activity has essentially overtaken the formal structures and remit. The

consensus of those interviewed was that there needed to be formal structures; however, the post-Brexit environment presents an opportunity to review and perhaps expand or strengthen the institutions. Sinn Féin, as the largest party, has a very strong hand to play within the newly re-established Executive and Assembly; however, there will need to be all-party talks involving both governments to agree on any review or expansion of the NSMC. Sinn Féin now has the power to table a review of the NSMC or put forward proposals to expand or amend the existing structures; however, those interviewed were of the view that while this intervention by the party was necessary it was unlikely as its focus in the medium term will be on trying to secure the opportunity to lead or participate in the next Irish Government after a future Irish election.

In the current climate, the best the NSMC officials can hope for is a return to relevance and strengthening of their position rather than a fundamental review and expansion. Lord Reg Empey has suggested that the NSMC needs to be updated, highlighting that the Irish Lights body is redundant and that there is a need to explore the establishment of a new implementation body on climate change alongside a new strengthened economic body that manages the outcomes of the Windsor Agreement and aligns with the new East–West Council (for trade), provisionally titled Intertrade UK.

Informality has evidently been vitally important to the past operations of the NSMC, and presently it is clear from the evidence presented throughout this paper that without the informal governance culture that was established in 1999/2000, the structures would not have operated with a level of effectiveness. However, what is also evident is that the informality and trust enjoyed by those operating the structures in their early days is not in place now due to the complications with the political framework outside the structure. That said, the informal approach is retrievable now that the NI Executive has been re-established with a successful outcome to the mild Windsor Framework amendments being requested by the DUP.

Conclusion

While there is an urgent need for an assessment of the NSMC and its supporting structures to ensure that nearly a quarter of a century on they are fit for purpose and best serve the evolving structures of government on both sides of the border, it is unlikely that the DUP would agree to a formal review process unless it was focused on

reducing the formal structures. The only way to grow cross-border activity in the short to medium term will be to enhance the informal structures outside the NSMC and the informal culture within the institutions – so informality will continue to play a key role in the operations of the NSMC and within the Strand Two framework for a considerable time into the future. In 1998, the UUP wanted (and the DUP is presently still focused on) informal structures that involve cross-border cooperation being conducted on a case-by-case basis and this theme repeats itself throughout the research. As a senior Irish civil servant stated, ‘unionism is allergic to formal structures’.

The Strand Two section of the GFA was a concession to unionism as the structures agreed by the unionists were later designed to be limited in their scope. Lord Empey did indicate that the UUP was content with the outcome. A former senior SDLP representative stated that they knew this at the time and tried to play up the symbolism of plenary and sectoral meetings with the hope that eventually they could secure more implementation bodies and expand the remit of the overall NSMC; the Irish Government had also hoped to see evolution. The irony of the development of the NSMC lies in the contrasting objectives and outcomes for both the UUP and SDLP. The UUP initially favoured informal cooperation under Strand Two but ultimately conceded to the creation of formal institutions. Paradoxically, it later leveraged these same institutions to limit North–South cooperation. On the other hand, the SDLP, which had strongly advocated for robust formal structures, ultimately agreed to a compromise involving just six areas of formal cooperation, alongside the establishment of implementation bodies like Tourism Ireland. These bodies, however, proved to have limited scope and impact, falling short of the original vision of the SDLP for deep and meaningful cross-border collaboration.

This research highlights that informal cross-border activity has been more successful than the formal approach in terms of delivery so it is logical to conclude that an informal North–South framework that involved NSMC meetings with a broad remit of undefined areas of cooperation may have allowed the required flexibility that would have enhanced the overall Strand Two approach. This argument is made on the basis that both the UUP and DUP have used formal structures to limit formal cross-border activity, but they have not been able to stop or confine the informal activity. In fact, on areas like health and infrastructure, they have been willing and enthusiastic participants, so an informal approach may well have yielded more success. This was

evident when Edwin Poots as Minister of Health, Social Services and Public Safety agreed to the establishment of the All-Ireland Congenital Health Network and championed its success against some opposition from hardline elements, albeit outside the NSMC structures.

The evidence in this paper highlights that the informal structures that have developed outside the NSMC would not have developed had the institutions not been in place to initially act as an informal convenor for this activity and to provide the template for cross-border cooperation – and the existence of the Strand Two institutions is a vital component of the overall peace process. Nobel Laureate Seamus Heaney's 'The Cure at Troy' captures the tension between hope and despair, so to conclude in his words, whether the NSMC reflects the 'sunlit absence' of a hard-won peace or the continuation of 'the darkness echoing', only time will tell.

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