

IN CONFIDENCE

FROM: P N BELL
BRITISH SECRETARY
16 JULY 1998

OM



17/7/

NOTE TO THE IRISH SIDE

ESTABLISHING THE BRITISH-IRISH INTER-GOVERNMENTAL CONFERENCE (BIIGC) AND ITS SECRETARIAT (BIS)

The British Side offers, as a basis for discussion, initially in the Anglo-Irish Secretariat, the attached self-explanatory paper which sets out our preliminary thinking on options for giving effect to our shared commitment in the Belfast Agreement to establish a new British-Irish Inter-Governmental Conference and its associated Secretariat.

2. The British Side nevertheless wish to emphasise that our paper represents essentially "work in progress". The Irish Side are invited to note the British Side's own thinking is evolving on a range of matters concerning not simply the BIIGC and the wider bilateral relationship between the two countries, but also the British-Irish Council (BIC). We attach importance to avoiding taking premature decisions in any one of these areas that might cause confusion as to the roles of the various new bodies, or otherwise impact adversely on their future operation. We naturally hope to be able to discuss these wider issues with the Irish Side shortly.

Signed:
P N BELL

P N BELL
01232 427532

19/8/

IN CONFIDENCE

EMM/3115

IN CONFIDENCE

hcc:

PS/Mr Pilling (B&L)

PS/Mr Semple

Mr Jeffrey

Mr Stephens

Mr McCusker

Mr Watkins

Mr Kelly

Mr Brooker

Mr Hill

Mr Maccabe

HMA, Dublin

Mr Fergusson, RID

Mr Sanderson, CO

Mr Fisher o/r

Ms McGimpsey

Mr Warner

IN CONFIDENCE

EMM/3115

IN CONFIDENCE



BRITISH SIDE PAPER FOR DISCUSSION

ESTABLISHING THE BRITISH-IRISH INTERGOVERNMENTAL
CONFERENCE AND ITS SECRETARIAT

Scope of Paper

The Belfast Agreement commits both Governments to establish a standing British-Irish Intergovernmental Conference (BIIGC). This will subsume both the Anglo-Irish Intergovernmental Council and the Intergovernmental Conference established under the 1985 Agreement. This new Conference will be supported by officials of the British and Irish Governments, including by a standing joint secretariat of officials dealing with non-devolved Northern Ireland matters. (The full remit of the new institution is set out in the relevant portion of the Strand Three section of the Agreement.)

2. **This paper sets out, as a basis for preliminary discussion with the Irish Side, some options for the early implementation of this section of the Agreement** in ways which seek to maximise the balance of both political and administrative benefit to both sides.

3. The British Side hopes also to be able to discuss soon, although not necessarily in this format, possible arrangements for the British-Irish Council (BIC) and also, more generally, ways of further enhancing the wider British-Irish bilateral relationship on the lines as envisaged by the two Heads of Government on 1 June 1998 in Dublin.

IN CONFIDENCE

IN CONFIDENCE

The remit of the BIIGC

4. The new institution will bring together the British and Irish Governments to promote bilateral co-operation "at all levels on all matters of mutual interest within the competence of both Governments". It will not, therefore, be confined to their relationship as it impinges on Northern Ireland. The Agreement, for example, envisages exploiting the BIIGC as a platform for **British-Irish summits**. This is one of the further subjects noted above which the British Side hopes to discuss shortly.

5. Further, complementary, options - subject to the views of other UK Government Departments - might include:

- **designating some or all bilateral meetings between UK and Irish Ministers as meetings of the BIIGC.** (This is, theoretically, the case with the Anglo-Irish Intergovernmental Council and within whose framework the current IGC nominally operates);
- **selecting primarily Northern Ireland issues for the Agenda where the responsibility does not rest with the Secretary of State for Northern Ireland (eg, broadcasting); and**
- **selecting wider bilateral issues for the BIIGC agenda which are also of a special salience in Northern Ireland terms.**

The British Side would welcome further suggestions.

6. Under the remit given to it in the Agreement the BIIGC will promote bilateral co-operation at all levels on all matters of mutual interest between the two Governments. In practice, however, the British Government expects that **issues relating to Northern Ireland will form the single most**

IN CONFIDENCE

IN CONFIDENCE

substantial area of interest in the Conference. This is reflected in the Agreement which set down that there will be regular and frequent meetings of the Conference concerned with Northern Ireland matters, on which the Irish Government may put forward views.

The British-Irish Intergovernmental Secretariat (BIIGS)

7. The Agreement specifies that the Conference will be supported by officials of the British and Irish Government, including by a standing joint Secretariat of officials dealing with non-devolved Northern Ireland matters. Precisely what form administrative arrangements should take, so far as the wider British-Irish relationship is concerned is a matter for further discussion. But it does not seem to the British Side on first inspection that **this qualification necessarily debars the Secretariat from involving itself with matters other than the dealings of the Conference on such non-devolved NI matters.** This is partly because it makes administrative sense for the BIIGS, like any other Secretariat, to support its own Conference across the full spectrum of its responsibilities.

8. It would also seem strange for the BIIGS to take no part in the servicing of Conference meetings simply because the issues under discussion are of wider concern than just to Northern Ireland. There is also a case for the Secretariat's at least being involved, and its expertise in British-Irish relations exploited, in the preparation of any other meetings, including Summits, even when the focus was not chiefly on matters related to Northern Ireland. The British Side believe that it would be damaging if the idea became current in the wider Northern Ireland political community that the role of the Secretariat was being unnaturally (or inefficiently) confined.

IN CONFIDENCE

IN CONFIDENCE

The involvement of the Northern Ireland Executive in the work of the BIIGC

9. One of the chief ways in which the BIIGC will differ from its predecessor is that relevant executive members of the Northern Ireland Administration will, under the Agreement, be involved in meetings of the Conference to discuss non-devolved Northern Ireland matters and in the review of the workings of the new British-Irish Agreement its organs though by inference not where such meetings do not address non-devolved Northern Ireland issues. How this is to be done will be of political importance, not least in securing the desired widespread public acceptance in Northern Ireland of the new institution. There are already wide and high expectations that the Assembly will be represented at future meetings between the UK and Irish Governments; it was a theme that emerged strongly during the recent referendum campaign. (It is also likely that there will be renewed pressures, once the new institutions are in place, for **greater openness and transparency** in their operations, which it would be wrong to resist.)

10. All this suggests that the maximum participation of the NI Administration and, despite the open texture of the word "involved" in the Agreement, their attendance at all meetings of the BIIGC, except where non-devolved matters were not on the Agenda. This is reflected in the current text of the Northern Ireland Bill (Clause 67). But it does not follow they should be present for all agenda items. Cross-border co-operation, on security matters for example, is likely to remain an important, and widely attractive part of the relationship between the two Governments in the new Conference. It is hard to envisage the kind of open exchanges the IGC now enjoys (involving the Chief Constable and the Garda Commissioner) in the presence of members of the NI Executive. There will also remain political subjects which the two Governments will wish to discuss privately.

IN CONFIDENCE

IN CONFIDENCE

11. The British Side is accordingly attracted to arrangements, similar to existing IGC practice, whereby **there would be, at meetings of the new BIIGC, Restricted Sessions (for, say, Security and Politics - each with probably different casts) and a larger one (which would involve the Northern Ireland Administration) at which conclusions of the restricted sessions might be reported, or other issues discussed.**

12. Such arrangements would require negotiation with the new Northern Ireland Executive.

Location of the BIIGS

13. The Anglo-Irish Intergovernmental Secretariat at Maryfield has never won the widespread acceptability across the whole community sought by both Governments at the time of its signature. To secure its demise and physical removal was even a major objective for some parties during the Talks process, and subsequently advertised as a major achievement in the Northern Ireland referendum campaign. Some who appear to regard the abolition of Maryfield the place as equivalent to the abolition of Maryfield the institution, could even regard the location of any new Secretariat in Northern Ireland as controversial. Efforts by the British Side to identify suitable new properties in Northern Ireland have already provoked a sharp reaction from local politicians. There could well be pressure for the Secretariat, having regard to the wider remit of the new Conference and remembered hostility to Maryfield, to be located outside Northern Ireland.

14. However, although the new Secretariat will be servicing a Conference promoting bilateral co-operation at all levels between the two Governments on all matters of mutual interest, its work will still be concentrating on Northern Ireland. **This points to a NI primary location - but with the ability, also to**

IN CONFIDENCE

IN CONFIDENCE

exploit the resources of their respective Governments in London and Dublin.

15. The British Side has also considered whether it might be desirable to co-locate the BIIGS with the new North/South Secretariat, to be established under the Strand Two section of the Agreement. There is theoretically a case for co-location, in terms of administrative convenience and the fact that clear demarcation lines between Strands Two and Three business are likely, in some areas, to be hard to define (eg when EU issues are involved). Yet, a shared location would render both Governments vulnerable to accusations that they were seeking improperly to influence North/South co-operation and also the operation of the devolved administration more generally. (A corollary of this approach is that there would be two separate Secretariats on the UK side: one accountable to the NI Assembly, servicing the North/South Ministerial Conference; the second, reporting to the Secretary of State for Northern Ireland, servicing the BIIGC.) To the British side **the balance of argument appears against co-location.**

16. A third politically sensitive, logistical issue concerns the more exact location for the Secretariat, assuming it is in Northern Ireland, and where its staff should live. The British Side believes that the **“end state” to which both Sides ought to be working is for the Secretariat to be located in “normal” office accommodation** (eg in a suitably secure office site in down-town Belfast or a separate self-contained building in the suburbs) **with Irish officials living, like British members of the Anglo-Irish Secretariat now, and diplomats the world over, in suitable accommodation out in the community.** It is relevant in this connection that the Prime Minister indicated to the NI First Minister, during the closing stages of the Talks, that Maryfield would be evacuated by the end of the year.

IN CONFIDENCE

IN CONFIDENCE

17. The British Side wishes to discuss further with the Irish Side how best to achieve this "end state", having regard to the need, in the shorter term, to make special arrangements for secure alternative accommodation outside the Maryfield complex in response to any terrorist threat.

The coming into effect of the BIIGC

18. The Conference will need to be established under a formal agreement between the British and Irish Governments. There appear no legislative implications, on the British Side, arising from the fact that the British/Irish Agreement subsumes the AIC and the IGC established under the 1985 Agreement. Neither of these two bodies had any basis in UK legislation. Little of the BIIGC architecture needs to be reflected in UK legislation either, and the proposed references in the current draft NI Bill are, in fact, minimal.

19. Against this background, the British Side would be interested to learn **what legislation, if any, is needed in the Irish jurisdiction to give full effect to their commitments under the Agreement in respect of the BIIGC?**

20. It is however, the expectation of the British Side that there will be a **need for an exchange of Notes or Memorandums of Understanding between the UK and Irish Governments covering the structural and organisational detail of the new BIIGC and its Secretariat.** This might provide the basis for a further, public statement setting out the views of both Governments, where appropriate, after consultation with the Northern Ireland Executive, on all aspects of the operation of the Conference

IN CONFIDENCE

IN CONFIDENCE

Timescale

21. The Agreement prescribes that the **establishment of the BIIGC, along with the other new institutions envisaged in the Agreement, will take place at the same time on the entry into force of the British-Irish Agreement**, that is in early 1999. There is, however, no obligation on the two Governments to call preliminary meetings of the BIIGC during the "shadow" period, although there is a presumption (see paragraph 15 above) that 'Maryfield' will no longer exist after the end of 1998. Such relocation must not however generate a "vacuum" between the death of the IGC and the birth of the BIIGC. The understanding of the British Side is that, whatever the physical arrangements, the Anglo-Irish Agreement, (and its institutions) will remain in force until the replacement British-Irish Agreement is in place.

Staffing

22. The preliminary assessment of the British Side is, notwithstanding the removal of devolved matters from the purview of the BIIGC, the importance of non-devolved Northern Ireland matters, including, security co-operation and the administrative consequences of the wider remit of the BIIGC; and the continuing importance of the BIIGS as a channel of communication between the two Sides - is that **numbers and levels of staff are likely to differ little, if at all, from that of the current AIS.**

Next steps

23. The British Side invites comments in response from the Irish Side on:
- how to give full effect to the **remit of the BIIGC** (paragraphs 5 & 6);

IN CONFIDENCE

IN CONFIDENCE

- the **remit of BIIGS** (paragraphs 7 & 8);
- the **involvement of the Northern Ireland Administration** on the work of the BIIGC (paragraphs 9-12);
- the **location of the BIIGS** (paragraphs 13-17);
- the **legislative underpinning and timescale** for the establishment of the new institution (paragraphs 18-21);
- **staffing** levels for the BIIGS (paragraph 22).

Signed:

P N BELL

P N BELL
16 July 1998

IN CONFIDENCE