

169/98

FROM: **WILLIAM KEOWN**
International & Planning Division
26 November 1998

cc. Mr Bell
Mr McCusker
Mr Stephens
Mr Brooker

MS FLANAGAN

MR SEMPLE'S MEETING WITH SIR JOHN KERR

I understand that Mr Semple is due to meet Sir John Kerr in Belfast next week to discuss the relationship between the FCO and the devolved administration. I attach briefing on the establishment of the north-south implementation bodies for inclusion in the overall briefing pack.

2. This matter has yet to be agreed with the Irish. We have now conceded that the bodies will be established by international treaties concluded by HMG and the Irish. The Irish are pressing for these treaties to contain details about functions, structures and funding of the bodies; HMG's position is that there should be 'headline' treaties, establishing the bodies in international law and binding HMG into their continued existence, but that the detail, which is clearly not a matter for HMG, should be handled by means of memoranda between the relevant Northern Ireland Department and its Dublin counterpart.

3. The FCO and NIO are at one on this issue and are working together in the negotiations with the Irish.

William Keown

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ESTABLISHMENT OF NORTH-SOUTH IMPLEMENTATION BODIES

- **Good progress** is being made in negotiations with the Irish on the initial north-south implementation bodies.
- Once agreed, a **great deal of work** will need to be completed in a short period of time to enable the implementation bodies to be ready to function at the time of the transfer of powers to the Assembly, as we are **committed** to do under Strand Two of the Agreement.
- Our initial view, which built upon legal advice from the FCO, was that the bodies could be established by informal non-binding agreements between Northern Ireland Departments and their Irish counterparts. The Irish have pressed very hard for the bodies to be established by treaty.
- We have now conceded that the initial implementation bodies will be established by **international treaties**. These must be concluded between HMG and the Irish Government as treaty-making power is not being devolved to the Assembly. The FCO will play an important role in the preparation of these treaties.
- The nature of the treaties has yet to be resolved. Our preferred option is that the bodies should be established by '**headline**' **treaties**, with the necessary detail carried in memoranda between the relevant departments. The necessary powers and functions would then be conferred on the bodies using Orders in Council under the 1974 Act.
- We are continuing to work with the FCO to negotiate an agreed position with the Irish.