

JOINT DECLARATION: KEY CONSIDERATIONS

Where things stand

The central points are these:

- the best assessment is that the Provisional leadership are serious about bringing about an end to the violence, and that a Joint Declaration by the British and Irish Governments in terms which the Provisional leadership accepts would result in a cessation which the leadership could deliver on behalf of the bulk, and perhaps even the whole, of the Provisional Movement. There is some indication that preparatory steps towards a ceasefire have been taken, but also that the leadership do not currently intend to pursue the option of ending violence unilaterally. Before any Joint Declaration were made, we would have to have a bankable and publicly usable assurance that PIRA violence would end. Irish officials confirm that the Taoiseach would be prepared to offer one if he had reached the necessary judgement
- the achievement of peace, on terms consistent with HMG's principles, would be received in Great Britain and elsewhere with enthusiasm and relief. (I deal with Northern Ireland audiences below.) By contrast, there is some risk that HMG would be criticised if it could plausibly be claimed that it had rejected an opportunity for peace on terms which might be presented as acceptable
- the latest Irish text has been further improved. It no longer implies that HMG would join the ranks of the

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persuaders. The principle of self determination by the people of the island of Ireland is sufficiently qualified by the need for the freely and concurrently given consent of the people of Northern Ireland. There are clear, although not explicit, references to HMG's commitment to the constitutional guarantee that Northern Ireland will not cease to be part of the United Kingdom while that is the wish of a majority in Northern Ireland

- speculation and tensions have been greatly heightened by the Hume/Adams statement of 25 September. As the days pass with no public product, suspicions increase. There have been Loyalist attacks presented as a direct response. The Irish Government privately do not disguise their annoyance at Hume for jeopardising in this way what the Taoiseach prefers to see as his own initiative. Paisley, although not Molyneaux, has clearly staked out an unreasonable but troublesome position (for instance after his meeting with Michael Ancram on 30 September) that it would be wrong for the British Government even to receive a report from the Irish Government which is tainted by Adams' involvement with Hume. There has been unhelpful press speculation that part of the price for peace would be recognition for the principle of Irish self-determination

- there is much support for Hume in Washington and Dublin, although little of this is based on any notion how peace might be brought about. (A weekend poll gave him 72% in the Republic.) But there is also a strand of scepticism (including within the SDLP) that Hume has gone out on a limb and cannot deliver. Adams has cleverly exploited his association with Hume to

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improve his standing: for instance, there is already talk in political circles in Washington of the need to look again at refusal of a visa for Adams to visit the USA

- on the question of HMG's exposure, the position is still that the initiative has involved the Irish Government, but not HMG, in negotiating via intermediaries with the Provisionals. (The Irish Government have expressly confirmed that there are no side deals or private understandings.) We have not contributed textual amendments (eg our own draft paragraph 4, which has been held in reserve) through the Butler/Nally Group, although we have, as agreed, indicated principles which we could accept and those which we could not. The four meetings of the Butler/Nally Group (most recently on 6 October) have in no sense amounted to indirect negotiation with PIRA. If the Irish Government were to put a final text to the Provisionals, they have agreed that they would say that it represented the Taoiseach's judgement of the outer limit of acceptability to HMG
- but our position is not risk-free. In particular, Hume has been telling people privately in the USA that he has kept both Governments informed of his dialogue with Adams
- while an acceptable Declaration should deliver a PIRA cessation of violence, with reasonable prospects for sustaining this, the impact on the loyalists, the Unionist parties, and the wider community in Northern Ireland remains hard to assess. The textual subtleties will matter a great deal to some audiences, less to others. The intelligence assessment on the

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loyalist reaction is that much would depend on the wording. Overall, the two most important points are whether the making of the Declaration can be clearly enough associated with the delivery of peace, and whether there is enough in the Declaration to counter claims that it is a betrayal of Northern Ireland

- The Irish Government has confirmed that it sees the Joint Declaration as formally compatible with the political development Talks process. It remains committed to the Talks, although the Taoiseach attaches greater priority to the Joint Declaration. If the Joint Declaration were made there would be no prospect of reconvening the political development Talks for a considerable time. But the right text need not kill off all constructive political activity involving the Unionists, especially once the benefits of a sustained cessation of violence began to be experienced. Such a Declaration need not inevitably end the promising private dialogue which Michael Ancram has been having bilaterally with the parties

- an important uncertainty is that, so far as we know, the most recent version of the text has not been seen by the Provisionals. The Irish Government judge that they would accept it as it stands, but believe it would be unsaleable if it contained an explicit statement of the constitutional guarantee. I return to this key issue in the following paragraph

- the Irish Government have confirmed that it is not envisaged that Sinn Fein would secure, or expect, immediate talks with the British Government. It seems likely, however, that that remains one of the Provisionals' eventual objectives

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- Irish officials confirm that the question of amnesties has not arisen, although they think it may come up further down the line. They are aware that we would not be prepared to give any commitments about that
- the issue of stacking arms has not arisen. We cannot seek commitments about that without entering indirect negotiations. In any case, no Irish paramilitary organisation has surrendered its arms to the State; any such undertaking would be unenforceable; and the Provisional leadership would insist on weapons in store if only for defence and enforcement purposes.

The constitutional guarantee

2. The next steps turn critically on whether we conclude that it would be counter-productive, or at least unsafe, to proceed further unless a more explicit reference to the constitutional guarantee is included in paragraph 4 of the text. The key considerations are these:

- the present text already refers (although in paragraph 3 rather than the crucial paragraph 4) to the commitment of the two Governments to guarantees which each has given. It is clearly understood by the Irish side that we would re-emphasise the constitutional guarantee in accompanying statements and presentation if the Joint Declaration were made. The Taoiseach's present clear position is that it is unnecessary to make the text itself more explicit, and that this would make the text unsaleable to the Provisionals
- Irish officials in the Butler/Nally Group readily accepted, however, that if HMG were to decide not to proceed with the Joint Declaration, the absence of an

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explicit reference to the constitutional guarantee would be an understandable ground for doing so

- on the other hand, there is an argument that if the Provisionals will not accept an explicit reference to what is clearly already implicit in the text, this would raise a question about their good faith. Against this, the PIRA leadership will not want to make their task of selling and enforcing a cessation of violence by their "volunteers" more difficult than it would otherwise be

- a point of cardinal importance for us is whether the latest text already sufficiently guards against the charge that it is a betrayal, or whether a clearer talisman of non-betrayal is needed on the face of the text itself. This is central to the reactions to any Declaration of a number of key audiences, including the loyalist paramilitaries, the Unionist parties, the protestant community in Northern Ireland, and political and domestic opinion in Great Britain, including that within the Conservative Party.

Mr Molyneaux

3. It would be vital to get Jim Molyneaux on side. ~~I have~~
~~been in close touch with him since Hume/Adams statement, and will~~
~~report orally on that.~~ ^{Mr Molyneaux has} He has stressed ^{to me} in particular the need for
HMG to go on saying that it would stand by the democratically
expressed wishes of the people of Northern Ireland. His public
reaction to the Joint Declaration, if made and accompanied by a
PIRA cessation, would be central to how such a development would
be received by Unionist political and wider opinion. We do not
need and cannot expect him to be enthusiastic or supportive; but
we can be sure that outspoken opposition from him would increase

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the risk of a loyalist backlash, as well as causing serious domestic political difficulties. A sufficient objective if we go down this path would be to secure his private understanding and a public position which is no more than cautious and sceptical.

Assessment and next steps

Ref to Martin Smyth.

4. My own judgement, particularly in the light of my contact with Jim Molyneaux, is that it is a political imperative for us to have a more explicit reference to the constitutional guarantee in the text itself; but that if we had it and had squared Jim Molyneaux the position would be sufficiently secure to proceed in the interests of bringing about peace. I do not believe that if the Irish Government were to incorporate an explicit reference to the constitutional guarantee this would necessarily render the text unsaleable to the Provisionals. They would still get acknowledgement of a form of Irish self-determination, which they are known to seek, and the Irish Convention (as yet not picked up in the press). We must recognise the risk that such insistence will end the Taoiseach's initiative. But I judge that it would be wrong in itself, and tactically too dangerous, to proceed without it. It would be for the Taoiseach to decide whether the text, as amended in this way, should be put to the Provisionals. But we would make it clear to him that we needed an explicit reference to the constitutional guarantee not because we were signing off, but because we judged it necessary in the interests of establishing whether a genuine and sustainable end to violence could be secured.

5. A possible formulation would be to amend the sixth sentence of paragraph 4 of the text to read:

"[The British Government] reaffirm as binding obligations, both Northern Ireland's statutory constitutional guarantee ~~that its status as part of the UK will not change without majority consent there~~ and that they will, for their part,

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*if the majority were
dearly to express a
wish to join in a
United Ireland,*

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introduce ~~the necessary~~ legislation to give effect to ^{that} a ~~united Ireland, or to...~~ *Similarly they will act*
to give effect to any

It would be consistent with this to press for the removal of the words (re-instated by the Irish side, but inherently objectionable) "freely and collectively" in the penultimate sentence in paragraph 4. If the Taoiseach accepted these points, and secured a satisfactory response from the Provisionals, I would propose to brief Jim Molyneaux fully on the Joint Declaration on Privy Councillor terms, and attempt to secure his private support for minimising any adverse loyalist or unionist reaction.

6. This seems to me to be a defensible and principled position for us to take. The Irish Government could not reasonably say (and I think would not) that we had been unconstructive or unimaginative. There is some chance that a peace process would result. If, instead, it were a question of soft landings, we have to accept that we should not be in direct drive, given that it would be for the Irish Government to decide how to handle the Provisionals. They would want the Provisionals, not Hume, to carry the blame, although it would be difficult completely to extricate the latter after the publicity given to the Hume/Adams demarche.

7. If we were to proceed in this way an illustrative sequence of events would be:

- (i) we respond to the Irish Government as envisaged in paragraph 5;
- (ii) they decide whether to go back via their intermediaries to the Provisionals to sell the final text and to put the Taoiseach in a position to give his guarantee;

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- (iii) the Provisionals give the Taoiseach a satisfactory response for "go";
- (iv) the Taoiseach formally but secretly sends you the final text and his undertakings;
- (v) the text is shown to Jim Molyneaux, whom I will have kept in touch (along with the security force commanders) in the meantime;
- (vi) British and Irish officials agree the modalities for the Joint Declaration, including common lines to take;
- (vii) other key people are briefed, including the Leader of the Opposition, the NI Church Leaders and the other NI party leaders
- (viii) the Joint Declaration is made.

Other scenarios could evidently arise. We have defensive briefing on the stocks and are preparing fuller handling plans.

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