

STATE DECLARATION INITIATIVE

The attached text (JD.148) marks British proposed additions (underlined) and omissions on the text which was on the table in Dublin (JD.14). It also marks, underlined with a broken line, additions proposed in Dublin by the Irish side.

Letter to Sir Robin Butler dated 6 December Ref:DUSL/MR/43815
headed MEETING OF BUTLER NALLY GROUP: 6 DECEMBER 1993

surrendered at official level, are:

(i) to reach agreement on a text, provided that can be done without compromising essential positions.

Hidden cc:

- PS/Secretary of State(L&B)-[Copy Nos 4&5 of 14 copies]
- PS/Michael Ancram(L) -[6]
- PS/Mr Fell -[7]
- Mr Rickard -[8]
- Mr Maccabe -[9]
- Mr Cooke -[10]
- Mr Beeton -[11]
- Mr Archer RID -[12]
- File & Float Copy -[13&14]

(iii) to ensure that the reference to self-determination (which the British side has agreed should appear) is in acceptable terms

(iv) to secure a forward and specific reference to the Irish side's conditional commitment to reform Articles 2 and 3 (JD.14 includes, in paragraph 7, an indication in the most general terms that constitutional change may be contemplated)

JOINT DECLARATION INITIATIVE

1. The attached text (JD.14B) marks British proposed additions (underlined) and omissions on the text which was on the table in Dublin (JD.14). It also marks, underlined with a broken line, additions proposed in Dublin by the Irish side.

2. Ultimate British objectives, none of which should be surrendered at official level, are:

- (i) to reach agreement on a text, provided that can be done without compromising essential positions.
(This can be expressed negatively: to reach agreement on a text, unless breakdown is on an issue or issues which would leave the Irish Government as being generally perceived as being intransigent.)
- (ii) to include an explicit reference to the constitutional guarantee (there is already a muted reference in paragraph 2 to a "commitment to promote co-operation... on the basis of... the guarantees which each Government has given")
- (iii) to ensure that the reference to self-determination (which the British side has agreed should appear) is in acceptable terms
- (iv) to secure a forward and specific reference to the Irish side's conditional commitment to reform Articles 2 and 3 (JD.14 includes, in paragraph 7, an indication in the most general terms that constitutional change may be contemplated)

- (v) to secure a more forward and explicit reference to the need for the consent of the people of Northern Ireland to the establishment of a united Ireland.
- 5 (The reference in paragraph 7 to the right of self-determination being achieved and exercised "with the agreement and consent of a majority of the people of Northern Ireland" has the wrong flavour; and the opening of paragraph 7 is Anglo-Irish Agreement language, compromised because Northern Ireland's present status is "carefully not defined".)

- (vi) to remove the references to the establishment of a permanent Irish Convention.

Note: (a) One of our proposed amendments to paragraph 4 links the constitutional guarantee and self-determination, but they could be separated;

(b) points (iv) and (v) have not been linked, but could be.

3. The new Irish proposals tabled in Dublin comprise:

(i) The introduction, in paragraph 2, of the words: "Beginning now, and over the coming generation" should be resisted. It is poisonous: it is too long a period to achieve a working political accommodation; but wrong if it implies a deadline for Irish unity.

(ii) Additional words at the beginning of paragraph 7: a reference to Article 1(c) can be accepted provided it is appropriately and accurately formulated, and avoids the concept of persuasion. (The British version did contain a reference to the commitment in Article 1(c) of the AIA: in paragraph 2(c)(iii))

The text in detail

Paragraph 2

4. As already noted, the Irish proposal should be resisted.
5. The British proposal was made at the instigation of Mr Molyneaux. It is not essential, though it is not clear that the Irish side could sustain an objection, given its closeness to the language of the Talks process and the Statement of 26 March 1991.

Paragraph 4

6. The points in the opening sentence are desirable, but not essential. (But if they are surrendered we need to re-introduce somewhere else in the text a reference to the "United Kingdom" because the final text must include a reference to that at some point.) The first passage concerning the democratic wishes of the people as to their constitutional status was suggested by Mr Molyneaux. What is the Irish side objection? As to the expansion of the no selfish interest formula, it is relevant that Ministers have used in speeches the language in JD.14: "no self strategic or economic interest in Northern Ireland", on the basis that much weight is carried by the word "selfish".

7. It should be possible to reach an accommodation in respect of the other minor changes proposed to paragraph 4:

(a) "process of reaching"

(b) removal of "independent" (especially as we can concede a reference to Article 1(c) elsewhere)

(c) removal of collectively in the penultimate sentence.

8. The most important issue is the formulation of the sentence about self-determination which, in the proposed British sentence, also includes the constitutional guarantee.

Points to make

- We are ready to use words recognising Irish self-determination, but only if it is clear that it is done in a way consistent with the constitutional guarantee
- this is the heart of the Declaration and alone gives the Provisionals cover to stop, if indeed that is what they want
- the elements would then all be in the Declaration:
 - no selfish interest etc.
 - self-determination
 - Article 1(c)
 - commitment (second sentence of paragraph 4) to work to achieve agreement among all the people who inhabit the island
 - agreement to meet Sinn Fein within 3 months if there is a demonstrated end to violence.
- Unless and until some of our other amendments are accepted (Articles 2 and 3; consent). There is no comparably risky move for the Irish side in the JD.

9. Annex A suggests some tradeable language.

10. The constitutional guarantee could be elsewhere, though still in paragraph 4, but it must be included somewhere in the Joint Declaration. It may be possible to regard this as conceded since the Prime Minister made it unequivocally clear that it is a sine qua non. (And it is already in paragraph 2, though in muted terms.)

Paragraph 5

11. The British side has proposed two relatively minor amendments: "new" in the first sentence; "subject to" in the second.

12. The main proposal is that the "Taoiseach should acknowledge that it would be wrong to seek a united Ireland unless [save on the basis that] a majority of the people of Northern Ireland freely consented." It is closely related to the proposal for a more forward commitment on Articles 2 and 3. Those are discussed in Annex B. The consent point would also be dealt with in the new opening to paragraph 7 discussed in paragraphs 13 and 14 below.

Paragraph 7

13. The Irish side's proposed new opening to paragraph 7 will not do. Apart from the pedantic point that it mis-describes the AIA, the substantive point is that it introduces persuasion: neither the concept nor the language of persuasion is in the Agreement. This passage provides another point where the Irish side might be brought to agree a more formal acknowledgement of consent. The formula in JD.14 that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland is AIA language, and as such doubly flawed (intentionally so as to make it compatible with the Irish constitution):

- status is undefined (the UK is mentioned nowhere in JD.14)

- "would" means that the sentence is no more than a recognition of a reality, not a statement of principle.

14. A possible reformulation of the opening of this paragraph might be this:

"Both Governments affirm that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support legislation to give effect to that wish; acknowledge that this is not the present wish of such a majority; and agree that it would be wrong to seek to establish a united Ireland save on the basis that such a majority freely wished for and consented to it. The Taoiseach believes that this statement should relieve the continuing uncertainties and misgivings..."

The first two limbs of this formulation reflect the AIA; the third is an advance on it and would nail down what the Irish side imply but never quite say. It would be a considerable reassurance to the Unionists, and would formally dissociate the Irish Government from the "armed struggle".

15. The British side has also proposed a major change at the end of paragraph 7 concerning Articles 2 and 3. This is discussed in Annex B.

Paragraph 9

16. The British proposal to add a reference to "the Northern Ireland constitutional parties through the Talks process" is Molyneaux-inspired and highly desirable. It is not essential.

Paragraph 10 and 11

17. We should continue to press the removal of these paragraphs; though the Prime Minister acknowledged in Dublin the reality that the Irish Government could announce and establish a permanent Irish Convention unilaterally. In any

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event HMG would have no role in respect of it. (Accordingly the analogy the Taoiseach sought to draw with the Convention established in Northern Ireland is bogus.)

British new paragraph 10

18. The introduction of this paragraph renders unnecessary the need for an Irish Convention, because Sinn Fein could meet HMG (and the Irish Government?) within 3 months of a demonstrated end to violence. We want it included in any event. It formalises what is now known to have been said to the Provisionals privately in the message despatched on 5 November.