

PRIME MINISTER

COPY NO OF 8.

JOINT DECLARATION INITIATIVE

Developments

1. There have been important developments in the Joint Declaration Initiative (JDI) since the Ministerial Group last discussed it on 23 November. (The Group also met on 29 November to consider the terms of my Statement that afternoon on the Government's indirect contacts with the Provisional Movement.)

2. These developments include:

- the Irish Government's adverse reaction to the rival British Version which Sir Robin Butler conveyed to the Taoiseach in Dublin on 26 November;
- the exacerbation of Irish suspicions of our attitude to the JDI occasioned by what the Irish side were told then, and learned subsequently, about our indirect contacts with the Provisionals. This fed some hostile and unhelpful briefing;
- further consultations with Mr Molyneaux, in which you, Michael Ancram and I all took a hand - as did Archbishop Eames - led to a significant change in his attitude to the JDI. He made a number of textual suggestions. But he registered strong resistance to the inclusion in the text of paragraphs 10 and 11 in which the Taoiseach announces the establishment in the Republic of a

permanent Irish Convention. Subject to these points, he said he would 'not expostulate' if the latest Irish version were adopted;

- resulting notification to the Irish Government, at the Heads of Government meeting in Dublin on 3 December, that we were now able to negotiate on their text, though substantial changes in it were needed.

3. At the meeting in Dublin on 3 December you secured the Taoiseach's agreement in principle that the Joint Declaration, originally conceived as an avowedly nationalist-flavoured text, would need to be seen as fair and equitable by both communities in Northern Ireland. Against that background you made clear the need:

- to include a reference to the constitutional guarantee;
- to ensure that the reference to self-determination in paragraph 4 is consistent with that guarantee;
- to include a more explicit reference to Irish Government willingness, as part of an overall settlement, to reform the Irish Constitution;
- to reflect more openly in the text what the Irish Government repeatedly say in private: namely that they accept that a united Ireland could not be established save with the consent of a majority of the people of Northern Ireland;

- to remove from the JD the reference to the Irish Government's decision to establish a permanent Irish Convention.

4. It was finally agreed in Dublin that officials, led by Sir Robin Butler and Mr Dermot Nally respectively, would meet early this week to carry this work forward. They met in London yesterday, and the attached text is what they have agreed should be put to Ministers on each side. The passages underlined indicate the changes then made to the text which was examined in Dublin. (That text, JD14, was Annex B to the paper which the Ministerial Group considered on 23 November.) I believe we should propose some further textual adjustments, as set out in Annex A to this minute.

The provisionally negotiated text (JD15)

5. As will be seen the text now:

- includes the constitutional guarantee, either in paragraph 2 or paragraph 4. The Irish side believe strongly that it should be included in paragraph 2. They see paragraph 4 (which is put into your mouth only) as the British Government holding out an olive branch to nationalists, and thus stopping the violence. They argue that the reaffirmation of the statutory guarantee is just as effective, if not more effective, in the joint paragraph 2. I think there is merit in the Irish side's argument, and think it right to assert the guarantee early and accordingly would be content if the

reaffirmation of the statutory constitutional guarantee were in paragraph 2. The text will in any event have to be read as a whole;

- includes, in paragraph 4, wording on self-determination which makes clear that if it is the wish of the people of the island of Ireland to bring about a united Ireland then it is for them and them alone, by agreement between the two parts respectively, to achieve it on the basis of consent, freely and concurrently given, North and South;
- includes, in the middle of paragraph 5, the most forward statement yet on the part of the Taoiseach on the need for the consent of a majority of the people of Northern Ireland. (The Anglo-Irish Agreement says only that a change in Northern Ireland's status, which is deliberately not defined, would only come about with consent. The word "would" was used intentionally so that it could be read as no more than a recognition of reality, rather than a statement of principle);
- has, in paragraph 7, a conditional commitment by the Irish Government to put forward and support proposals for a change in the Irish Constitution which would reflect fully the principle of consent in Northern Ireland.

6. Paragraph 12 is new and was volunteered by the British side. It formalises what has been said elsewhere about our response to an IRA cessation of violence, included in the message conveyed to them on 5 November. In proposing this paragraph we argued that the references to the permanent of Irish Convention (in paragraphs 10 and 11) were unnecessary and the Irish side have agreed to consider removing these paragraphs.

7. The last sentence of paragraph 12, which says that the Irish government would also respond to an established cessation of violence by making "arrangements which would permit Sinn Fein to enter into political dialogue", is intended to pave the way for a later announcement by the Irish Government of the establishment of a Convention as a separate initiative of their own. As such, it would be a matter for the Irish Government and would be taken after the Joint Declaration had been made, and only if it had by then become clear that it had been followed by a cessation of violence. The British Government would not therefore be party to the establishment of the Convention, have any role in respect of it or be under any obligation to respond to its work. But we would need to make clear, in answer to questions, that the Taoiseach had informed us in advance of his intention to establish the Convention in the event of their being a cessation of violence, in furtherance of its statement at the end of paragraph 12.

8. The current text also incorporates most of the textual suggestions made by Mr Molyneaux.

Assessment

9. The Joint Declaration is not without risks. If it is followed by a cessation of violence it will be claimed by Hume and Adams. In any event, we may be accused not only of gullibility but possibly of perfidy. It may be said we have negotiated with the IRA and, even though that is untrue, the charge may be believed by some. Even if we succeed in retaining Mr Molyneaux's acquiescence, some in the unionist community will react badly and characterise the text as a further concession to nationalism. This is so even though the text contains advances from the Taoiseach in acknowledging possible faults in the Irish system, in accepting the consent principle and in giving a conditional commitment to constitutional reform. The Joint Declaration may well disturb the Ulster Unionists' attitude to the Talks process. At present they are keen to proceed with it, albeit they favour limiting it to Strand I. In any event, the Government would remain committed to the Talks process and would encourage others to renew their dedication to it.

10. Nevertheless, peace properly attained is worth some risk. I believe, subject to the amendments in Annex A, the Joint Declaration is now viably drafted and that there is considerable advantage in its being made, whether or not confidence can be placed in the hopes the Taoiseach has entertained that it will lead to a cessation of violence. It seems clear that, excited by the Hume/Adams initiative, and by the Taoiseach's own well-publicised preoccupation with "peace", the Provisional Movement retain hope of securing some advance on their political agenda. They are

unlikely to face up to the difficult and risky decisions for involved in ending their campaign while those hopes remain. If the two Governments make the Joint Declaration, and Year. secure John Hume's support, as both Governments will work to achieve, it will be clear to the Provisionals that they have reached the end of the line, and that no further movement from the Governments will be forthcoming. played down

publicly. The meeting should not state up expectations of 11. Moreover, even if it did not take the trick, the making of the Joint Declaration should free the two Governments to concentrate on the Talks process, which the Irish Government has in effect put to one side in recent weeks, putting little further pressure on the Provisional Movement. more than 24 hours

notice, when the Declaration would be made. If the 12. If it is agreed to proceed with the Joint Declaration we shall need to carry Mr Molyneaux with us, and to take other steps at the appropriate time to secure as much support or acquiescence as we can, particularly in Northern Ireland. (I attach at Annex B a handling plan.) I believe we shall need to show him the text, and you may wish to do this, the yourself, as being close to finalised, explaining how far, with his help, we have been able to improve it. We shall not invite further textual suggestions. It will be necessary to explain to him that while we hope to secure the removal of paragraphs 10 and 11, the Irish Government have in mind a separate unilateral announcement of the permanent Irish Convention. It would help if we also said to Mr Molyneaux that we propose, before Christmas, to make clear that our consultations on the Select Committee will be

on the footing that the Government now believes the time for a Northern Ireland Select Committee has come, and that we envisage inviting the House to agree to this in the New Year.

13. On this basis, it is envisaged on the Irish side too that your meeting with the Taoiseach in Brussels, in the margins of the European Council, should be played down publicly. The meeting should not stoke up expectations or fears about the progress which is being made. On the assumption that, following the Brussels meeting, we remain on track it is envisaged that you and the Taoiseach might hold a further meeting in London next week, ideally a little earlier than the media expect and with no more than 24 hours notice, when the Declaration would be made. If the Ministerial Group approve this approach you may wish to report the matter in general terms to Cabinet and secure their endorsement for what is proposed.

14. I am sending a copy of this minute to the Foreign and Commonwealth Secretary, the Chancellor of the Exchequer, the Home Secretary, the Defence Secretary and the Attorney General as well as to Sir Robin Butler.