

## Textual Comments

2.7 is not strictly accurate. (Think about it. SF did not directly endorse the British guarantee). The participants in the Agreement noted the British Government's undertaking to incorporate in British legislation the constitutional guarantee that etc., while repealing the Government of Ireland Act, 1920, and the Irish Government's redrafting of principally Articles 2 and 3 of the Irish Constitution to remove any territorial claim.

2.8 - Account here is also too abbreviated. Suggested redraft 'The 1998 Agreement also provided for the establishment of the institutions etc.' They were not established till December 1999.

4.9 - I would put more positively: 'The 1998 Agreement provides that unification can only happen with consent both north and south'. It is not just 'our conclusion'; 'it is clear that'. There is no dispute whatever about the point. Suggested redraft: 'To allow a united Ireland to come into being'. Just as the Good Friday Agreement superseded the Anglo-Irish Agreement, so the agreements and perhaps treaty that would lead to a united Ireland would take from the GFA what was required at the time, as the GFA did with the AIA, and reincorporate it. Any political agreement(s) setting up a united Ireland would be of far wider scope than the GFA, and go far beyond the limited indications contained in the GFA.

4.10 - 'Our conclusion is that' is unnecessarily weak. 'It is clear that' means there can be no argument about it, which is the position.

4.11 - Add a final sentence: 'However, the test for the Secretary of State that 'it appears likely to him that a majority of those voting' etc. clearly implies that there is a majority in favour of change (i.e. fairly consistently c.55% plus) rather than that opinion is absolutely evenly divided (50%+1), even should that be the eventual outcome of an actual poll.

11.40 & 12.43 - I strongly agree with the way these paragraphs are formulated.

1.6 -

2.7 - All reference to unionist resistance to Home Rule is omitted. Suggest 'Ireland's bid for self-determination, to which armed resistance was threatened in Ulster...'

2.9 - on abolition of PR in NI, perhaps explain 'in both cases primarily to prevent divisions on labour lines within the unionist camp'.

2.10 - 'to overturn the Treaty' is more accurate than 'repeal', which implies a parliamentary or negotiated process. Amplify 'the same (civic) rights and status as Commonwealth citizens'.

2.20 - Add: 'However, coming back into government, Fianna Fáil faithfully worked the Anglo-Irish Agreement'.

2.22 - Text completely overlooks the separate Irish back-channel to the leadership of the Republican Movement, which provided one of the main inputs into what eventually became the Downing Street Declaration. It will be recalled that the British/SF talks ended in public acrimony in late November 1993. 'The British Government and the Irish Government had engaged unofficially and separately with the leadership of the Republican Movement, mainly through third parties'. (Note: in talks, mainly with Martin McGuinness between October 1992 and the IRA ceasefire, end-August 1994, the special adviser to the Taoiseach (Reynolds) was not a 'third party'. Fr. Alex Reid was.

2.29 - The following should be added: 'The continued EU membership of both Britain and Ireland, while not stipulated, is taken as a given in the text of the Good Friday Agreement'. Also add word to read NI's 'automatic return to the EU'.

2.77 - Some reference might be made to the process of German unification (as an example of concurrent self-determination, even if



anything, Brexit may have pushed things in a more rather than less centralized direction.

5.23 - 'Consensual spirit' rather over-idealizes GFA. There was not much consensual about the negotiations

7.66 - While there can only be one capital - and expense would rule out building a new one - capital functions can be shared. For instance, in the absence of devolution or federalism, some parliamentary sessions could take place in Stormont, and as in Bonn post- German reunification some Departments could be based there.

7.69 - While there might formally be a new constitution, it is probably better to build on and adapt perhaps radically the existing one. The 1937 Constitution incorporated many of the features of the 1922 one. There is now a large amount of accumulated jurisprudence which it would be a pity to lose.

8 -                                 - The provision in the GFA for calling a border poll is a good one. The only circumstance in which the SoS should consider exercising the discretionary power is if there is a cross-community vote in the Assembly calling for this to happen, which is not to say that even in those circumstances it should automatically follow. In all other circumstances, the SoS should resist demands for a border poll, unless the condition for a mandatory one is fulfilled, honestly assessed. A border poll held in the absence of that for tactical reasons, as in 1971, should at all costs be avoided.

9 -                                 - There is nothing to prevent the parties and governments agreeing a specific procedure at the time. A former UK Permanent Representative to the EU told an audience during the Kilkenny Festival three years ago that Mrs. Thatcher, then leader of the Conservative Party in opposition, in 1975 advocated a second referendum, in the event that there was a vote to leave the EEC. This would have been for the purpose of putting the terms and conditions of exiting the EEC to the people to confirm that they wanted to proceed



