



# An Chartlann Náisiúnta National Archives

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AN ROINN GNÓTHAÍ EACHTRACHA  
DEPARTMENT OF FOREIGN AFFAIRS

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Taoiseach

19 January 1998

Dr. Martin Mansergh,  
Special Adviser to the Taoiseach,  
Department of the Taoiseach,  
Merrion Street,  
Dublin 2.

M. Mansergh may well  
have shown you these  
separately.

*[Handwritten signature]*

21-1-98

Dear Martin,

Thank you for sending me copies of your latest drafts on Articles 2 and 3, and also on Article 1 of a new British/Irish Agreement.

We have been considering the new drafts at official level here, and would wish to suggest some revisions. These are enclosed, and I hope they are found helpful.

With best wishes.

Yours sincerely,

*[Handwritten signature]*

Dermot Gallagher  
Secretary  
Anglo-Irish Division

cc: Mr. Paddy Teahon  
Mr. Tim Dalton

19 January 1998

**Constitution: Possible redraft**

**Article 2**

The right to belong to the Irish nation, in all the diversity of its identities and traditions, is the entitlement of every person born on the island of Ireland, which includes its islands and the territorial seas, as well as of persons who are entitled to be citizens of Ireland by reason of descent or naturalisation.

**Article 3.1**

It is the firm will of the Irish nation to unite all the people of the island of Ireland in harmony and friendship, recognising that a united Ireland can only be brought about by exclusively peaceful means and with the consent of a majority of the people, democratically expressed, in each of the jurisdictions in the island.

**Article 3.2**

Until a united Ireland can be achieved, the laws enacted by the Parliament established by this Constitution and the executive powers of Government shall have the same area and extent of application as the laws of Saorstát Éireann and the like extra-territorial effect. Bodies may be established with the power to implement, in all or part of the island of Ireland, policies or decisions agreed jointly by the authorities in each jurisdiction in the island.

**Other Article**

**Article 9.1.2**

Subject only to such limited exceptions as may be prescribed by law and as may be consistent with Article 2, any person born on the island of Ireland shall be entitled to hold Irish citizenship. The acquisition otherwise of Irish citizenship, and its loss, shall be determined by law.

**Possible revised Article 1 of a new British-Irish Agreement: Comments**

- (i) No comment.
- (ii) The phrase beginning “both as.....” may not be necessary. “Accordingly” or “in that context” would suffice. The only relevant “previous obligation” of a legal character is in the AIA, which this is replacing. A preamble might mention the Joint Declaration.

It might be appropriate at this point to specify that the union is with Great Britain.

- (iii) The references to Great Britain could be removed. As in the Framework Document, the existence of the aspiration of a substantial minority to a united Ireland could be inserted.
- (iv) It is questionable whether most of this is necessary. To ratify the Agreement both would need to make whatever internal changes were required. Citizenship might be treated separately.
- (v) No comment.
- (vi) In a joint text this is imposing an obligation on one side only. It might also be helpful for nationalists, and unionists, to see a balancing reference to the situation in a united Ireland. A redraft is proposed.
- (vii) This language is of a general, non-operational character and might better be placed in a preamble.

### Possible redraft of Article 1

**NB: Changes/additions in bold, omissions in square brackets.**

#### Both Governments

- (i) recognise that it is for the people of the island of Ireland alone, without external impediment, to exercise their right of self-determination on the basis of agreement between them and of consent freely and concurrently given, North and South;
- (ii) **accordingly** recognise [,both as a freely accepted expression of that right, and as a reflection of previous obligations entered into by both Governments ] the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its constitutional status, whether they prefer to continue to support the Union **with Great Britain** or a sovereign united Ireland;
- (iii) recognise that the present wish, freely exercised, of a majority of the people of Northern Ireland is to maintain the Union [with Great Britain] and, accordingly, that Northern Ireland's current constitutional status as part of the United Kingdom [with Great Britain] reflects and relies upon that wish;
- (iv) **acknowledge that a substantial minority of the people of Northern Ireland legitimately wish for a united Ireland;**
- (v) **affirm** that, if in the future, the people of the island of Ireland exercise their right of self-determination on the basis set out in sections (i) and (ii) above, to bring about a united Ireland, it will be a binding obligation on both Governments to introduce and support in the respective Parliaments legislation to give effect to that wish;
- (vi) affirm that, **whether** [for as long as] the democratic wish of the people of Northern Ireland is for no change in its present status, **or for a united Ireland**, the exercise of **the powers of the sovereign government** [[the jurisdiction of the British Government] shall be with rigorous impartiality on behalf of all the people of Northern Ireland in the

diversity of their identities and traditions and shall be founded on **the principles of** full respect for, and equality of, civil, political, social and cultural rights, of [on] freedom from discrimination for all citizens and of [on] parity of esteem and just and equal treatment for the identity, ethos, and aspirations of both communities;

- (vii) **recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the constitutional status of Northern Ireland.**