

The 1998 Belfast/Good Friday Agreement and treaty amendment: an example of the interplay between a treaty and a non-legally binding agreement

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The significance of the [1998 Belfast/Good Friday Agreement](#) in bringing much-needed peace and stability in Northern Ireland hardly needs to be emphasised. Nevertheless, several periods of suspension of the operation of Northern Ireland's institutions in the years since the conclusion of the Agreement have resulted in increased calls for its reform. A recommendation for reform of the Agreement was also recently made in a [report by the United Kingdom Parliament's Northern Ireland Affairs Committee in November 2023](#), as part of its inquiry into the 'effectiveness of the institutions of the Belfast/Good Friday Agreement', taking into account the withdrawal of the UK from the European Union and the inclusion of a Protocol on Ireland/Northern Ireland in the [2018 Withdrawal Agreement](#). Such reform raises, among other issues, important questions regarding the relationship between treaties and non-legally binding agreements. This is because of the 'hybrid nature' of the 1998 Belfast/Good Friday Agreement: it consists of 1) a bilateral treaty concluded between the UK and Ireland ('[British-Irish Agreement](#)', '[BIA](#)') and 2) a non-legally binding agreement between the UK government, the Irish government, and political parties in Northern Ireland ('[Multi-Party Agreement](#)'). The bilateral treaty was signed on the same day that the Multi-Party Agreement was reached, and it entered into force on 2 December 1999. The blog post will focus on the possible need for amendment of the BIA, in view of the intended reform of the institutions created by the 1998 Belfast/Good Friday Agreement.

The relationship between the BIA and the Multi-Party Agreement

The BIA meets the criteria for being a treaty as stipulated in Article 2(1)(a) of the [1969 Vienna Convention on the Law of Treaties \(VCLT\)](#), the body of rules of international law governing treaties between States. However, pursuant to its Article 4, the VCLT is non-retroactive and applies only to treaties which are concluded by States after its entry into force with regard to such States, without prejudice to the application of any rules set forth in the VCLT to which such treaties would be subject under international law, independently of the VCLT. Therefore, the VCLT applies to the BIA only to the extent that the former reflects customary international law, since [Ireland acceded](#) to the VCLT only in 2006. The BIA is complemented by four other treaties ([see 2224 UNTS 333, 383, 399, 395](#)) which were concluded on 8 March 1999, even before the entry into force of the BIA.

By contrast, the Multi-Party Agreement is not a treaty, as it was not intended to create legally binding international obligations. Therefore it is not regulated by the VCLT. Nevertheless, the VCLT could apply to it to some extent by analogy. Such non-legally binding agreements (also called, among others, 'political agreements' or 'gentlemen's agreements') are often used in relations between States and establish commitments of a political or moral nature, but not legally binding obligations (see [IAJC, 'Guidelines of the Inter-American Juridical Committee on Binding and Non-Binding Agreements'](#), Guideline 1.3). The Multi-Party Agreement is structured around a three-stranded approach, that is to say the need to establish political institutions within Northern Ireland (Strand One), the relationship between Northern Ireland and Ireland (Strand Two, the North-South Dimension) and the relationship between Ireland and Britain (Strand Three, the East-West dimension) (see [Harvey](#), 23).

As already stated, the 1998 Belfast/Good Friday Agreement consists of the British-Irish Agreement and the Multi-Party Agreement, both of which are annexed to the other. The BIA contains only four articles and therefore seems to constitute to some extent a

framework agreement. It includes fundamental points of the Belfast/Good Friday Agreement and is meant to be complemented by other instruments: in particular, by the Multi-Party Agreement, but also by the above-mentioned implementing agreements of 8 March 1999. Furthermore, each instrument refers to the other. For instance, the BIA refers to the Multi-Party Agreement in its preamble, where the UK and Irish governments welcome 'the strong commitment to the Agreement...by themselves and other participants in the multi-party talks' and note its importance. Crucially, Article 2 of the BIA provides as follows:

The two Governments affirm their solemn commitments to support, and where appropriate implement, the provisions of the Multi-Party Agreement. In particular there shall be established in accordance with the provisions of the Multi-Party Agreement immediately on the entry into force of this Agreement, the following institutions:

- a North/South Ministerial Council;
- the implementation bodies referred to in paragraph 9 ii) of the section entitled "Strand Two" of the Multi-Party Agreement;
- a British-Irish Council;
- a British-Irish Intergovernmental Conference.

Notable is the difference in the terms used between these two sentences of Article 2. The first sentence, in which the parties 'affirm their solemn commitment to support, and *where appropriate* implement' the Multi-Party Agreement, uses terms (such as the term 'commitment') that appertain to a non-legally binding agreement, thus reflecting the non-legally binding character of the Multi-Party Agreement. The second sentence, using the term 'shall' which is proper to a treaty (see [Aust](#), 800; [Hill](#), 47), indicates that the establishment of the above-mentioned institutions, in accordance with the provisions of the Multi-Party Agreement, is a legally binding obligation.

Hence, it may be argued that Article 2 has a dual purpose. First, it constitutes a form of *renvoi*, where the BIA refers to the Multi-Party Agreement for certain issues which are not regulated in the former. Non-legally binding agreements often supplement treaties or provide interpretative guidance for their provisions (see [IAJC Guidelines](#), 125; [Bradley, Goldsmith, Hathaway](#), 1290); the Multi-Party Agreement, being annexed to the BIA, constitutes context of the latter for the purpose of its interpretation, pursuant to Article 31(2) of the VCLT (see also, in this regard, [Dillon and others' applications for judicial review](#), [533]). Therefore, the Multi-Party Agreement provides the specific details and arrangements for the institutions established by the BIA. Second, Article 2 lends legally binding character to the obligation for the establishment of the Strand Two and Three institutions. Thus, it is clear that the BIA and the Multi-Party Agreement are interrelated. Moreover, it might be argued that their relationship as described above provides an answer to the question recently asked in the context of the work of the International Law Commission (ILC) on non-legally binding international agreements, namely, 'whether or to what extent a non-legally binding agreement could be given legal effect as a result of a direct...reference thereto in a treaty...' ([Forteau](#), 359).

The question of whether an amendment of the BIA is required in case of reform of the institutions created by the Belfast/Good Friday Agreement

An important question regarding the relationship between the BIA and the Multi-Party Agreement is the following: what are the consequences of a possible reform of the institutions created by the Belfast/Good Friday Agreement on the BIA, and more specifically, will an amendment of the BIA be required?

It is reasonable to argue that the choice of a non-legally binding agreement to set out the institutions created by the 1998 Belfast/Good Friday Agreement in more detail is also due to the understanding of the parties to the BIA that the institutions created by the Multi-Party Agreement are dynamic and may need to evolve over time. Non-legally binding agreements do not require formalities and therefore are much easier to amend. Moreover, the relationship between the BIA and the Multi-Party Agreement partly consists of a *renvoi*: the BIA refers to the Multi-Party Agreement for its specifics, therefore it could be argued that by Article 2 of the BIA, the two States parties commit to implement the Multi-Party Agreement as reviewed since 1998. It can be further argued that the BIA itself is quite broad and therefore flexible enough to generally accommodate changes to the Multi-Party Agreement without the need for the BIA itself to be formally amended.

A related issue in this regard is whether there are limits to the extent that the Multi-Party Agreement can be reviewed. Could it be the case that if certain reforms of the Multi-Party Agreement are contrary to the BIA they cannot be effected unless the BIA is amended? There is a relevant section in the Multi-Party Agreement, entitled 'Review procedures following implementation', which provides:

5. Each institution may, at any time, review any problems that may arise in its operation and, where no other institution is affected, take remedial action in consultation as necessary with the relevant Government or Governments. It will be for each institution to determine its own procedures for review.

6. If there are difficulties in the operation of a particular institution, which have implications for another institution, they may review their operations separately and jointly and agree on remedial action to be taken under their respective authorities.

7. If difficulties arise which require remedial action across the range of institutions, *or otherwise require amendment* of the British-Irish Agreement or relevant legislation, the process of review will fall to the two Governments in consultation with the parties in the Assembly. Each Government will be responsible for action in its own jurisdiction.' (emphasis added)

These provisions are of course not legally binding; however, they provide some guidance as to the intentions of the parties. If it is accepted that the VCLT provisions on treaty interpretation could apply by analogy to non-legally binding agreements, an interpretation of the above-mentioned paragraphs in accordance with the ordinary meaning to be given to their terms in their context and in light of the object and purpose of the Multi-Party Agreement (see Article 31(1) of the VCLT) reveals that certain changes to the Multi-Party Agreement may require amendment of the BIA, without however clarifying what these changes will be. It might be argued that an amendment of the BIA will be required if the change in the Multi-Party Agreement is contrary to the provisions of the BIA. This will be the case particularly if there is a change in the institutions listed in Article 2 of the BIA (see also Johnston, [here](#)), the establishment of which, in accordance with the provisions of the Multi-Party Agreement, constitutes a legal obligation for Ireland and the UK. Nevertheless, the use of the expression 'or otherwise require' and the formulation of paragraphs 5-7 do not seem to exclude the possibility that, under certain circumstances, an amendment of the BIA might be required for each of the aforementioned cases stipulated in those paragraphs (and therefore also for the reform of institutions under Strand One) if such reform is contrary to the BIA. However, on the basis of paragraphs 5-7 it is not plausible that minor changes, particularly of a single institution from those mentioned, will require amendment of the BIA.

Of course, the determination of what might be contrary to the provisions of the BIA will require interpretation of the terms of the BIA in their context (which includes annexes to the BIA such as the Multi-Party Agreement), in good faith and in light of the object and purpose of the BIA (see also Johnston, [here](#)).

Conclusion

The reform of the 1998 Belfast/Good Friday Agreement raises complex issues regarding the relationship between treaties and non-legally binding agreements. It could be argued that the BIA refers to the Multi-Party Agreement as amended in the last 27 years. An amendment of the BIA will be required if the change in the Multi-Party Agreement is contrary to the provisions of the BIA. This will be the case particularly if there is a change in the institutions listed in Article 2 of the BIA, the establishment of which, in accordance with the provisions of the Multi-Party Agreement, constitutes a legal obligation for Ireland and the UK. However, even reforms to Strand One institutions might require amendment of the BIA if they could be considered contrary to its provisions as interpreted in light of its object and purpose.

This post is based on the author's article, 'The reform of the institutions created by the 1998 Belfast/Good Friday Agreement and treaty amendment: an example of the interplay between a treaty and a non-legally binding agreement' (2025) 76(3) *Northern Ireland Legal Quarterly* 530.

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