

# **TWENTY-SIXTH AND FINAL REPORT OF THE INDEPENDENT MONITORING COMMISSION**

**2004-2011 – CHANGES, IMPACT and  
LESSONS**

**Presented to Parliament pursuant to the Northern Ireland  
(Monitoring Commission etc.) Act 2003**

**Ordered by the House of Commons to be printed on 4 July 2011**

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## 1. INTRODUCTION

1.1 This is our Twenty-Sixth and final Report. On 4 November 2010 the British and Irish Governments announced that they would bring the IMC to an end after we had presented a last report on our work, including lessons learnt. The text of the subsequent letter requesting this report is in Annex I.

1.2 This report therefore differs from all our previous ones. Instead of addressing paramilitary activity or security normalisation it describes our functions and what has changed since we were formally established in January 2004<sup>1</sup>. More importantly, we describe how we worked, assess our strengths and weaknesses, and give our view of the contribution we have made over the seven years. This is not simply for the record, still less to claim credit for things which others have achieved. We offer it in the hope that what we say might give insights to those in the future who may be called upon to monitor terrorist campaigns or peace processes elsewhere in the world. We recognise that every situation is unique and that what works in one place cannot necessarily be transferred to another. Nevertheless, we think there are lessons to be drawn from our experience. In response to the request from the two Governments we set them down here as we see them and hope that they will be useful to others dealing with such problems in other places and at other times.

1.3 The report is divided into four parts. The first is about the IMC and for the record - brief, factual and supported by annexes:

Part A            The nature and reports of the IMC

The second compares the situation when we started in 2004 with the one as we close in 2011:

Part B            Then and Now: 2004 - 2011

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<sup>1</sup> We had met in shadow form from October 2003. We discuss the value of this preparatory period in paragraph 10.1 below.

The third and fourth parts are more reflective. In them we offer our own personal assessment of what we have done:

Part C            How the IMC has operated

Part D            The contribution of the IMC

We list in Annex XIV the lessons which we think arise from these two parts.

## **2. THE BACKGROUND, FUNCTIONS AND POWERS OF THE IMC**

2.1 The IMC was founded on an International Agreement between the British and Irish Governments signed in November 2003. This Agreement stemmed from the Joint Declaration of the two Governments in April of that year and was given statutory effect in both jurisdictions. The IMC was established when the Agreement was brought into force on 7 January 2004. The text of the Agreement and references to the legislation are in Annex II.

2.2 The IMC was set up at a difficult time in Northern Ireland. The Belfast Agreement of 1998 was over five years old. Rather than delivering a clear way forward it had led to a very complex political situation. The institutions based upon it had almost collapsed more than once. There was considerable mistrust between the political parties, in some cases deep and going to the fundamental question of whether the deal embodied in the Agreement would be fulfilled. A key factor was the security situation. Paramilitary groups had not decommissioned their weapons and, although not generally attacking the organs of the state, they were still engaged in illegal activity. The links that some had with political parties had not been severed. These had become a key political issue and the Joint Declaration of April 2003 was designed to rebuild confidence and to facilitate a way forward. It spoke of paramilitarism as being at the heart of “the erosion of the confidence and trust of law-abiding people” and referred to the need for “an immediate, full and permanent cessation of all paramilitary activity”<sup>2</sup>. The IMC was thus launched to address a key current issue at a time when the long-term viability of the Belfast Agreement and the future generally was uncertain, and when the focus was on the need to re-establish confidence across the whole community.

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<sup>2</sup> Joint Declaration by the British and Irish Governments, April 2003, paragraphs 3 and 13 respectively.

### 2.3 The IMC has had three functions:

- To monitor and report on the continuing activities of paramilitary groups (Article 4). Under the Agreement these reports had to be at six-monthly intervals and neither the two Governments nor the IMC could delay them. In addition, the Governments could seek, and the IMC on its own initiative could present, ad hoc reports at other times;
- To monitor and report at six-monthly intervals on the security normalisation measures taken by the British Government in Northern Ireland (Article 5); the British Government could also seek ad hoc reports under Article 5 at other times;
- To consider and report on claims from any party in the Northern Ireland Assembly that a Minister or another party was not committed to democratic means or was not following the correct standards of behaviour (Article 6, on which see Annex VI).

2.4 Though the functions are distinct they are in practice inter-related. All three are governed by the objective of the IMC in Article 3: “to carry out [its functions] with a view to promoting the transition to a peaceful society and stable and inclusive devolved Government in Northern Ireland.”

2.5 When reporting under Articles 4 and 6 the IMC has been empowered to make recommendations about remedial action or, in appropriate circumstances, action it thought should be taken by the Northern Ireland Assembly. It is subject to a number of requirements to make itself accessible, to ensure the confidentiality of the information it holds, and to avoid prejudicing legal proceedings or putting at risk anybody’s life or safety. The two Governments conferred on the IMC immunities and protections normally given to international bodies<sup>3</sup>.

2.6 The two Governments are required to make the reports public.

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<sup>3</sup> Annex II below also sets out the legal basis of these immunities in the two jurisdictions.

2.7 The British Government is required by the UK legislation to present annual reports to Parliament on the activities of the IMC. These reports are listed in Annex II. There is no equivalent requirement in Ireland.

### **3. THE IMC's REPORTS**

3.1 The IMC has presented twenty-six reports about which brief details are in Annex III. In summary:

- Twenty were on paramilitary activity. Of these, fourteen were on the activity of all paramilitary groups and were presented at the specified six monthly intervals; three were ad hoc ones on the IMC's initiative; and three were ad hoc ones at the request of the two Governments;
- Five were on security normalisation. The first was at the request of the British Government to provide a benchmark of security activity in Northern Ireland. The other four monitored the implementation of the security normalisation programme which ran from 1 August 2005 to 31 July 2007;
- This final ad hoc report, which is at the request of the two Governments.

3.2 We received no claims, and so presented no reports, under Article 6. Annex VI explains what we did to prepare for the eventuality of claims.

3.3 Appropriate arrangements are being made for the retention of the IMC's archives.

### **4. THE MEMBERSHIP, STAFF AND COST OF THE IMC**

4.1 The IMC consists of four Commissioners, two appointed by the British Government (of whom one has to be from Northern Ireland), one by the Irish

Government and one by both Governments on the nomination of the US Government. There is no chair.

- 4.2 The four Commissioners throughout the existence of the IMC have been (in alphabetical order) Lord Alderdice, Joe Brosnan, John Grieve and Dick Kerr. Annex IV contains biographical notes on the Commissioners.
- 4.3 The Commission appoints its own staff; information and biographical notes are also in Annex IV.
- 4.4 Over seven and a quarter years the IMC has cost in total some £6.2 million, an average of about £860,000 per year. Fuller information is in Annex V. As noted there, the IMC's annual accounts have been reproduced in full in the reports on the IMC's activities published by the UK Government, which are listed in Annex II.

## **5. PARAMILITARY ACTIVITY AND THE POLITICAL CONTEXT 2004 – 2011**

- 5.1 Our successive reports on paramilitary activity under Article 4 have traced major changes<sup>4</sup>. In parallel with them the political situation in Northern Ireland has been transformed.
- 5.2 By the time we started in January 2004, six years after the Belfast Agreement, there were relatively few attacks on the security forces but paramilitary groups were still fully intact and violence was still widespread. There had been ten paramilitary murders in the year before we were set up and there were four more in our first twelve months. In those same first twelve months, over two hundred people were victims of paramilitary shootings or assaults; exiling, intimidation and extortion were common; no paramilitary group had completely decommissioned its weapons, and most had not even started and showed little intention of doing so. On the political front, the Northern Ireland Assembly had been suspended since October 2002 and with no prospect of its early resumption devolved government looked distant.
- 5.3 The seven years since then have seen major adverse paramilitary events: twenty-one murders; over eight hundred reported casualties of paramilitary violence; the robbery at the Northern Bank in December 2004; the feud between the Ulster Volunteer Force (UVF) and the Loyalist Volunteer Force (LVF) in 2004-05 in which the UVF murdered five people; the resurgence of serious violence by dissident republicans in 2009 and 2010 in which four have been murdered.
- 5.4 But other events over this period were positive: the steps starting with the statement by the President of Sinn Féin in April 2005, followed by the Provisional Irish Republican Army (PIRA) statement in July 2005, PIRA decommissioning in September 2005 and Sinn Féin's acceptance of policing

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<sup>4</sup> See paragraph 3.1, first indent, above and Annex III below.

and justice in January 2007; the UVF's and Red Hand Commando's (RHC) announcement of the end of their campaign in May 2007, and the Ulster Defence Association's (UDA) similar announcement in November that year; the LVF's announcement that it was standing down in October 2005; between June 2009 and February 2010 the UVF/RHC, the mainstream and South East Antrim element of the UDA, the Irish National Liberation Army (INLA) and the Official IRA all decommissioned their weapons.

5.5 Figures on victims of paramilitary violence are only one part of the picture but they are a useful indicator. In our first year, each week there were on average four victims of paramilitary violence, some in sectarian incidents. In the last six-monthly period on which we reported the number was about a third of that and none were sectarian. Latterly the violence has been mainly directed against people alleged to be involved in drug dealing or other anti-social behaviour – one amongst many ways in which paramilitaries continued to do what they had always done, namely doing violence to their own communities. One factor during this period has been that, taking assaults and shootings together, until 2010 loyalists have caused more casualties than republicans. Annex VIII illustrates the changing patterns of violence.

5.6 The position as we close is very far from ideal, as we described in our most recent report<sup>5</sup>. Dissident republicans are brutally active, especially against members of the Police Service of Northern Ireland (PSNI) who are at greater threat than they were in 2004 when we first reported. One result is that whereas when we started we observed a scene from which terrorism against the organs of the state had largely disappeared, as we close we see classic signs of insurgent terrorism, albeit confined to the narrow dissident front and quite unlike the "Troubles" in its intensity or, we believe, its potential<sup>6</sup>. Members and former members of all paramilitary groups remain very active in non-terrorist types of crime – a bequest from the Troubles which will dog Northern Ireland for years and will require a substantial continuing effort from

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<sup>5</sup> IMC Twenty-Fifth Report, November 2010.

<sup>6</sup> The term "Troubles" encompasses the period from the opening of terrorist campaigns at the start of the 1970s through until the 1990s.

law enforcement agencies. Despite the major steps which they have taken, neither of the main loyalist groups has been able to articulate clearly how they want to move forward or to recognise, as one day they must, that as paramilitary groups they have neither role nor legitimacy. In contrast to PIRA, loyalist groups are finding it very difficult to contemplate going out of business. Indeed, one striking feature of the changes we have described has been how PIRA, however slowly, transformed itself under firm leadership and has gone out of business as a paramilitary group while loyalist groups, lacking comparable direction, have struggled to adapt.

5.7 In parallel with these changes there have been major political developments. There were abortive talks on devolution running up to December 2004; the conference at St Andrews in November 2006 arrived at an agreement; elections to the Northern Ireland Assembly were held in March 2007, followed by the re-establishment of the Executive in May that year, with justice and policing powers being devolved in Spring 2010. One key factor behind these developments was the gradual removal of paramilitary activity as a cause of friction between Assembly parties, largely as a result of the changes within PIRA.

5.8 These seven years have thus seen a transformation in Northern Ireland politically and, in many but by no means all respects, also with the paramilitaries. The Executive, in which power is shared between parties whom when we started it was difficult to see as partners, has been operating for four years; it does not just manage affairs internally but treats with the UK Government on a par with the Scottish and Welsh devolved authorities and directly with the Irish Government. There will shortly be further elections to carry the Assembly into another term. After less than a year, local control of policing and justice is already taken for granted. The people of Northern Ireland are putting the Troubles behind them and are moving on to build a new future.

5.9 In Part D below we consider whether our work contributed to these changes.

## **6. SECURITY NORMALISATION 2004 – 2007**

6.1 Our monitoring of the security normalisation programme never attracted the same political or public attention as our work on paramilitary activity. It was nevertheless a key part of our role and occupied much of our time in the first three years.

6.2 In this respect too the change, which took place over a much shorter period, has been striking. When we did our first report on the subject in July 2004, as a benchmark against which to map later changes, the British Army had a clearly defined role in certain aspects of law enforcement in Northern Ireland, particularly public order<sup>7</sup>. There had already been significant reductions in the deployment and number of military personnel since the late 1990s but the operational order under which they had functioned since 1969 was still in force. Two matters which were to be elements of the subsequent programme, the demilitarisation of police buildings and counter-terrorist legislation, remained to be tackled. Much still remained to be done with a further aspect of the programme, the development of community-style patterns of police patrolling. For example:

- There were just over 14,100 troops in Northern Ireland occupying 24 bases;
- Personnel were based in 13 police stations and 9 sites were still being used for observation and communications;
- There was a wide range of counter-terrorist powers particular to Northern Ireland, a number of them specifically for the use of the Army.

6.3 The security normalisation programme ran for two years from August 2005 until July 2007. When we completed our monitoring the operational order

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<sup>7</sup> IMC Second Report, July 2004.

had been ended<sup>8</sup>. The military had no continuing role in law enforcement and were no longer visible in border areas. Watch towers and protected installations had gone, as had frequent helicopter flights, and the border was generally apparent only because the style of road signs changed. Thus:

- There were 4,275 troops, under the agreed maximum level of 5,000, occupying 13 bases, also below the agreed maximum;
- No military personnel were based in police stations and all the observation and communication sites had been closed;
- Replacement counter-terrorism legislation had been enacted;
- A police building programme had been funded and launched and patrol patterns were increasingly reflecting the community style of the rest of the UK and of Ireland.

6.4 The ending of the regular military role in law enforcement is now little noticed – itself a mark of how much has changed. But its passing was very significant: it had lasted for thirty-eight years (the longest operation in British military history), had been central to the maintenance of order in the face of the terrorist threat during the Troubles, and had been the source of continuing controversy over that time<sup>9</sup>.

6.5 In Part D below we consider whether our work contributed to the process.

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<sup>8</sup> Our final report on security normalisation was our Sixteenth in September 2007.

<sup>9</sup> Operation Banner: an Analysis of Military Operations in Northern Ireland. This was an internal Ministry of Defence report which became publicly available in July 2007 following an application made under the Freedom of Information Act.

## **7.      THE TEAM**

- 7.1    The British and Irish Governments selected their own appointees and accepted the nominee of the US Government as individuals, not, we understand, on the basis that they would operate successfully as a team<sup>10</sup>. Taken with the absence of a chair, this divergence from modern management theory might be thought risky. In fact, much of what we have been able to offer has flowed from the nature of the team.
- 7.2    We are diverse in our backgrounds; a former Northern Ireland politician and psychiatrist by profession; a former senior Irish civil servant; a former senior British police officer; and the former Deputy Director of the Central Intelligence Agency. All had gained relevant backgrounds in these careers: for example, two in intelligence and counter-terrorism, two with deep knowledge of political affairs in Ireland North and South. All had done a variety of things outside and since these careers. Local and outside perspectives thus complemented each other and the diversity brought with it a range of differences in experience, ways of thinking about problems, knowledge, contacts and standing with others.
- 7.3    We have tried to put this diversity to the maximum use in working our way through the issues we have tackled. With such different mindsets, knowledge and networks of contacts each has been able to complement what the others have brought and we refined our thinking by challenging each other in private discussion. The fact that the IMC was known to contain this range of experience has helped us with many of our interlocutors, including in the US. We have been able to draw on a very wide network of other people who have played an important part in what we have done. Moreover, the diversity underlined our collective impartiality. We are certain that we would have been weaker had we lacked it.

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<sup>10</sup> See Section 4 above and Annex IV below.

- 7.4 Continuity was a further factor. The team has not changed. Seven and a half years is an unusually long time for a group of this kind to stay together, and we are sure that the ability to develop close working and personal relationships over this period has been important.
- 7.5 We draw a further conclusion from this: a team is better than one person. We understand that at one stage thought had been given to an individual monitor but that after consideration it was decided to have a team. We think this was right. Moreover, we recognise that the IMC had to be a team in order to be demonstrably non-partisan. Elsewhere, even in circumstances where it might be feasible to have an individual monitor, we think the nominating authorities should nevertheless consider carefully the strength they could gain by having usable diversity of the kind we describe above.
- 7.6 Diversity and continuity alone are not enough. Any group without a chair might be thought likely to fly apart. In fact, it was the correct decision. In the Northern Ireland context it meant that we were not exposed to the charge that we were dominated by somebody with a particular background, British or Irish, unionist or nationalist. Had the IMC had a chair, it is likely that only the American member could have fulfilled the role in a way which minimised this charge. The absence of a chair did not however mean we were rudderless. It was our common practice to nominate one of our number to lead in meetings with others or to guide discussion amongst ourselves on a particular issue, and we took it in turn to lead as spokesperson at the press conferences we held when each of our reports was published.
- 7.7 Finally, by personal temperament we have all turned out to be consensus-minded. We were reinforced in this instinct by the absence of a chair, which meant that we needed to work constructively together in what we came quickly to see as our joint venture. Divergence of views visible to others, of which a minority report would be the most striking manifestation, would inevitably weaken a monitoring body of our kind. We challenged each other in robust debates, and have profited from them. But while consensus was not our objective, we have always found ourselves able to work through

issues to the point where we could reach not simply an agreed view but one to which all could confidently sign up.

## **8. THE WAY WE WORKED**

8.1 When we started we hoped to find examples of other bodies from whose experience we could learn. We searched hard for relevant models not just in the UK and Ireland but worldwide. We found none although we did identify instances from which we could draw inspiration; as one of us has put it, “there were many ingredients but no recipe”. We accordingly developed our own working methods, drawing on experience where we could find it. We describe them in this section. Some we identified at an early stage, such as the style and format for our reports. Others we developed more slowly. Of these latter, some came by trial and error but many were as a result of discussions amongst ourselves in which we focused exclusively on our methodology. So untried was the task we were engaged in that we continually had to ask ourselves if we should do things differently.

### *A Proactive Approach*

8.2 Underpinning all that we say in the following paragraphs is the fact that we tried throughout to take a proactive approach to our task. In pursuit of our objective in Article 3 we saw ourselves as contributing to the dynamic for change, not as a group which would just react to change as it happened<sup>11</sup>. To be useful we needed to try to influence the behaviour of paramilitary groups and of the political parties and others associated with them. We also needed to try to influence wider opinion about paramilitaries, as a means both of exerting pressure on them to change and of helping people free themselves from the burden which paramilitaries imposed. To do this we had to be ready to challenge attitudes and accepted norms. In our First Report we encapsulated this approach in the challenge we set ourselves:

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<sup>11</sup> Article 3 enjoins us to act “with a view to promoting the transition to a peaceful society and stable and inclusive devolved Government in Northern Ireland.”; see Annex II below.

“To contribute in whatever way we can to the ending of the violence, other criminality and exertion of pressure by or on behalf of paramilitary groups and to help the people of Northern Ireland live their lives untroubled by paramilitary activity”<sup>12</sup>.

### *Independence*

8.3 Independence was a key factor for us. It was repeatedly questioned and we knew that the appearance of “Independent” in our title would cut little ice with many of those we wanted to address. We therefore determined to make it clear from the start. This we did in the statement we issued in March 2004<sup>13</sup>. Our First Report the following month was robustly expressed, and we think it helped us demonstrate that independence at an early stage. We often made the same point to our interlocutors. Some of course never accepted this, but we believe that the majority of people quickly did. As we explain below, the two Governments never tried to interfere in our work<sup>14</sup>.

### *Meetings*

8.4 The presentation of this report follows our one hundred and seventh meeting. Our meetings have varied in length between one day and several days and we have been in joint session on some three hundred days in total. They were particularly frequent in 2005, 2006 and 2007 when we presented extra ad hoc reports on paramilitary activity as well as our regular ones, and also our reports on security normalisation. We have met people on our premises and theirs, in Belfast and most parts of Northern Ireland, Dublin and

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<sup>12</sup> IMC First Report, April 2004, paragraph 2.4.

<sup>13</sup> The statement was reprinted as Annex II of our First Report, April 2004. Paragraph 10 read: “We wish to make clear now, for the avoidance of any doubt, that we are an independent commission. None of us would have accepted appointment as a Commissioner or would continue in office if that were not the case. Nor would we continue if we felt that the Governments were denying us access to the information we need. All the views we express will be ours and ours alone, reached after careful consideration of the material we have received.”

<sup>14</sup> See paragraphs 13.4 – 13.5 below.

elsewhere in Ireland, London and the US<sup>15</sup>. In addition to our formal meetings, individually we have also had meetings with interlocutors in these three countries with a view to reporting back to our fellow Commissioners. This regularity of attention, meeting month after month, was essential to our task. For anybody setting up such an international monitoring body in future it is important to note that whatever time commitment is required of relatively locally-based members (and that would be substantial in itself) the experience of our American Commissioner shows clearly that regular monthly attendance requires an international member to spend a great deal of time in aeroplanes.

### *Analysis*

- 8.5 The value of reports such as ours rests on the quality of the analysis on which they are based. We had to analyse a wealth of information, some of it intelligence from official sources and much else from open sources and what people told us. We had to put that information into the context of events in Ireland North and South, to understand it properly ourselves, in pursuit of our objective in Article 3, and so as to present our assessments in a convincing way<sup>16</sup>. Our increasing appreciation of the value of struggling to analyse, understand and describe our work, and our reaching consensus within complexity, led to better outcomes than any one of us could have had on his own. In our analysis we also sought from the beginning to understand the uses and limitations of secret intelligence. In our first year Lord Butler said in his review of intelligence on weapons of mass destruction in Iraq that Governments should explain both the uses and limitations of intelligence if they put it into the public domain. While independent of Government, we observed the same principle<sup>17</sup>.

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<sup>15</sup> Over the course of our three visits to the US in March 2005 and in February and October 2006 we went to New York, Washington DC and Boston. We met senior members of the Irish-American community, politicians, journalists, academics, government officials and diplomats. We contributed at a seminar on the monitoring of peace processes held at the United States Institute of Peace in Washington DC.

<sup>16</sup> Article 3 of the International Agreement set out our objective; see Annex II below.

<sup>17</sup> Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors, The Stationery Office, London, July 2004, HC 898, Recommendation 37.

8.6 The following are in our view the key points:

- We decided not to employ analytical staff directly but instead to seek the assistance of others when we needed additional information or analysis. For specific tasks during our seven and a half years we engaged, as necessary, the services of seventeen people with a variety of backgrounds and expertise<sup>18</sup>. This approach served us well. It exposed us to a wider range of fresh thinking than if the work had been done in-house and meant that we could draw on expertise, knowledge and contacts specifically relevant to the issue in hand;
- We always stuck to the evidence. As we put it on many occasions in reports and to interlocutors, we followed the facts where they led us. In other words, where we had intelligence or information we followed it through even where it led in problematic directions, and we tried to ensure that everything we said had stood up to serious scrutiny from us;
- We used multiple sources of many different kinds. We sought always to triangulate what we learnt from one source with what we learnt from others, and to challenge interlocutors in the light of perceptions or information we had gained elsewhere, just as we constantly challenged each other in private discussion<sup>19</sup>. We integrated this work into our reports. In this way we believe we were best able to come to conclusions and to settle on factual information in which we could have an appropriate degree of confidence. The

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<sup>18</sup> This figure does not include legal advisors. High quality and independent legal advice was very important, as the judicial proceedings referred to in paragraph 8.8 and in the footnote associated with paragraph 8.19 below all indicate. We engaged a partner in a firm of Belfast solicitors who in her turn sought the advice of Counsel as necessary.

<sup>19</sup> See Annex X below in which we reproduce the paragraphs from our Fifth Report of May 2005 and Tenth Report of April 2006 articulating these considerations publicly.

expression of the degree of confidence in our reports was then a matter to which we gave careful attention, as we describe below<sup>20</sup>;

- Before the publication of each of our reports we did our best to ensure they were factually correct and legally proofed, and to satisfy ourselves that they contained no inappropriate surprises for those who might be affected by them<sup>21</sup>.

8.7 As we proceeded, and particularly over our first three years, we developed tools to help us in this work. One of the more challenging issues we faced was the attribution of incidents, particularly when it was not fully clear how far members of paramilitary groups were acting on their own initiative and how far with the sanction or on the orders of the leadership, local or central. By the time of our Seventh Report in October 2005 we felt that we could publicly articulate our attribution criteria. Amongst them, for example, were the closeness of somebody's ties with a paramilitary group and how far authority was devolved within a group. We reproduce the full material in Annex VII below.

8.8 Our methods were closely scrutinised in the judicial review which Sinn Féin took against the British Government in the High Court in London in December 2006, in which the IMC was an "interested party"<sup>22</sup>. The Court endorsed our approach having carefully studied all our reports to date. It noted that we applied the criterion of confidence in what we were saying and that this was in line with the court ruling two years earlier on the standards of proof appropriate for the Bloody Sunday Inquiry conducted by Lord Saville. We attach importance to this judicial endorsement of our methodology, which ironically was delivered because of an attempt to undermine the IMC.

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<sup>20</sup> See paragraph 9.3 below

<sup>21</sup> In our First Report, April 2004, we wrongly defined one murder as paramilitary; see the last indent of paragraph 9.7 below.

<sup>22</sup> High Court of Justice, Queen's Bench Division, Divisional Court Case number CO/9939/2005; case heard on 12 – 13 December 2006; judgement delivered on 19 January 2007.

### *Information and Access*

8.9 It was clear from the beginning that to be effective we needed the fullest possible access to information from both official and other sources. There were two main aspects.

8.10 First, with the police and intelligence authorities North and South we needed to demonstrate we could handle material responsibly, drawing on it for our analysis but not putting things into the public domain in a way which compromised their work or the safety of individuals<sup>23</sup>. We believe that the way we handled this material in our First Report was key here. Fruitful relations with these authorities were established from very early on and we have been struck by how forthcoming they were with information and comment. However, we sought always to maintain a proper distance as well as a capacity to question, and in some cases to disagree, and our conclusions were always our own. While we relied on much more than just their material, theirs was an input without which it would not have been possible to produce reports of any depth and authority.

8.11 Second, it was essential that we had sources other than official ones and in our statement in March 2004 and subsequently we invited people to approach us in confidence<sup>24</sup>. We needed personal and local perspectives and also information. We usually obtained it face to face on our premises or on visits around Northern Ireland. Though many approached us on their own initiative, we frequently took the initiative ourselves and asked to see people, individually or in groups, and believe it was important that we did so. We wanted to ask questions and to hear what it was like in local communities; what paramilitaries were up to in different areas and what the communities really felt about them; how real was the support or the fear; how the facts and views locally tallied with what we heard from official sources; what senior members of paramilitary groups themselves thought, and sometimes whether

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<sup>23</sup> We were very careful to ensure the security of any material supplied to us on paper.

<sup>24</sup> See paragraphs 16 and 17 of Annex II of our First Report, April 2004, which reproduced the statement in full. See also paragraphs 8.18 - 8.21 below.

and how they were trying to manipulate us. Moreover, we wanted more than simply the grass roots view. We needed analysis and perspective as well, and found it in many conversations, including with senior figures and commentators in Ireland North and South.

8.12 The range of our non-official sources was thus very wide and from some countries in addition to the UK and Ireland. As we proceeded, some people who had initially been unwilling to see us became ready to do so. We gave a list of the categories in our Fifth Report which held good throughout our ensuing five and a half years<sup>25</sup>. Over the seven years we have met many hundreds of people, either individually or in groups. Their contribution was essential to our ability to make rounded assessments and to offer convincing reports.

#### *Definition of Our Scope, Standards and Criteria*

8.13 In the statement we issued in March 2004, shortly after we were established, we sought to lay down the scope of what we would be doing, the standards we would apply and the criteria we would follow<sup>26</sup>. We subsequently refined and supplemented what we said then about the criteria we would use but we did not materially change things. The statement therefore set the scene for all our twenty-five reports and was a critically important foundation for our subsequent work.

8.14 The key points were:

- We would always act in a way which fully reflected the provisions of the European Convention on Human Rights;

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<sup>25</sup> The categories were: political parties, government officials; police; community groups; churches; charities; pressure groups and other organisations; former combatants, including ex-prisoners; representatives of business; lawyers; journalists; academics; victims; private citizens, individually and as families. IMC Fifth Report, May 2005, paragraph 1.11; see Annex X below.

Although this list held good for the rest of our time we would add that we increasingly found ourselves sought out by journalists, academics and think tanks because of their interest in how we worked and what we had done. We hope this interaction was helpful to them; it certainly was to us.

<sup>26</sup> The statement was reproduced in full in Annex II of our First Report, April 2004.

- We were clear that Article 4 encompassed all activities of paramilitary groups, in particular all aspects of crime in which they or their members might be involved. We would not confine ourselves to what was conventionally conceived of as terrorism, and so were not limited by the term “national security”;
- We would consistently apply to our work standards on the rule of law and the obligations of citizens and political parties in a democracy which we set out in detail and reproduced in all our subsequent reports. We repeat them in Annex IX below.

8.15 For the monitoring of paramilitary activity, we supplemented these criteria in two main ways:

- While we were sometimes referred to as the “ceasefire watchdog” in journalistic shorthand, we made clear in our First Report that because Article 4 covered all forms of illegal activity we would not be considering whether ceasefires had been broken or not (a matter which had been the focus of attention up till then and had given rise to difficulties over the significance of continuing paramilitary criminal activity and to unhelpful arguments over when a ceasefire was or was not broken)<sup>27</sup>.
- In our Fifth Report we set out the criteria by which we would assess whether a paramilitary group was making material progress towards giving up illegal activity and whether it had actually stopped it<sup>28</sup>. The first set of tests included whether it had taken a strategic decision to that effect and given a lead to members. The second included whether it was engaging in recruitment, training and intelligence gathering.

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<sup>27</sup> IMC First Report, April 2004, paragraph 2.3. We consider the relevance of this and associated points in Part D; see paragraphs 13.3 and 14.2 below.

<sup>28</sup> IMC Fifth Report, May 2005, paragraphs 1.15 – 1.17. We reproduced these paragraphs as Annex IV to our Seventeenth Report, November 2007.

8.16 In our Second Report we set out the criteria we would apply when the time came to monitor the security normalisation programme<sup>29</sup>. We referred to needing a ruler with which to measure the changes being made against the security threat, which we were required to take into account. Amongst the questions we identified were how the British Government established a link between the assessment of the threat and the level of military support required for law enforcement. We used these criteria in our four security normalisation reports.

#### *Exposure of our Methods of Working*

8.17 We did not initially realise the extent to which it would be helpful to explain publicly how we had set about our work but after a year two things became evident. First, there was an appetite for this information. Second, and more important, satisfying it would be likely to enhance the confidence that people would have in what we said and so the weight our reports would carry. In our Fifth Report in May 2005 we therefore gave a substantive account of how we tackled our work and of the categories of people we had met<sup>30</sup>. The key points were how we probed and analysed the information we received, the breadth of our contacts, the care we took over how we expressed ourselves in our reports and our strict approach to confidentiality. In our Tenth Report a year later we explained how we reported. The relevant paragraphs from both reports are in Annex X below.

#### *Immunities and Confidentiality*

8.18 The International Agreement empowered the two Governments to confer on the IMC suitable “privileges, immunities and inviolabilities”<sup>31</sup>. In practice this

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<sup>29</sup> IMC Second Report, July 2004, paragraphs 3.7 – 3.9.

<sup>30</sup> IMC Fifth Report, May 2005, paragraphs 1.9 -1.13.

<sup>31</sup> Article 11 of the International Agreement. The two Governments did this in their respective legislation on the IMC; see the section *Immunities for the IMC* in Annex II below.

meant the immunities normally conferred on diplomats and international organisations<sup>32</sup>.

8.19 These immunities were fundamental to our ability to operate. They meant that we could receive material from official and private sources secure in the knowledge that no third party could force us to reveal either its origin or its contents. They also meant that we could freely express our views in our reports, subject to the requirement imposed on us not to act prejudicially.<sup>33</sup> We were able to say what we thought needed saying<sup>34</sup>.

8.20 In our statement of March 2004 we said that we would observe the confidentiality of both what we learnt and who told it to us<sup>35</sup>. The immunities enabled us to do this. We were clear from the start that this was essential if people were to be forthcoming with us; if they were not, we would not have access to the range of information we would need. We frequently repeated this to our interlocutors, adding that they were free to say what they liked about their exchanges with us but that we would neither confirm nor deny even that we had met them. We also repeated it in a number of reports. As a result we were able to take what we learnt fully into account and to reflect it in our reports, but in a way which did not reveal the source.

8.21 We are convinced that this was essential to our work. Our concern was not over those in official positions with whom the necessary trust could be built up, as indeed it was. We needed and secured a much wider range of sources than that. Paramilitaries themselves, victims, community groups

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<sup>32</sup> The International Agreement on which the IMC is founded was a treaty between the UK and Ireland. The IMC reports jointly to both Governments, and both fund it.

<sup>33</sup> Article 13 of the International Agreement; see Annex II below.

<sup>34</sup> The immunities were tested in three court cases. In June 2004 Sinn Féin brought judicial review proceedings against the British Government and the IMC in Belfast; the proceedings failed. In June 2005 the defendants in an abduction case to which we had referred in our First Report brought proceedings in Belfast to gain access to material in our possession; the Court endorsed the IMC's immunities. In 2006, in the proceedings against the British Government to which we refer in paragraph 8.8 above, the High Court in London also endorsed the need for the IMC to keep its material confidential. Other attempts were made to draw us into other legal cases, such as the prosecution of paramilitaries. We successfully relied on the immunities to resist these attempts.

<sup>35</sup> See Annex II of our First Report, April 2004.

and other members of the public often spoke to us extremely frankly. We do not think this would have happened without the promise of complete confidentiality which this made possible.

### *Recommendations*

8.22 Article 7 of the International Agreement empowered us to recommend either “remedial action” or measures which might be taken by the Assembly. We exercised this power twenty-three times in our first two years. Annex XII lists all the recommendations we made under Article 7. Later on we often expressed our view in the reports without making a specific recommendation but made direct representations to public agencies. This was also influential<sup>36</sup>.

## **9. OUR REPORTS**

9.1 In this section we describe how we approached our reports, both initially and as we learnt from experience.

9.2 The IMC is empowered only to present reports to the two Governments, and it is through these reports that it speaks. Our reputation and such influence as we were able to bring to bear therefore depended on these reports, which were widely consulted on our website (as they would have been on the British and Irish Government and other websites as well). Annex XI records patterns of access to the IMC website. Because of the centrality of our reports to our work we adopted the general policy of not speaking to the press other than at or immediately after the press conferences we held when each was published, and on those occasions we endeavoured to stick carefully to the terms of the report. And apart from the introductory statement in March 2004 we issued no substantive press statements.

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<sup>36</sup> One example of this later approach was our various comments on the operation of the criminal justice system; see IMC Twentieth Report, November 2008, paragraph 5.5; IMC Twenty-First Report, May 2009, paragraph 5.2; IMC Twenty-Second Report, November 2009, paragraphs 6.1 – 6.2; IMC Twenty-Third Report, May 2010, paragraphs 5.5 – 5.7.

## *Language and Style*

9.3 The words we chose were crucially important. We were describing complex situations within a relatively short compass and we had to convey very precisely what we meant. Each nuance mattered, as did clarity over the degree of confidence we had in the opinions we were expressing. We sought always to be clear whether we were certain of something or only believed it to be a possibility and used a hierarchy of terms such as “convinced”, “satisfied”, “believed” to convey the correct impression; we distinguished between members and organisations, recognising that members might act on their own initiative; when activities were sanctioned we were as clear as we could be over the level in the organisation at which authority had been given; when there were constraints on what we could say, for example to ensure we did not prejudice legal proceedings, we were careful to convey as much as we properly could<sup>37</sup>. Because the reports were how we expressed our findings, their preparation was itself an important iterative process in which all took part. In addition, it quickly became the main means whereby we refined and clarified our thinking, working from successive drafts provided by the Secretariat.

9.4 We determined the style of our reports at the beginning and kept to it<sup>38</sup>. The two main elements were:

- We always reported in the first person plural. We wanted to make clear that the reports were really ours and that we stood by them personally. By making the reports personal we hoped they would have more force and more credibility and would show that we expected to carry the can for what we said. We were no more expressing the views of the two Governments than we were of the so-called “securocrats”, whose mouthpiece some presumed, or at least claimed, that we were;

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<sup>37</sup> Article 13(2) of the International Agreement requires the IMC to avoid anything which might, *inter alia*, prejudice existing or future legal proceedings; see Annex II below.

<sup>38</sup> Indeed, we adopted this style in the statement we issued in March 2004, which is reproduced as Annex II in our First Report, April 2004.

- In conjunction with that, we have used simple and sometimes blunt language. We were addressing a public audience about deeply serious issues and were describing murders, shootings and other major crimes. We always sought to tell it as we saw it, often explaining through example. Thus in our First Report, to get across from the very start why we were rejecting the term “punishment beating”, we spoke vividly of how vicious paramilitary attacks could be and we gave examples of the crippling effect they could have on the victims – itself a term we have used throughout<sup>39</sup>. We were very conscious, moreover, that victims of all kinds were an important part of our audience and that we would be letting them down if we confined ourselves to delicate language.

### *The Format*

9.5 We decided early on to adhere to consistent formats for our reports, one for those on paramilitary activity and one for those on security normalisation<sup>40</sup>. The main reasons for this consistency were:

- It seemed to us that the format we had adopted for both parts of our remit in our First and Second Reports had worked<sup>41</sup>. We were

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<sup>39</sup> IMC First Report, April 2004, paragraph 4.5. In the same Report, to get over the overall impact of these attacks in Northern Ireland, we extrapolated the numbers of casualties of shootings and assaults to the UK as a whole and to Ireland. Taking the figures for the twelve months before we were established, we pointed out that the same rate of paramilitary violence as Northern Ireland experienced would have meant (in the UK and Ireland respectively) 375 and 25 murders, 6,300 and 430 shooting casualties, and 5,700 and 400 assault casualties.

<sup>40</sup> The main features were: On paramilitary activity - to describe the activities of each group individually; to look separately at paramilitary violence, on which we were required to monitor trends and where it was not always possible to break figures down in more detail than the two categories, loyalists and republicans; to examine cross cutting issues in separate sections of the report; and so as to maintain the continuity of our sequence of reports, briefly to summarise in each new one what we had said on the subject in our previous one. On security normalisation, to describe each time what our remit was, such as military support for the police and the “de-fortification” of the police estate; then to tackle each element separately, so that we showed clearly how it had been discharged; and with material which was inevitably very detailed, to confine as much as possible to annexes so that the reader had a digestible account and could if necessary refer elsewhere to the facts on which that account was based.

aware that we were likely to be reporting for some time (though nothing like as long as turned out to be the case) and it seemed to us that we would have more impact if readers became familiar with a single structure and could turn easily to it on each successive occasion;

- As we discuss below, a key part of the monitoring role we had been given lay in our returning regularly to the same subjects<sup>42</sup>. This meant that, although each of our reports had to stand up as a separate document, coherent and sufficient within itself, the series had a certain relentlessness. Matters not fully developed in one report would be pursued in another; paramilitaries and others could not escape scrutiny time after time if they continued to behave in the same way<sup>43</sup>. It seemed to us that a consistent format would usefully enhance the impact of this relentlessness.

### *Mistakes*

- 9.6 On both paramilitary activity and security normalisation we dealt with complex material, and on the former it was often difficult to reach precise and confident judgements. Notwithstanding the care with which we expressed our views, including our uncertainties, we knew that we might make mistakes, either of fact or judgement. We were also clear that we had to observe the highest possible standards and that error might undermine the credibility which was so important to our serving a useful purpose.

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<sup>41</sup> Our First Report, April 2004, was on paramilitary activity and our Second, July 2004, on security normalisation; see Annex III below.

<sup>42</sup> See paragraphs 13.2, 13.3, 14.2, 14.3 and 14.5 below.

<sup>43</sup> Amongst innumerable instances of this approach we mention, by way of example only: that we would consider further how to hold paramilitary leaders personally to account (First Report, April 2004, paragraph 7.7); that we hoped loyalist leaders would rise to the challenge we set them to say clearly that they were opposed to violence and would move on to other things, leaving their communities free of paramilitary influence (Eighteenth Report, May 2008); that we would continue to monitor how the criminal justice system in Northern Ireland adapted itself to meet future needs (Twenty-First Report, May 2009, paragraph 5.2).

9.7 We tackled this in three ways:

- We made strenuous efforts to avoid errors of fact and judgement, as we described above<sup>44</sup>;
- In describing our working methods we made clear that if we did make a mistake, or if we found that an opinion we had expressed no longer stood up in the light of later information, we would say so in a subsequent report<sup>45</sup>;
- When we did go wrong, we acknowledged it. In our First Report we wrongly defined one murder as paramilitary<sup>46</sup>. In our Third Report we corrected this and apologised for it<sup>47</sup>.

## 10. STARTING UP, ADMINISTRATION AND SECRETARIAT

10.1 We started meeting in October 2003, shortly after our appointments were announced and three months ahead of the IMC's formal establishment in January 2004. By January we had already met on three separate occasions over ten days in both Belfast and Dublin. This gave us the opportunity to start to clarify our thinking about our role and to receive early briefings. As a result, in early March 2004 we were able to issue our statement on how we would operate, the scope of our reports and what standards we would observe, and then to present our First Report in April, on the accelerated timetable the two Governments requested<sup>48</sup>. As we discuss elsewhere, the

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<sup>44</sup> Paragraph 8.6, last two indents, and paragraph 9.3 above.

<sup>45</sup> IMC Fifth Report, May 2005, paragraph 1.13; IMC Tenth Report, April 2006, paragraph 1.5. For both, see Annex X below.

<sup>46</sup> IMC First Report, April 2004, page 22. The murder was that of Michael O'Hare.

<sup>47</sup> IMC Third Report, November 2004, paragraph 4.6.

<sup>48</sup> See Annex III below on the March 2004 statement and the First Report. We had expected to issue our first report on paramilitary activity in July 2004, six months after we were established. In the event, April became the base month for our six monthly cycle of reporting and we were able to issue our benchmarking report on security normalisation under Article 5 (our Second Report) in July 2004, also on a timetable requested by the British Government.

statement turned out to be even more valuable than we had thought at the time and its early production helped show we were seriously in business<sup>49</sup>.

10.2 We refer above to the crucial importance of independence and to how we sought to demonstrate it in our reports and face to face to our interlocutors<sup>50</sup>. But other things could also underline this. Having offices in Dublin as well as Belfast was one example. Another was that the Belfast office – where we met the majority of our interlocutors – was not in government premises. Being accessible to as many people as possible meant being located where people were comfortable to come, and not everybody who spoke to us would have been so ready to come forward had we had to invite them to the Stormont estate.

10.3 We want to record our particular gratitude to the staff of the small secretariat that supported and assisted us so ably for the seven and a half years of our existence. Without their commitment and expertise our work and the twenty-six reports we produced would not have been possible. We had two offices, one in Belfast and one in Dublin, and there were two part-time Joint Secretaries, one from Ireland, and one from the UK. Both were recently retired and highly regarded senior civil servants, selected for their backgrounds and very great experience in security-related matters and in Northern Irish affairs. Their biographical notes are at Annex IV. In addition, there were four other full-time staff, seconded from the local administrations, three in Belfast, which was the main administrative location and the scene of the majority of our meetings, and one in Dublin. All of the staff were with us throughout, except for one who left to do post-graduate work and was replaced.

10.4 This small team of six suitably experienced and trustworthy individuals was vital to public and official access to us and to the overall efficiency of our functioning and the effectiveness of our work. They handled all the mechanics of the Commission's administration in a very smooth and

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<sup>49</sup> See paragraphs 8.13 – 8.14 above and 13.3, 14.2 and 14.4 below.

<sup>50</sup> Paragraph 8.3 above.

professional way, leaving the Commissioners free to concentrate on our monitoring and reporting duties. Their experience of working in a security-related environment was invaluable and their backgrounds gave us first-hand awareness of local conditions and sensitivities. The Joint Secretaries were fully involved in all our discussions, contributed significantly to our thinking and were central to the preparation of our reports. The first draft of each of our twenty-six reports was produced by one of them, which ensured continuity and consistency of style and approach, and they contributed substantially to our iterative process of developing and refining our analysis as well as to the content of our reports over successive drafts. We describe this in more detail in paragraph 9.3.

10.5 We are deeply indebted to all the members of our small team. They were not only efficient and effective, but also most congenial colleagues.

## **11. WHAT WE MIGHT HAVE DONE DIFFERENTLY**

11.1 There are things which, with the benefit of hindsight, we might have done differently:

- Although we did meet many local and diverse community groups, we could perhaps have spent more time doing so, both to learn local views and to demonstrate our interest in understanding things on the ground. That said, this would have required more time and resources and some people were in any case reluctant to see us, especially early on;
- We now think that it would have been useful to commission polling, for example by sponsoring questions in existing tests of public opinion. A consistent theme from our first to our last report on paramilitary activity was community feeling about the groups. As we close, this remains an issue with both dissident republicans and loyalists. With our reports on security normalisation there were questions about the level of public understanding of what was

happening and what we could do to enhance it. Polling might have helped us here;

- We found it difficult to obtain a full understanding of how paramilitary groups secured, held and disbursed their funds. Given the informal nature of their financial dealings, this would not have been easy to do. It is however important and we did try to press on the issue. But it is of course always possible to do more;
- While we could perhaps have made more and earlier visits to the US, the timing of our first visit in March 2005 turned out to be very propitious<sup>51</sup>. Some of those we met then might not have engaged with us much sooner;
- We spent a good deal of time, especially in the early years, in examining themes and policy issues, which we thought might impact on paramilitary behaviour<sup>52</sup>. In some cases an issue moved on under its own steam so it was right for us to drop it; an example of this is community restorative justice<sup>53</sup>. In other instances we may have left an issue too soon, for example some of the policy questions such as the efforts of the tax authorities against paramilitaries<sup>54</sup>;
- We received extensive media coverage for our reports, and attached a lot of importance to the press conferences we held when each was published. But balanced though reporting generally was, inevitably some focussed on the issues of the day when our message had a longer perspective. We have in mind particularly the tendency to concentrate on describing what we had said about PIRA in our early reports, when in fact we were also making clear

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<sup>51</sup> See paragraphs 8.4 above and 14.4 below.

<sup>52</sup> We discuss some examples in Part D; see paragraphs 14.3 and 14.4 below.

<sup>53</sup> IMC Third Report, November 2004, paragraphs 6.2 – 6.5; IMC Fifth Report, May 2005, paragraphs 7.2 – 7.7; IMC Eighth Report, February 2006, paragraphs 2.8 – 2.17.

<sup>54</sup> On tax: IMC Third Report, November 2004, paragraphs 5.18 – 5.19; IMC Fifth Report, May 2005, 6.20 – 6.21; IMC Tenth Report, April 2006, paragraph 4.10.

from the start that loyalists were the most violent. Only later, as PIRA faded from the scene, did what we said about loyalists receive fuller coverage. We could perhaps have had a more continuing engagement with the media and employed a full time press officer, responding for example to individual incidents. We did not think this was the best way to do our business but others may have seen it differently.

## 12. GENERAL ISSUES

12.1 In this Part we look at our contribution and the factors behind it. We do so with some hesitation. Self-evidently, no rounded assessment is possible so near the time. Moreover, many things relevant to such judgements, such as the records of the IMC and the candid views of the principal politicians, are not available now, and some may never be. We were part of a process which involved many people, parties and organisations. We do not want to take for ourselves credit that is due to others, whether the major figures in the process of change, institutions or the countless people who have worked for peace within their communities<sup>55</sup>. But notwithstanding this, we think it would be helpful to future discussion about the changes in Northern Ireland over the past seven years if we offer our thoughts as we close. What follows draws heavily on views expressed to us by a number of people from the UK, Ireland and the US. We are in their debt.

12.2 Any contribution the IMC has made has reflected where it is positioned. It is independent of the two Governments and came to be seen as such by all but a few ill-disposed observers. It has access to secret intelligence and can develop its own separate sources. It has to speak publicly, drawing in part on secret material but doing so in a way which did not compromise intelligence and police operations. It can say things which in practice would never be said by governments or by police and intelligence agencies<sup>56</sup>. It can develop a reputation for speaking candidly, as can be hard for governments,

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<sup>55</sup> In addition to the public, religious and voluntary institutions suggested here, we noted in paragraph 1.11 of our Fifth Report in May 2005 some twenty three other bodies involved in monitoring what was happening in Northern Ireland; some were long standing bodies engaged in regular inspection but eight were specific to the peace process. This paragraph is reproduced in Annex X below.

<sup>56</sup> Examples of things which we were able to say but which would be difficult for official agencies to articulate are: the important role of paramilitary leaders in guiding their organisations away from violence, and the need for them to remain in positions of authority over a period of transition; defining the criteria whereby paramilitary groups could be judged to be making progress towards giving up illegal activity and whether they had then actually stopped it.

especially when tackling matters across the divide in Northern Ireland. This is a privileged but also a precarious position to be in.

12.3 We were struck throughout by the fact that, while our reports were not always welcome to everybody, there was no comprehensive challenge to our analysis of paramilitary activity at any stage by the media or the principal players. Persuasive attempts to undermine what we said could have reduced the impact we were able to have on public opinion. We note in this context the repeated public comments of Sinn Féin that they disapproved of the establishment of the IMC. However, many observers believe that the restoration of the Assembly and Executive in 2007 would not have been possible without the reports of the IMC.

## **13. FACTORS**

13.1 A number of things have affected such contribution as we have been able to make. In this section we seek to identify these factors, drawing mainly on what we said in Part C about how we operated and setting things against the changes in Northern Ireland which we summarised in Part B.

### *Factors Arising From the Nature of the IMC*

13.2 We identify the following:

- Our independence, which enabled us to say what others could or would not say and to establish our credibility;
- The power of continuous reporting, which meant that we could return repeatedly to activities or issues we thought important and that paramilitaries came to realise we would not let them off the hook. An important element in this was the fact that the International Agreement did not allow either the two Governments or the IMC itself to delay the cycle of six monthly reports. There could

be additional ad hoc ones, but twice a year everybody knew the Governments would publish one of our reports;

- Our longevity, which has enabled us to map events over seven years. Transition from conflict is a long slow process. We could trace events and offer a perspective relevant to the circumstances. Where there was change, we could convincingly show it. Where there was not, we could repeatedly shine the spotlight;
- The immunities, which protected us and our material and provided a legal basis for the assurance of confidentiality we gave our interlocutors, which was so important to their being candid with us;
- The power to make recommendations, which enhanced our ability to influence things;
- The diverse and international nature of the team, the varied expertise and networks of contacts this brought, its continuity and collegiality.

#### *Factors Arising From How We Operated*

13.3 We identify the following, which together helped to establish confidence that we were independent, were telling it as we saw it and would stick to our task:

- From the start we were proactive and determined to have a beneficial impact and to make the best possible use of our powers, our capacities and our independence;
- We all made a sustained and very substantial commitment of time and effort;

- Early publication of our scope, standards and criteria enabled us more readily to hold paramilitary groups to account, to demonstrate we were independent and to achieve consistency of reporting;
- A blunt and consistent style of reporting combined with the rejection of terms we felt were inaccurate or misleading. Thus: frank descriptions of paramilitary crimes and their impact; “victims” for all who suffered, including the communities with paramilitaries in their midst; no use of the term “punishment beatings”, which implied spurious legitimacy, but shootings and assaults; no “ceasefire” because it was our responsibility to monitor all aspects of paramilitary activity and because the term ceasefire had been used by many groups as a shield to avoid scrutiny or criticism of their non-terrorist activities;
- Defining our task broadly from the start, in particular to include all forms of paramilitary crime, which went hand in hand with our rejection of “ceasefire”;
- The breadth of our sources and the manner in which we analysed the information and views we obtained. One reason for this breadth was our early declaration that our door was open and that we were keen to hear from people. Other factors were our confidentiality policy and growing public confidence in our reporting.

#### *Attitude of the British and Irish Governments*

13.4 It is important to refer here to the attitude of the British and Irish Governments. They set us up and paid for us. But we could do the job only if we were, and were seen to be, entirely independent of them. Given the suspicion with which we were first greeted in some quarters, and the

opposition to our role which persisted throughout in a few others, we want to make the following clear<sup>57</sup>:

- The Governments did not seek to interfere in our work and recognised that we would reach our judgements as we saw fit;
- They provided us with the funds we thought we needed to do our work. While we always sought to operate economically, at no time were we constrained for lack of resources;
- They played an important part in ensuring that we had access to police and security authorities in both jurisdictions, as well as to the British Army for the purposes of our security normalisation reports. (So far as the British Army was concerned, we note here that, in addition to the detailed information on British troops and facilities which we recorded in our successive reports, the British Army readily met our request for maps which we could reproduce showing the location of bases and watch towers. We were struck by their openness with us, and their readiness to be so open with the public.);
- In public statements they made clear their support for us and the importance they attached to our work. This was the case even where what we said could reasonably have appeared unhelpful to them, conflicted with the official view or was not on all fours with advice they were receiving from others;
- They always published our reports in full;
- In the case of the UK, the Government gave tangible effect to that approach by accepting key early recommendations we made on the

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<sup>57</sup> Sinn Féin made publicly clear that they were opposed to the establishment of the IMC and we assume, for example, that this lay behind the judicial review proceedings they took in 2006, on which see paragraph 8.8 above.

funding of political parties in the Northern Ireland Assembly, as indicated in Annex XII.

13.5 The implementation of our recommendations was invaluable in establishing that, as a body which mattered to the Governments, we should be listened to. It also meant that political parties with links to paramilitary groups which were engaged in continuing illegal activities could expect repercussions from our reports<sup>58</sup>.

#### *Article 6*

13.6. There is one other matter to which we must refer. In paragraph 2.3 we mention the provision in Article 6 of the International Agreement requiring us to consider claims from any party in the Northern Ireland Assembly that a Minister or another party is not committed to democratic means or is not following the correct standards of behaviour. As we say in paragraph 3.2, we received no claims and so presented no reports under Article 6. Annex VI explains what we did to prepare for the eventuality of claims.

13.7 The role under Article 6 is entirely different from our core ones and it raised distinct issues for us. On the one hand, claims would have presented us with significant challenges. On the other hand, its existence may have played a part in underpinning the work we were doing.

13.8 Claims could have been wide ranging. They could have concerned alleged connections between political parties and paramilitary groups, and so gone to our core business, but this would not necessarily have been the case. We might for example have had to determine whether an individual had observed

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<sup>58</sup> In our First Report, April 2004, we recommended that the British Government should take action over the salaries of Sinn Féin and PUP MLAs and the funding of their Assembly parties. We also said that had the Assembly been sitting at that time we would have recommended the exclusion of members of both these parties from office. We pursued this issue further with recommendations in our Fourth Report, February 2005; Fifth Report, May 2005 and Sixth Report, September 2005. In our Eighth Report, February 2006, we concluded that because of the changed circumstances financial measures were no longer necessary, though we made clear that if future circumstances justified it we would recommend their reimposition.

the wide ranging pledge of office required of members of the Executive. We might also have needed to assess claims and counter claims between political parties, each possibly vying to score points against the other. Making a claim to the IMC would have indicated heightened political tension, with the result that we would have done our work under the spotlight, distracting ourselves, the media and the public from our monitoring of paramilitary activity and security normalisation. It is likely that our conclusion would not have satisfied one or other party and we could have been caught up in a political conflict well after we had delivered our report. This would have been compounded by the fact that several of the issues in Article 6, such as commitment to “exclusively peaceful and democratic means”, were unlikely to attract clear cut answers, and probably not ones which would have convinced all sides of their fairness and accuracy. The provision in Article 6(2) whereby only the Commissioners appointed by the British Government could consider certain kinds of claim would not have made these matters easier. It could have made it appear that the IMC was advancing a British perspective. As Annex VI shows, the procedures we developed in correspondence with the parties for the processing of claims were necessarily drawn out and might have prompted challenges from aggrieved parties.

13.9 Despite the difficulties we might have faced had a claim been made, other factors throw a more favourable light on Article 6. We gather that its inclusion played a part in helping the two Governments secure sufficient political agreement to the International Agreement in the first place, though we cannot say whether this was a critical factor. And we suspect that the absence of any claims may not have been pure coincidence. It may have reflected a degree of self restraint amongst the parties and a developing mutual regard for the process and each other. And it may even perhaps have become a factor in the view the parties took of the IMC. Because we had consulted the parties about the procedures we intended to follow they knew how involved a claim would be, just as they knew that the outcome could never be certain. Like the sword of Damocles, the strength and value of Article 6 may have been greater for its not having been used rather than its not being necessary or appropriate.

## 14. IMPACT

14.1 In this section we look first at a number of things we did and then at the events on which they may have had an effect.

### *Things We Did - Paramilitary Activity*

14.2 We list below things we did which we think had a useful impact. We hope this will prompt discussion and that people will shorten, lengthen or amend the list as a result. They are:

- We persistently challenged the accounts paramilitary groups gave of themselves and we pointedly declined to use their terminology. We referred to their communities as being amongst their victims, increasingly so as time passed when most of those they shot or assaulted were local people suspected of behaving anti-socially. Reflecting our principles, we rejected any justification for violent reprisals in place of the legitimate justice system. Our bluntness about the nature and effects of all forms of their crimes was intended to demonstrate that whatever they thought they were doing and whatever political motivation they claimed, they were engaged in criminal behaviour and were harming their own people, not acting in their best interests. In all of this we sought to bring out the human cost of paramilitary groups, in terms of both the immediate victims of their crimes and the way in which they held back the economic and social progress of the communities they claimed to represent;
- Associated with this, we sought to influence the perception of paramilitary activity in political and wider public circles. The “ceasefire mentality” had in our view for too long been used to obscure and avoid the challenging implications of the Belfast Agreement: that there had to be a complete severance between

politics and paramilitary activity, and that this could come about only if those paramilitaries ceased to act as such;

- We sought to be very clear from the start about the links between paramilitary groups and political parties, and thus also to challenge the descriptions which some parties gave of themselves. We recommended sanctions against Sinn Féin and the PUP in our First Report because we were satisfied as to the close nature of their links with PIRA and the UVF respectively<sup>59</sup>. This was an important early statement of our resolve, directed at a core problem in the implementation of the Belfast Agreement<sup>60</sup>. In our Fourth (ad hoc) Report on the December 2004 robbery at the Northern Bank we drew directly on our earlier description of the links between senior figures in Sinn Féin and PIRA in making clear the former's shared responsibility and why it had to decide whether or not it was going to follow the democratic path<sup>61</sup>. The Fourth Report also illustrated the power of continuous reporting. In our Third Report we had referred to a number of robberies which we could not attribute to a particular group. Four months later we were able confidently to say that PIRA was responsible, as it was for the more recent bank robbery<sup>62</sup>;
- We knew that over time we would be reporting on many changes. It was a strength of our successive reports that we were able to track change, just as accuracy demanded that we did so. We made clear that the process of change by paramilitary groups would be difficult

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<sup>59</sup> In our First Report, April 2004, we recommended that the British Government should take action over the salaries of Sinn Féin and PUP MLAs and the funding of their Assembly parties. We also said that had the Assembly been sitting at that time we would have recommended the exclusion of members of both these parties from office. We pursued this issue further with recommendations in our Fourth Report, February 2005; Fifth Report, May 2005 and Sixth Report, September 2005. In our Eighth Report, February 2006, we concluded that because of the changed circumstances financial measures were no longer necessary, though we made clear that if future circumstances justified it we would recommend their reimposition.

<sup>60</sup> See paragraph 2.2 above.

<sup>61</sup> IMC First Report, April 2004, paragraphs 8.3 – 8.6; IMC Fourth Report, February 2005, paragraphs 14 and 23.

<sup>62</sup> IMC Third Report, November 2004, paragraphs 3.10 and 5.7; IMC Fourth Report, February 2005, paragraphs 8 and 9.

and confused – we repeatedly used the term “messy”<sup>63</sup>. We did this because, although we were seeking to put pressure on paramilitaries to change, we recognised that realistically they needed room to manoeuvre if they were to implement change. Any leadership seeking change needs to bring people along with it, as much in a paramilitary group as in any other organisation, and we knew this would be difficult for them. So we tried to give them room, whilst still keeping up the pressure to change<sup>64</sup>;

- Associated with this, we made clear that change would be achieved only if the leadership remained in position and could continue to guide the organisation in the right direction. Those who expected the immediate disbandment of leadership structures were not simply unrealistic; they were seeking something which would be counter-productive. Also to encourage realism, and addressing ourselves particularly to unionists, we repeatedly explained that PIRA would not disband its historic structures with a fanfare of publicity but would allow them to atrophy, as we later reported had happened<sup>65</sup>;
- Each of our reports had a section on leadership which covered both the paramilitary groups and the associated political parties. By setting down the criteria whereby they would be judged and by making robust recommendations in respect of political parties we put leaders on notice that we would hold them to account for their actions;

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<sup>63</sup> We first used the word “messy” in our Third Report, November 2004, paragraph 6.3, when talking of transition generally. We did so again in our Fifth Report, May 2005, when referring to the UDA, and on a number of subsequent occasions.

<sup>64</sup> Amongst a number of examples of the approach described here were: generically on the issue of transition, in our Eighth Report, February 2006, paragraphs 2.3 – 2.7; Tenth Report, April 2006, paragraphs 1.8 – 1.9; on PIRA in our Eighth Report, February 2006, paragraphs 3.13 – 3.25; Tenth Report, April 2006, paragraphs 2.12 – 2.21; Twelfth Report, October 2006, paragraphs 2.15 – 2.22; on the UDA, in our Eighteenth Report, May 2008, paragraphs 2.25 – 2.31; Twenty-Fifth Report, November 2010, paragraphs 2.31 – 2.36; and on the UVF in our Seventeenth Report, November 2007, paragraphs 2.26 – 2.29; Twenty-Third Report, May 2010, paragraphs 2.45 – 2.48.

<sup>65</sup> IMC Nineteenth Report, September 2008, paragraph 2.14.

- We recognised that through our reports we had a responsibility to help those leaders who wanted to move forward. There were two ways of doing this. One was to enable the leaders to point to our flow of reports, and so to make clear to their followers that any illegal activity would be exposed to our spotlight – in other words, that the days of “constructive ambiguity” were over. This was relevant, for example, with those – mainly loyalists - who sought to play a continuing role in community development and wanted public funds for the purpose. Another way was to give full credit where it was due, especially to the reformers within a divided or hesitant leadership, of which the UDA was an example<sup>66</sup>;
  
- We were constantly alert to whether change was taking place in the direction in which paramilitary groups were moving. Where things moved in the right direction we aimed always to give credit for it. The most striking example was with PIRA, starting with the remarks of the President of Sinn Féin in Spring 2005, leading on through other PIRA statements in the summer to PIRA decommissioning in September of that year and eventually to Sinn Féin’s endorsement of policing and justice in January 2007. The path taken by PIRA and Sinn Féin, once started, was unequivocal, and enabled us to reach the point where we had no more to say than to repeat previous brief statements about PIRA’s commitment to peaceful means. The path loyalists later took was faltering, so the picture of change which we painted here was more complicated;
  
- We demonstrated that we were nobody’s “patsy” - a term engagingly addressed to us at one early point – by reporting things which might be unsettling. On PIRA, following the decommissioning reported by the Independent International Commission on Decommissioning (IICD) in September 2005 we said we had had reports that not all weapons and ammunition had been handed over;

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<sup>66</sup> One example of a number is in IMC Twenty-Fifth Report, November 2010, paragraph 2.35.

we later explained what we thought had happened<sup>67</sup>. With the UVF, we said we could not rule out that some arms had been retained despite decommissioning<sup>68</sup>. And also on the UVF, having expressed some confidence that after May 2007 they were changing for the better, we still did not hesitate to attribute to them responsibility for a high profile murder in May 2010<sup>69</sup>;

- It was not only over perceptions of paramilitary groups and of the process of change that we sought to increase public understanding. Another example came in 2010 when we twice made clear our view that, serious though the threat was from dissident republicans, it was not comparable with that from PIRA at the height of the Troubles, and that it was important to keep things in perspective<sup>70</sup>;
- Our power to make recommendations under Article 7, and their implementation, gave us further leverage<sup>71</sup>. We know that our early recommendations on party funding had been deeply resented, both

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<sup>67</sup>In paragraph 3.23 of our IMC Eighth Report, February 2006, we said that since the PIRA decommissioning reported by the IICD in September 2005 “We have since received reports that not all PIRA’s weapons and ammunition were handed over for decommissioning in September. These reports are not able to indicate precisely what is the nature or volume of any remaining weapons but suggest two things: first, that there is a range of different kinds of weapons and ammunition; second, that the material goes beyond what might possibly have been expected to have missed decommissioning, such as a limited number of handguns kept for personal protection or some items the whereabouts of which were no longer known. We recognise that if these reports were confirmed the key question would be how much the PIRA leadership knew about these weapons. These same reports do not cast doubt on the declared intention of the PIRA leadership to eschew terrorism. For our part, we are clear that this latter is their strategic intent.” In paragraph 2.17 of our Tenth Report, April 2006, we said “We did not say three months ago that the PIRA leadership had in any way given instructions to retain arms. Indeed, our present assessment is that such of the arms as were reported to us as having been retained, would have been withheld under local control despite the instructions of the leadership. We note that, as reported by the Independent International Commission on Decommissioning (IICD), the leadership claimed only to have decommissioned all the arms “under its control”. The relevant points are that the amount of unsurrendered material was not significant in comparison to what was decommissioned and that these reports do not cast doubt on the declared intention of the PIRA leadership to eschew terrorism and to follow the political path. We will continue to monitor the position.”

<sup>68</sup> IMC Twenty-Second Report, November 2009, paragraph 2.53.

<sup>69</sup> IMC Twenty-Fourth Report, September 2010.

<sup>70</sup> IMC Twenty-Third Report, May 2010, paragraph 2.3; IMC Twenty-Fifth Report, November 2010, paragraph 2.4.

<sup>71</sup> See paragraph 13.4 above.

for their effect and because it was we who made them<sup>72</sup>. We were alert to the fact that the threat of further recommendations was always there. In our First Report we said that we were considering how paramilitary leaders might be “held personally and publicly to account”<sup>73</sup>. We thought at length about it and developed procedures for doing so. In the event, we decided not to name names but we believe that the possibility we might was an important early indication of our resolve and had some effect on the way others reported paramilitary activity.

### *Things We Did – Paramilitary Groups and Wider Issues*

14.3 We addressed a number of policy and wider issues in our reports on paramilitary activity, mainly our earlier ones:

- Some were very specific: the nature and impact of paramilitary organised crime and some of its manifestations such as fuel smuggling and laundering, extortion, and the use of front firms like taxi companies, pubs and security businesses. In all this we returned repeatedly to the point that the active involvement of paramilitaries made the organised crime threat markedly worse than it would otherwise have been. We urged the tax authorities to make sure that their efforts in Northern Ireland properly reflected the local rather than just UK-wide impact of these issues and we made a number of proposals for policy changes. We questioned whether the regulations governing money service bureaux were adequate to prevent them being abused for the financing of paramilitary groups<sup>74</sup>;
- We looked at some other aspects of paramilitarism, such as the possible abuse of charities to channel illegally gained money and

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<sup>72</sup> We believe that it was these recommendations which moved Sinn Féin to decide to take legal proceedings against the IMC and the British Government; see paragraph 8.8 above.

<sup>73</sup> IMC First Report, April 2004, paragraph 7.7.

<sup>74</sup> IMC Twenty-Third Report, May 2010, paragraph 5.6.

whether or not the controls on political contributions were strong enough to prevent the leakage of funds to paramilitaries. Again, we made some policy proposals and are pleased to note that new law on charities in Northern Ireland came into operation in 2011;

- There were other wider ranging issues on which we sought to raise awareness. We spoke at some length of the importance of a “culture of lawfulness”, so evidently lacking in communities dominated by paramilitaries; we saw this as a way of reinforcing the commitment to due process incorporated in our principles. We noted a tendency in some quarters to be deferential to local paramilitary figures, with some public officials sometimes actually advising people to turn to the paramilitaries to solve local problems. We took this matter up not only in our reports but in meetings with the bodies concerned.

#### *Things We May Have Affected –Paramilitary Groups*

14.4 We are least well placed to judge our impact and future historians will have most to say about it. We recognise too that much depended on how the media reported what we said; we give a few examples of media comment in Annex XIII below. Nevertheless, we think that our approach of describing things as they really were was generally recognised by the public as honest and accurate and was widely believed, after some initial scepticism. We identify:

- Our reporting of the associations between PIRA and Sinn Féin from early 2004 through to the Spring of 2005, in particular after our ad hoc report in February 2005 on the robbery at the Northern Bank, played a part in persuading Sinn Féin that it could no longer expect to pursue an effective political path whilst PIRA remained an active paramilitary group;

- By maintaining our close watch on PIRA we played a role in the pressure which led to PIRA's statement in July 2005, to its decommissioning in September 2005 and to Sinn Féin's acceptance of policing and justice in January 2007. Our focus on any continuing criminal activity by PIRA, and not just on whether it was on ceasefire as it claimed to be, was crucial here;
- We were able to have an influence on Irish-American opinion, especially during our first visit in March 2005<sup>75</sup>. Of particular impact was what we were able to say about PIRA's responsibility for the Northern Bank robbery and Sinn Féin's links with PIRA, and that we were believed when we said it;
- From late 2005 onwards, when we reported the progressive standing down of PIRA as a paramilitary group (and having previously reported so robustly on PIRA and its association with Sinn Féin), our reporting was generally believed by the unionist community. We think this played a part in preparing the ground for the St Andrew's Agreement of November 2006, which led to elections and the restoration of the Assembly and Executive in 2007. It also helped to reassure unionists thereafter and to help remove dispute about PIRA from day-to-day political debate between Assembly parties;
- Loyalist groups started to change much later and decommissioned only between June 2009 and February 2010. We think that they were susceptible to our reporting, which exposed the nature of their activities and, especially for the UDA, the disjointed nature of their leadership. From the start we had demonstrated that they were responsible for a higher level of violence than republicans;

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<sup>75</sup> Our visit came at a time when PIRA was also being heavily criticised for its association with the murder of Robert McCartney in January 2005.

- We believe we helped shift the focus on organised crime and to push the paramilitary element higher up that agenda, particularly in the UK for the Organised Crime Task Force and for law enforcement agencies other than the PSNI, and to make clear that because of the paramilitary legacy Northern Ireland faced a considerably bigger challenge than it otherwise would. The changing terms of the Northern Ireland organised crime strategy suggest this. We also rang a strong warning bell about the risk that paramilitary groups would turn into organised crime gangs. We believe that our thoughts on the control of security businesses and charities were taken into account in reviews conducted in both those areas. In this whole area we encouraged wider debate and understanding of the issues;
  
- We note here two things on which we gave signals which attracted less notice at the time than we had expected or hoped. The first was what we said about a series of robberies in late 2004. We said we believed PIRA was responsible for one and that members of republican groups had been involved in other large scale robbery and violent theft<sup>76</sup>. Three months later, in our ad hoc report on the Northern Bank robbery, we were able to attribute these other incidents to PIRA and said that because of its connections with PIRA Sinn Féin had to bear its share of responsibility for all of them. Our first comments had been at a time when Sinn Féin was engaged at Leeds Castle in talks on devolution with the two Governments and the other parties. There were no public reactions or questions when we made this report<sup>77</sup>. The second relates to the dissident republican resurgence from 2008 onwards. Over a long period we had consistently referred to the threat these organisations posed and the ways in which they sought to enhance their long term capabilities, and we had identified the risk that they would try to fill a vacuum perceived to have been created by PIRA's adoption of a

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<sup>76</sup> IMC Third Report, November 2004, paragraphs 3.10 and 5.7.

<sup>77</sup> IMC Fourth Report, February 2005, paragraphs 8 - 10 and 14.

peaceful path<sup>78</sup>. It was only later that the emerging gravity of this development received substantial public attention.

#### *Things We May Have Affected – Security Normalisation*

14.5 We do not believe that we had any direct impact on the process of security normalisation, which was a complex and fully planned process. The military aspects were implemented to a timetable by the British Army and the others by the PSNI and the British Government. We would have had a direct contribution only if circumstances in Northern Ireland had deteriorated to the point where the authorities decided to slow the programme down; then we would have had to assess whether those circumstances justified the delay. This did not happen.

14.6 We possibly made some contribution to helping ensure that security normalisation attracted so very little public attention. By the time we presented our first report on the process in March 2006 we had a sufficient reputation for independence and accuracy to be accepted, even by those who resented our presence. Though most of the military aspects of security normalisation are visible on the ground, we were able to verify in detail that the programme as a whole was being implemented. We could reinforce this by saying that we had undertaken an extensive programme of visits to military sites and police stations before and throughout the course of the programme. In this way we hope we gave reassurance that it really was being implemented and so helped to build confidence. If we did, it was a modest contribution to ensuring that the thirty-eight year Army operation in support of law enforcement came to an end as quietly as it did.

#### *Finally*

14.7 The ultimate test is whether we served the objective set for us in Article 3:

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<sup>78</sup> Examples are in Section 2 of, respectively, IMC Fifteenth Report, April 2007; IMC Seventeenth Report, November 2007; IMC Twentieth Report, November 2008.

“to carry out [our] functions with a view to promoting the transition to a peaceful society and stable and inclusive devolved Government in Northern Ireland.”

14.8 Readers of this and our previous reports will have their own views. We think that, given the fragile political environment, the restoration of the Assembly and Executive in 2007 and the devolution of policing and justice in 2010 would have been extremely difficult without the reports of the IMC.

## 15. LOOKING AHEAD

15.1 The particular circumstances in which we were set up have completely changed and a core issue for us in our early years – the links between paramilitaries and political parties – is no longer a matter of acute contention. The British and Irish Governments have concluded that we have fulfilled the purpose for which we were established. The institutions designed to facilitate transition to normality – of which we are one - are of their nature abnormal and Northern Ireland has reached a point when it is right for them to leave the stage<sup>79</sup>. In our view, Northern Ireland should now address its continuing issues by conferring full responsibility on its own political and other institutions.

15.2 We leave two final, connected, thoughts. Both arise from our work on monitoring paramilitary activity. As we indicated above and described in our previous report in November 2010, though paramilitaries have radically changed over the past seven years they have not left the scene<sup>80</sup>.

Paramilitary violence is still a real issue. Dissident republicans are an active

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<sup>79</sup> We have been asked on several occasions whether the International Agreement should in our view have contained a sunset clause which would have led to the IMC's closure at a specified date. We are sure it was right not to include one. One reason is implicit in this paragraph: the two Governments needed the freedom to determine when the IMC's role had in their opinion run its course and when the time had come to move on. Another is that the IMC went on for much longer than anyone expected. In this context we also note that we were established because the Belfast Agreement did not have all the instruments necessary for its implementation. There may be a question whether in other peace processes some form of monitoring should be brought in at the start.

<sup>80</sup> Section 5 above and IMC Twenty-Fifth Report, November 2010, Sections 2 and 3.

and serious threat, especially at the moment against members of the PSNI. They apparently seek to undermine community policing. Loyalists, though they have decommissioned and with varying degrees of success have led members away from crime, have yet to inspire confidence that they are capable of finally going away as paramilitary organisations, as PIRA has. Some members and former members of all groups remain heavily involved in a wide range of serious crime, exploiting the contacts and expertise they acquired during the Troubles and thereby presenting a challenge to law enforcement which is significantly more serious than it would otherwise have been.

- 15.3 Northern Ireland's political and other institutions, and the UK Government in respect of national security, therefore have a heavy continuing responsibility to complete the process whereby paramilitary groups finally cease to play a part in society. That responsibility goes wider, to the communities in which paramilitary groups still play a role. One of our interlocutors vividly told us at an early stage in our work that many communities would have to learn how to be policed. That remains true but applies to more than just policing. There are some in those communities who have to learn that paramilitary groups hold back their social and economic development and that only by rejecting them and whole-heartedly supporting public and voluntary institutions and the rule of law can they fully throw off the bequest of the Troubles.
- 15.4 Our second parting thought follows directly from this. The main responsibility for dealing with these challenges rests with the Assembly, the Executive and local politicians, working in conjunction with community leaders, churches, the law enforcement and other public institutions, and ultimately with the people of Northern Ireland as a whole. It is only they who can inspire the whole community to reject this bequest from the past. The fundamental principle of the Northern Irish peace process, as indeed of other such processes elsewhere, is that politics is the way to address communal challenges and to draw the whole society into full acceptance of the institutions of democracy, thereby finally rejecting all aspects of paramilitarism. Northern Ireland has achieved, in the words of the objective

set for the IMC, “stable and inclusive devolved Government”<sup>81</sup>. It is this inclusive leadership which must now jointly guide Northern Ireland along the rest of the road.

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<sup>81</sup> Article 3 of the International Agreement; see Annex II below.

## ANNEX I

### **LETTERS FROM THE BRITISH AND IRISH GOVERNMENTS REQUESTING THIS REPORT**

*The Secretary of State for Northern Ireland, the Rt Hon Owen Paterson MP, and the Minister for Justice and Law Reform, Dermot Ahern TD, wrote to us in identical terms on 16 and 21 December 2010 respectively confirming that they would bring the IMC to an end and requesting this final report . The following is the text of their letters.*

The Independent Monitoring Commission has made a profound contribution to the transition in Northern Ireland to a peaceful society and stable and inclusive devolved Government. The Commission's 25 reports have documented dramatic changes in the political and security landscape in Northern Ireland and the IMC's independent reporting has provided a valuable contribution to public debate and public policy in Northern Ireland, as well as helping to build trust and confidence among the Northern Ireland parties. The British and Irish Governments would like to put on record our sincere thanks to the Commissioners and the IMC staff for all their work.

Since the Commission was established the Provisional IRA announced an end to their armed campaign, and all of the paramilitary groups that are no longer active have undertaken the process of decommissioning their weaponry. The British Government's security normalisation programme was completed and the Commission reported that all commitments were met. Devolved government has now been up and running for the longest continuous period since 1972, and in April this year policing and justice functions were also devolved.

Although there remain those who have rejected peace and politics and who actively work to undermine it, Northern Ireland has made the transition to stable, local democracy. The Commission has assessed that, in general, with the exception of those groups, the leaderships of paramilitary groups remain committed to the political process and to transforming their organisations.

It is clear that the work of the IMC is nearing completion, and the British and Irish Governments think it would be appropriate for the Commission to prepare one more final report looking back on their work, including lessons learned. After that, the IMC arrangements will be brought to an end.

Obviously, as an independent Commission, it is a matter for you to include anything you think proper in a final report. But, we thought it might be helpful to set out broadly what we believe it would be useful for that report to cover. In doing so we are conscious that the lessons learned from your experience not only deserve to be recorded from the point of view of history, but could prove invaluable in terms of conflict resolution generally.

In the circumstances, we feel a final report, drawing on the IMC's work since its establishment, might usefully include:

- an overview of the changes in the levels and nature of paramilitary activity since the IMC was established;
- a review of the work of the Commission and what, in the view of the Commission was critical to its success; and
- any useful lessons that can be learned.

It would be very much appreciated if the Commission were in a position to provide this final report to both Governments in the New Year, and in any event, before the Commission's next Article 4 report would become due<sup>82</sup>.

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<sup>82</sup> The next Article 4 report would have been due in April 2011. The IMC was closed down on 31 March 2011.

## ANNEX II

### **THE LEGAL FOUNDATION OF THE IMC**

1. The International Agreement was signed on 25 November 2003 and was brought into effect on 7 January 2004.
2. The two countries gave statutory force to the Agreement as follows:
  - In the UK, in the Northern Ireland (Monitoring Commission etc.) Act 2003;
  - In Ireland, in the Independent Monitoring Commission Act 2003.

#### **The Terms of the “Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland Establishing the Independent Monitoring Commission”**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland:

Recalling the agreement reached in multi-party negotiations (herein referred to as the multi-party agreement) and annexed to the agreement signed by both Governments on 10 April 1998 (the agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland done at Belfast on 10 April 1998);

Reiterating their shared commitment to the transition to a peaceful society in Northern Ireland and the establishment of the institutions of the multi-party agreement on a stable and inclusive basis;

Having decided, recalling the text of the Agreement on Monitoring and Compliance published by the two Governments on 1 May 2003, to establish an independent body to monitor certain matters and to advise the two Governments, with a view to building the necessary trust and confidence among the Northern Ireland parties;

Have agreed as follows:

## **ARTICLE 1**

The Independent Monitoring Commission (hereafter referred to as “the Commission”) is hereby established by the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland (hereafter “the two Governments”) in accordance with this Agreement.

## **ARTICLE 2**

- (1) The Commission shall be independent in the performance of its functions.
- (2) The Commission shall have the legal capacity of a body corporate.

## **ARTICLE 3**

The objective of the Commission is to carry out the functions as described in Articles 4, 5, 6 and 7 of this Agreement with a view to promoting the transition to a peaceful society and stable and inclusive devolved Government in Northern Ireland.

## **ARTICLE 4**

In relation to the remaining threat from paramilitary groups, the Commission shall

- (a) monitor any continuing activity by paramilitary groups including:
  - i. attacks on the security forces, murders, sectarian attacks, involvement in riots, and other criminal offences;
  - ii. training, targeting, intelligence gathering, acquisition or development of arms or weapons and other preparations for terrorist campaigns;
  - iii. punishment beatings and attacks and exiling;
- (b) assess:
  - i. whether the leaderships of such organisations are directing such incidents or seeking to prevent them; and
  - ii. trends in security incidents.
- (c) report its findings in respect of paragraphs (a) and (b) of this Article to the two Governments at six-monthly intervals; and, at the joint request of the two Governments, or if the Commission sees fit to do so, produce further reports on paramilitary activity on an ad hoc basis.

## **ARTICLE 5**

- (1) In relation to a commitment by the British Government to a package of security normalisation measures, the Commission shall:

- (a) monitor whether commitments made are being fully implemented within the agreed timescales, in the light of its assessment of the paramilitary threat and the British Government's obligation to ensure the safety and security of the community as a whole. The activities it shall monitor in this regard shall include:
    - i. demolition of towers and observation posts in Northern Ireland;
    - ii. withdrawal of troops from police stations in Northern Ireland;
    - iii. closure and dismantling of military bases and installations in Northern Ireland;
    - iv. troop deployments and withdrawals from Northern Ireland and levels of British Army helicopter use;
    - v. the repeal of counter-terrorist legislation particular to Northern Ireland;
  - (b) report its findings in respect of paragraph (a) of this Article to the two Governments at six-monthly intervals.
- (2) The Commission shall, at the request of the British Government, prepare a report giving an account of security normalisation activity undertaken by the British Government over a specified period. The period to be covered by such a report, and the activities it shall monitor in this regard, shall be notified to the Commission by the British Government.

## **ARTICLE 6**

- (1) The Commission may consider a claim by any party represented in the Northern Ireland Assembly:
  - (a) that a Minister, or another party in the Assembly, is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) that a Minister has failed to observe any other terms of the pledge of office, or that a party is not committed to such of its members as are or might become Ministers observing the other terms of the pledge of office.
- (2) Insofar as a claim under paragraph 1(b) relates to the operation of the institutional arrangements under Strand One of the multi-party Agreement, the claim shall be considered only by those members of the Commission appointed by the British Government under Article 10(1)(a) of this Agreement.
- (3) The Commission members appointed under Article 10(1)(a) of this Agreement shall report their findings in respect of any claim falling within paragraph (2) of this Article solely to the British Government. The Commission shall report its findings on any other claim under this Article to the two Governments.
- (4) In this Article

- (a) references to the pledge of office are to the pledge of office set out in Annex A to Strand One of the multi-party agreement;
- (b) references to a Minister are to the First Minister, the Deputy First Minister, a Minister or a junior Minister in the devolved administration in Northern Ireland.

#### **ARTICLE 7**

When reporting under Articles 4 or 6 of this Agreement, the Commission, or in the case of Article 6(2), the relevant members thereof shall recommend any remedial action considered necessary. The Commission may also recommend what measures, if any, it considers might appropriately be taken by the Northern Ireland Assembly, such measures being limited to those which the Northern Ireland Assembly has power to take under relevant United Kingdom legislation.

#### **ARTICLE 8**

In preparing its reports and making recommendations as described in Article 7 of this Agreement, the Commission shall be accessible to all interested parties and shall consult as necessary on the issues mentioned in Articles 4 to 6 of this Agreement.

#### **ARTICLE 9**

Where the Commission reports to either or both of the two Governments under Articles 4, 5 and 6 of this Agreement, the Government or Governments to whom the report is submitted shall take steps to make those reports public.

#### **ARTICLE 10**

- (1) The Commission shall consist of four members, who shall be appointed as follows -
  - (a) two members, one of whom shall be from Northern Ireland, shall be appointed by the Government of the United Kingdom of Great Britain and Northern Ireland;
  - (b) one member shall be appointed by the Government of Ireland;
  - (c) one member appointed jointly by the two Governments, who shall be a nominee of the Government of the United States of America.
- (2) The members of the Commission shall serve on terms and conditions described by the two Governments.

#### **ARTICLE 11**

The Commission, its staff, property and premises, and any agents of persons carrying out work for or giving advice to the Commission shall have such privileges, immunities and inviolabilities as may be conferred or provided for in accordance with the relevant legislation of Ireland and of the United Kingdom.

## **ARTICLE 12**

Such monies, premises, facilities and services as may be necessary for the proper functioning of the Commission shall be provided by the two Governments on a basis to be determined by them.

## **ARTICLE 13**

- (1) Members of the Commission, staff of the Commission, persons carrying out work for or giving advice to the Commission and agents of the Commission shall be bound not to disclose any information obtained in the course of the performance of their functions as such members or persons unless such disclosure is authorised by or on behalf of the Commission.
- (2) The Commission shall not do anything in carrying out its functions which might –
  - i. prejudice the national security interests of the United Kingdom or of Ireland;
  - ii. put at risk the safety or life of any person;
  - iii. have a prejudicial effect on any proceedings which have, or are likely to be, commenced in a court of law.

## **ARTICLE 14**

The Commission shall keep proper accounts and proper records of all moneys received or expended by it and shall, at the joint request of the two Governments, appoint auditors who shall audit the accounts of the Commission. The reports of the auditors shall be submitted to both Governments.

## **ARTICLE 15**

- (1) This Agreement shall enter into force on the date on which the two Governments exchange notifications of their acceptance of it;
- (2) The obligation imposed on the Commission in Article 5(1) of this Agreement to monitor and report on any programme of security normalisation undertaken by the British Government shall commence from the date on which the British Government formally notifies the Government of Ireland and the Commission of the commencement of such a programme. Such notification shall be given once the British Government, after consulting the Irish Government, is satisfied with commitments that have been given on an end to paramilitary activity.
- (3) Once notification as set out in paragraph (2) of this Article is given by the British Government, Article 5(2) of this Agreement shall cease to have effect.

## ARTICLE 16

The Agreement shall continue in force until terminated by mutual agreement and thereafter shall cease to have effect save in so far as and to the extent necessary for meeting any liabilities or disposing in an orderly manner of any remaining assets of the Commission in accordance with the spirit of the Agreement.

IN WITNESS whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

### Immunities for the IMC

3. Article 11 allows both Governments to grant the IMC “privileges, immunities and inviolabilities” in accordance with their respective legislation. This was done as follows:

- In the UK: Section 1(2) of the 2003 Act attracted the provisions of the International Organisations Act 1968, and an order was made applying them to the IMC (Northern Ireland (Monitoring Commission etc.) Act 2003 (Immunities and Privileges) Order 2003);
- In Ireland: Section 5 of the 2003 Act directly conferred immunities from suit and process and became effective when the IMC was formally established on 7 January 2004.

### UK Annual Reports on the IMC

4. Section 11(1) of the UK legislation requires the British Government to submit reports to Parliament on the annual activities of the IMC. These reports contain a convenient summary of the IMC’s public activities. They have also been used as the vehicle for publishing the IMC’s annual accounts. Most of the reports published as House of Commons (HC) papers. They are as follows:

- First Report covering Sept 2003 – Sept 2004 (17 November 2004)
- Second Report covering Sept 2004 – Sept 2005 (7 December 2006)
- Third Report covering Sept 2005 – Sept 2006 (HC 403, 4 March 2008)
- Fourth Report covering Sept 2006 – Sept 2007 (HC 1046, 7 October 2008)
- Fifth Report covering Sept 2007 – Sept 2008 (HC 535, 6 April 2010)

The reports covering the period after September 2008 will be published after we have presented this report to the British and Irish Governments.

## **ANNEX III**

### **THE IMC's REPORTS**

1. The following lists all our reports, gives the Article(s) of the International Agreement under which they were presented and indicates the nature and coverage of each.
2. The Governments have met the obligation to make the reports public in different ways. The British Government presented them to Parliament or published them as Command Papers and also made them available on the website of the Northern Ireland Office. The Irish Government made them available on the website of the Department of Justice and Law Reform.
3. On 9 March 2004 we published a statement in which we outlined our role and how we intended to fulfil it; we included the full statement as Annex II in our First Report the following month.

| <b>Report</b> | <b>Date and UK HC Number</b> | <b>Article(s)</b> | <b>Nature and Coverage</b>                                                                                                                                                                                                                                          |
|---------------|------------------------------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| First         | April 2004<br>HC 516         | 4 & 7             | First full report on the activities of all paramilitary groups. It also contained an account of the origins and political connections of the groups. The timing was at the request of the two Governments, as was the examination of a recent abduction in Belfast. |
| Second        | July 2004<br>HC 913          | 5                 | At the request of the British Government to provide a benchmark for security activity in Northern Ireland against which to monitor the subsequent normalisation programme.                                                                                          |
| Third         | November 2004<br>HC 1218     | 4 & 7             | 6 month paramilitary report                                                                                                                                                                                                                                         |
| Fourth        | February 2005<br>HC 308      | 4 & 7             | Ad hoc report at the initiative of the IMC on the robbery at the Northern Bank, Belfast, in December 2004.                                                                                                                                                          |
| Fifth         | May 2005<br>HC 46            | 4 & 7             | 6 monthly paramilitary report.                                                                                                                                                                                                                                      |

|               |                                               |       |                                                                                                                                          |
|---------------|-----------------------------------------------|-------|------------------------------------------------------------------------------------------------------------------------------------------|
| Sixth         | September 2005<br>Unnumbered<br>Command Paper | 4 & 7 | An hoc report at the initiative of the IMC on the UVF/LVF feud 2004/05                                                                   |
| Seventh       | October 2005<br>HC 546                        | 4 & 7 | 6 monthly paramilitary report                                                                                                            |
| Eighth        | Feb 2006<br>HC 870                            | 4 & 7 | Ad hoc report at the request of the two Governments.                                                                                     |
| Ninth         | March 2006<br>HC 969                          | 5     | 1 <sup>st</sup> 6 monthly report monitoring the 2 year security normalisation programme, started 1 August 2005.                          |
| Tenth         | April 2006<br>HC 1066                         | 4 & 7 | 6 monthly paramilitary report.                                                                                                           |
| Eleventh      | September 2006<br>HC 1599                     | 5     | 2 <sup>nd</sup> 6 monthly security normalisation report; see Ninth Report above.                                                         |
| Twelfth       | October 2006<br>HC 1600                       | 4 & 7 | 6 monthly paramilitary report.                                                                                                           |
| Thirteenth    | January 2007<br>HC 260                        | 4 & 7 | Ad hoc report at the request of the two Governments.                                                                                     |
| Fourteenth    | March 2007<br>HC 370                          | 5     | 3 <sup>rd</sup> 6 monthly security normalisation report; see Ninth Report above.                                                         |
| Fifteenth     | April 2007<br>HC 478                          | 4 & 7 | 6 monthly paramilitary report                                                                                                            |
| Sixteenth     | September 2007<br>Unnumbered<br>Command paper | 5     | 4 <sup>th</sup> and final security normalisation report. The programme ended in 31 July 2007 and Article 5 therefore fell into abeyance. |
| Seventeenth   | November 2007<br>HC 18                        | 4 & 7 | 6 monthly paramilitary report                                                                                                            |
| Eighteenth    | May 2008<br>HC 502                            | 4 & 7 | 6 monthly paramilitary report                                                                                                            |
| Nineteenth    | September 2008<br>CM 7464                     | 4 & 7 | Ad hoc report at request of the two Governments focusing on PIRA leadership.                                                             |
| Twentieth     | November 2008<br>HC 1112                      | 4 & 7 | 6 monthly paramilitary report.                                                                                                           |
| Twenty-First  | May 2009<br>HC 496                            | 4 & 7 | 6 monthly paramilitary report.                                                                                                           |
| Twenty-Second | November 2009<br>HC 1085                      | 4 & 7 | 6 monthly paramilitary report.                                                                                                           |
| Twenty-Third  | May 2010<br>HC 17                             | 4 & 7 | 6 monthly paramilitary report.                                                                                                           |

|               |                                                                                 |       |                                                                         |
|---------------|---------------------------------------------------------------------------------|-------|-------------------------------------------------------------------------|
| Twenty-Fourth | September 2010<br>HC 443                                                        | 4 & 7 | Ad hoc report at the initiative of the IMC on a UVF murder in May 2010. |
| Twenty-Fifth  | November 2010<br>HC 565                                                         | 4 & 7 | 6 monthly paramilitary report.                                          |
| Twenty-Sixth  | The publication date is unknown at the time of the presentation of this Report. |       | Ad hoc final report at the request of the two Governments.              |

4. The IMC's twenty-six reports total some 280,000 words, inclusive of annexes.

#### Access to the IMC's Reports

5. At the time of publication of this report full versions of each of all twenty-five IMC reports can be downloaded from the following websites, from which they can be printed free of charge. We presume this final report will be available in the same way. However the IMC's website will be discontinued at some point after the closure of the IMC. We are unable to say how long the reports will remain available on the British and Irish Government websites. We believe that the CAIN website will remain as a long term archive, as should the Stationery Office website.

CAIN Web Service: <http://cain.ulst.ac.uk>

The Stationery Office: <http://www.official-documents.gov.uk>

Northern Ireland Office: <http://www.nio.gov.uk>

Department of Justice and Law Reform: <http://www.justice.ie>

The IMC: <http://www.independentmonitoringcommission.org>

6. Reports are also available in printed form from numerous libraries but in seeking them it may be helpful to note the following points:

- Because they have been available electronically from the date of their publication, they are not automatically held on paper even in the legal

deposit libraries in the UK and Ireland. However, many libraries do retain at least some paper copies;

- Most of the reports were originally published in the UK House of Commons papers. Many of the libraries listed below will not have separate listings for the individual reports but will nevertheless hold those papers. Two of the reports (the Sixth and Sixteenth) were published as UK Command Papers, and again they may not be separately listed but will be held in that series. All of the reports can be requested through inter-library loan services.

7. The below is a list of libraries which contain at least some physical copies of IMC reports. Complete or near complete sets of the reports are indicated with an asterisk (\*):

#### **In Northern Ireland**

Linen Hall Library\*  
17 Donegall Square North  
Belfast BT1 5GB  
Telephone: 028 9032 1707  
Email: info@linenhall.com

The McClay Library  
Queen's University Belfast  
10 College Park  
Belfast BT7 1LP  
Telephone: 028 9097 6135  
Email: mcclay.issue@qub.ac.uk

#### **In Ireland**

Berkeley Lecky Ussher Library  
Trinity College Dublin  
College Street  
Dublin 2  
Telephone: +353 (1) 677 2941  
Email: dutylibrarian@tcd.ie

#### **In England**

The British Library\*  
St Pancras  
96 Euston Road  
London NW1 2DN  
Telephone: 01937 546060  
Email: Customer-Services@bl.uk

Cambridge University Library  
West Road  
Cambridge CB3 9DR  
Telephone 01223 333000  
Email library@lib.cam.ac.uk

Senate House Library  
University of London RLS  
Malet Street  
London WC1E 7HU  
Telephone: 020 7862 8500  
Email: enquiries@shl.lon.ac.uk

Bodleian Library\*  
University of Oxford  
Broad Street  
Oxford OX1 3BG  
Telephone: 01865 277162  
Email: reader.services@bodleian.ox.ac.uk

Hampshire County Libraries  
Library Headquarters  
Mooreside Place  
Mooreside Road  
Winchester SO 23 7FZ  
Telephone: 0845 603 5631  
Email: library@hants.cgov.uk

Surrey Country Libraries  
Enquiries Direct  
c/o Guildford Library  
7 North Street  
Guildford, Surrey GU1 4AL  
Telephone: 01483 543599  
Email: libraries@surreycc.gov.uk

### **In Scotland**

National Library of Scotland\*  
George IV Bridge  
Edinburgh EH1 1EW  
Telephone: 0131 623 3700  
Email: enquiries@nls.uk

Andersonian Library  
University of Strathclyde  
Curran Building  
101 St James Road  
Glasgow G4 0NS  
Telephone: 0141 548 3701  
Email: library@strath.ac.uk

University of St Andrews Library  
North Street  
St Andrews  
KY16 9TR  
Tel: +44 (0) 1334 462283  
Fax: +44 (0) 1334 462282  
Email: library@st-andrews.ac.uk

### **In Canada**

Carleton University Library  
1125 Colonel By Drive  
Ottawa, ON  
Canada K1S 5B6  
Telephone: 613-520-2735  
Email: askthelibrary@carleton.ca

### **In Hong Kong**

University of Hong Kong Library  
Main Library  
University of Hong Kong  
Pokfulam Road  
Hong Kong  
Telephone: 852 2859 2203  
Email: hkulref@hkucc.hku.hk

## **ANNEX IV**

### **MEMBERSHIP AND STAFF OF THE IMC**

#### **A. COMMISSIONERS**

1. In alphabetical order the Commissioners were Lord John Alderdice (appointed by the British Government and the Commissioner from Northern Ireland), Joe Brosnan (appointed by the Irish Government), John Grieve (appointed by the British Government) and Dick Kerr (appointed by the British and Irish Governments on the nomination of the US Government).
2. The following notes give biographical information.

##### **John, Lord Alderdice**

John Alderdice was born in 1955, eldest son of a Presbyterian minister in Ballymena, Northern Ireland. He read medicine at Queen's University, Belfast, later specializing in psychiatry and psychoanalysis, becoming a Member, a Fellow and finally an Honorary Fellow of the Royal College of Psychiatrists. He established and ran the Centre for Psychotherapy in Belfast until his retirement in March 2010 and was also from 2006 to 2010 a Visiting Professor at the Department of Psychiatry of the University of Virginia and co-Chairman of the Critical Incidents Analysis Group (CIAG) also based in Charlottesville. In addition to his clinical and teaching work he focussed on applying psychoanalytical ideas to understanding and working with terrorism and violent political conflict in various parts of the world and this work has been recognized by a number of honorary doctorates, fellowships and international prizes.

His political career began when he joined Northern Ireland's cross-community Alliance Party in 1978 and held a number of offices before being elected Party Leader in 1987. He was also from 1989 to 1997 a Belfast City Councillor. As Alliance Leader he participated in all the inter-party and inter-governmental talks processes on Northern Ireland over this period, culminating in the 1998 Belfast Agreement.

After his election in June 1998 to the newly established Northern Ireland Assembly as MLA for East Belfast, he stepped down as Alliance Leader and was appointed Speaker of the new Assembly. For the next six years he was responsible for the conduct and development of the new legislature. He retired as Speaker in 2004 after being appointed to the IMC.

In 1996 he had been appointed to the House of Lords taking his seat on the Liberal Democrat benches. In June 2010 he was elected Convener (Chair) of the Liberal Democrat Parliamentary Party in the House of Lords.

He was from 1995 Treasurer and then from 1999 to 2003 Vice-President of the European Liberal Democrat and Reform Party (ELDR) based in Brussels. In 2000 he was elected Deputy President and, in May 2005, President of Liberal International - the world-wide family of liberal political parties. He retired as President in October 2009 but remains a member of the LI Bureau.

He has worked as a consultant or negotiator on behalf of a number of governments and international bodies in South Asia, Africa, Latin America and particularly in the Middle East where he has a special interest, and he served on the Commonwealth Eminent Persons Group on Respect and Understanding under the chairmanship of Nobel Laureate Amartya Sen.

Lord Alderdice is President of ARTIS (Europe) a research and risk analysis company, Chairman of the World Federation of Scientists Permanent Monitoring Panel on Terrorism and Co-Chairman of the International Dialogue Initiative. In 2010 he was appointed by Prime Minister David Cameron to the UK Committee on Standards in Public Life.

### **Joe Brosnan**

Joe Brosnan is a former Irish civil servant and a qualified barrister. For most of his civil service career he worked in the Department of Justice, of which he was Secretary General in the early 1990s.

In the Department he worked on the preparation of criminal law, criminal justice and other legislation, including police powers of arrest and detention, interception of communications, crime prevention and extradition. For several years he headed the Garda and Security Division responsible for policy on policing and security and for relations with the Garda Síochána. As such he was briefed on the security situation and on the activities of paramilitary groups during the Troubles and involved in policy to counter those activities.

He took part in the North-South cooperation on legal and policing matters set up following the Anglo-Irish Agreement of 1985 and attended Ministerial meetings of the Anglo-Irish Conference. He was joint chairman of a working group of the Conference which dealt with North-South police and security cooperation. In 1992, when Secretary-General of the Department, he was a member of the delegation to the Northern Ireland political talks.

He was involved in EU business, including negotiations on a number of draft EU legislative proposals, and in co-operation among the EC Member States on policing and justice matters, on which he chaired the senior group during the 1990 Irish EC presidency. In 1993 he went to Brussels to be Chef de Cabinet to the Irish member of the European Commission, responsible for Justice and Home Affairs and for Employment and Social Policy.

On retiring from the European Commission and the Irish civil service in 1999 he worked as a consultant on public and European affairs. He was Director General of the Institute of European Affairs, an independent, private think-tank in Dublin. He was a consultant to the Law Society of Ireland on the operation of its regulatory systems and procedures and chaired three Society task forces to review various aspects of them. He was a member of a group established by the Irish Government in 2002 which investigated and reported on allegations made about Garda security intelligence operations in the run-up to the Omagh bombing of 1998.

### **John Grieve**

John Grieve joined the Metropolitan Police Service (MPS) in 1966. He served as a police officer and detective throughout London, including in the Drug Squad (in part in under-

cover roles), the Flying Squad, the Robbery Squad, as a Murder Squad senior investigator and as a staff officer to the head of London's CID. He was awarded the CBE and QPM.

His senior responsibilities have included as Commander of a multi-ethnic inner East London Division, responsibility for covert activities and sources, the introduction of asset seizure investigation in the UK, MPS Head of Training (with a particular personal involvement in issues to do with community relations), first MPS Director of Intelligence (when he introduced the first London-wide IT intelligence system), Head of the MPS Anti-Terrorist Squad and (simultaneously at a national level) National Coordinator for Counter Terrorism for England and Wales. As such he led the Anti-Terrorist Squad during the 1996-1998 IRA bombing campaigns and in investigations of the precursors of Al Qaida. In August 1998, in his final MPS role, he became the first Director of the MPS Racial and Violent Crime Task Force which introduced hate crime policing to the police service nationally together with investigative and preventative tools designed to address it. He served on several national committees set up by the Association of Chief Police Officers, including Training, Counter Terrorism and Diversity & Community Relations.

Since leaving the MPS he has been independent chair at the Greater London Authority's Alcohol and Drugs Alliance, independent chair of the Home Office/Ministry of Justice Independent Advisory Group on Hate Crime, Senior Research Fellow at Portsmouth University, Professor Emeritus at London Metropolitan University, Honorary Fellow at Roehampton Institute, Surrey University, and Honorary Doctor at London Metropolitan University. In these roles he has worked in many countries and has taught, spoken, advised and been consulted by institutions in the UK, Europe, Russia, the US and Africa. He has also researched, written and taught about all aspects of policing in the UK and many other countries.

### **Dick Kerr**

After serving three years in the US army and undergraduate and graduate work at the University of Oregon he was recruited by the Central Intelligence Agency. His first significant job was as an analyst following Soviet military forces in Cuba during the missile crisis. A variety of analytic jobs followed, many of them preparing current intelligence reporting drawing on the technical expertise of others and involving a variety of crises and

fast breaking international events. He subsequently led increasingly large teams of analysts. He was variously the head of the office producing all daily intelligence including the document that went to the President and other senior policy makers, the unit producing intelligence on East Asia, and finally the deputy and director of the component responsible for all intelligence production world-wide. In 1988 President Bush appointed him Deputy Director of Central Intelligence and of the CIA - the senior professional intelligence officer in the US. In that position he was a member of the team that made policy recommendations to the President on issues ranging from terrorism in the Middle East to the breakup of the Soviet Union.

After retiring in 1992, he continued to work on national security issues in the private sector and government. In late 2002 the Director of Central Intelligence, acting on a request from the Secretary of Defense, asked him to head a team reviewing intelligence produced in the two years leading up to the war with Iraq. Three reports were prepared; an overall assessment of the quality of intelligence and why the issue of weapons of mass destruction was so badly handled, a critique of the national estimate on Iraq, and a report on lessons learned.

## **B. STAFF**

1. The Commissioners appointed two part-time Joint Secretaries, Stephen Boys Smith (a former British civil servant) and Michael Mellett (a former Irish civil servant).
2. There have been three full time members of staff in the Belfast office seconded from the Northern Ireland Office and one in the Dublin office seconded from the Irish Civil Service.
3. The following notes, like those above, give biographical information.

### **Stephen Boys Smith**

Stephen Boys Smith came to the IMC after a career in the UK Civil Service preceded by a first degree at Cambridge University and a post graduate degree at the University of

British Columbia, where he also taught. His career was spent mainly in the Home Office but with periods in the Central Policy Review Staff of the Cabinet Office, the Northern Ireland Office and the Treasury. In the Home Office he worked on policing issues at every grade, and also on the criminal law, prisons, probation, EU justice and policing issues and finance. He was a private secretary to three Home Secretaries and Principal Private Secretary to two Secretaries of State for Northern Ireland and to the Home Secretary. His last three posts were in the Home Office as the Director General responsible for policing; for immigration, asylum and nationality; and for counter-terrorism, organised crime, drugs and the Department's international business. He received the CB in 2001.

In the course of this work he gained extensive experience of working on all aspects of UK policing, at the senior level as the Home Office official responsible for superintendence of the Department's business with the police service and for relations with its senior members. He had a long involvement in issues on counter-terrorism, including latterly overall responsibility for policy. He had a wide understanding of security and intelligence issues, including responsibility for the Home Office's relations with the Security Service and with the other UK secret agencies and the preparation of the first legislation on the interception of communications. He also had a familiarity with affairs in Northern Ireland. His career focused on the analysis of complex problems and was in a profession in which a premium was set on the lucid presentation of issues on paper and orally, particularly relevant for his work drafting IMC reports.

Since leaving the Home Office as well as working for the IMC he has undertaken reviews of airport policing and of personnel security in the transport industry for the Home Office and Department for Transport; of the organisation for safeguarding children against on-line exploitation for the Home Office; and of the multi billion pound coal compensation scheme for the Department for Trade and Industry. He is a member of the Civil Service Appeal Board and an Associate Consultant for Public Administration International, where he runs study programmes on migration.

### **Michael Mellett**

Michael Mellett was a career public and civil servant. Having started as a member of An Garda Síochána he moved on to become a clerk/registrar in the District Court, later in the High Court and finally in the Supreme Court. During this period he studied law at

University College, Dublin and the King's Inns and was called to the Irish Bar in 1969. He then moved to the Department of Finance and in 1973, when Ireland joined the EEC, he moved to the new EEC Division of the Department of Justice. In 1974 he went back to University College, Dublin and obtained a post-graduate Diploma in European Law.

Michael was seconded, at a senior level, to the Department of Foreign Affairs for a period (1993-1995). He was assigned to the Anglo-Irish Secretariat based in Belfast.

On return to the Department of Justice he worked in various Divisions of the Department of Justice. He headed up the Prisons Division and the Courts Division of the Department. He helped establish the Irish Prison Service as a separate agency of the Department and became a member of the Board of that Service. He also helped establish the Courts Service as an organisation independent of the Department and became a member of the Board of that Service. He was, for several years, Chairman of the Garda Síochána Conciliation Council which dealt with pay and conditions of all ranks up to Assistant Commissioner. He eventually became Deputy Secretary General of the Department.

He was one of the team of Irish civil servants involved in the negotiations leading up to the Belfast Agreement, dealing mainly with the issue of the release of prisoners sentenced for their involvement in the "Troubles". He subsequently became one of the three-person Commission established by the Irish Government to review the sentences of those prisoners held in Irish Prisons and make recommendations to the Government for their release or otherwise under the Belfast Agreement.

For six years he was a member of the Committee (CPT) established under the Council of Europe Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The CPT has a strong input into the Human Rights jurisprudence of the European Court of Human Rights, particularly in the areas of arrest and detention of citizens.

Since his retirement from the Department of Justice he acted as special adviser to the inquiry conducted by an Irish Judge at the request of the Seychelles Government into the behaviour of the police there during a public order event. He also conducted an inquiry at the request of the Irish Minister of Justice into the killing of a prisoner while in the custody of the Irish Prison Service.

## ANNEX V

### COST OF THE IMC

1. The International Agreement provides for the British and Irish Governments to determine between themselves how to fund and provide services for the IMC. In the event they agreed to share the costs equally<sup>83</sup>.
2. The great bulk of the IMC's costs were initially borne by the British Government, which received quarterly reimbursements from the Irish Government. The IMC's annual accounts are prepared in sterling and audited by the Northern Ireland Audit Office. They are published in full in the annual reports which the UK Government submitted to Parliament, a list of which is in the last section of Annex II.
3. The annual costs were as follows:
  - For the period from the autumn of 2003, when the IMC started to meet in shadow form, until January 2004, when it was formally established, the costs were carried by the two Governments as they arose and are not separately identifiable;
  - |                   |                      |
|-------------------|----------------------|
| Jan 2004–Mar 2005 | £1,109,206           |
| 2005-06           | £1,333,431           |
| 2006-07           | £ 866,315            |
| 2007-08           | £ 664,795            |
| 2008-09           | £ 737,037            |
| 2009-10           | £ 814,885            |
| 2010-11           | £ 700,000 (estimate) |

The total over the seven years and three months was some £6.2m. Taking account of the fact that the first accounting period was fifteen months long, the average annual spend was about £860,000.

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<sup>83</sup> The one exception to this was the cost of the office accommodation in Dublin Castle which the Irish Government provided free of charge.

## **ANNEX VI**

### **ARTICLE 6**

1. Article 6 enables parties in the Northern Ireland Assembly to make a claim to the IMC that:

- (I) A Minister or another party in the Assembly is not committed to non-violence and exclusively peaceful and democratic means, or
- (II) A Minister has failed to observe any other terms of the pledge of office, or that a party or Members who might become Ministers are not so committed.

On receipt of a claim the IMC “may” consider it. It is obliged to report the findings of any such consideration to the two Governments or, in certain specified circumstances, only to the British Government<sup>84</sup>.

2. The full terms of Article 6 are in Annex II.
3. No such claims were made but we knew that they were likely to be politically charged and difficult to manage if they were. We therefore spent a considerable amount of time preparing for that eventuality and sought legal advice to ensure that the procedures we planned to adopt were sound as well as practicable.
4. In December 2004 and in December 2005 we consulted the political parties in the Northern Ireland Assembly about the procedures we were thinking of adopting for dealing with Article 6 claims. We received no substantive comments. Following the restoration of the Assembly in May 2007 we again circulated our procedures to the political parties (incorporating one small

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<sup>84</sup> In certain circumstances specified in Article 6(2) the claim had to be considered only by the Commissioners appointed by the British Government; see Annex II above. The published procedures made clear however that the decision on whether the claim fell to be handled in this way or by all the Commissioners was a collective one which all four would take.

change). On this occasion we received a supportive response from one party and nothing from any other party.

5. The main elements of the published procedures were as follows:

- The IMC expected claims to have substance and to be accompanied by any supporting material. Claimants were asked to explain what alternative remedies existed, whether they had been pursued, and if they had not been, why not and whether they would be;
- The IMC would immediately communicate the substance of the claim to the person or party claimed against;
- At that stage the IMC would not volunteer any information to the public or the media about a claim beyond confirming, if asked, that it had received one;
- The IMC would give as early initial consideration to the claim as practicable. This would include whether it would pursue the claim; reasons why it might not could include that the claim was *ultra vires*, repetitive, related to historic events, other remedies had not been pursued or it was too vague to be capable of proper examination;
- If the IMC decided it would consider the claim it would invite the parties to submit any further material. It would offer to discuss the claim with them at either a tripartite meeting (if both agreed) or at separate bilateral ones (if they did not but still wanted to meet the IMC). If a party declined to meet the IMC at all, the claim would be considered without discussion with it;
- In any meetings the IMC would allow itself to be addressed only by a Member of the Assembly, though Members could bring advisors. In a tripartite meeting remarks could be addressed only to the IMC

and there would be no cross examination between the parties. The IMC would in addition seek information or views from whatever other sources it thought appropriate; such information might remain confidential to the IMC;

- At a time of its choosing the IMC would report its findings to the two Governments or, if so required by the terms of Article 6, only to the British Government<sup>85</sup>. It expected the reports to be short and not to contain detailed reasons for the conclusions it had reached. It would be for the Government(s) to decide when to publish the reports.

6. These published procedures were underpinned by detailed internal procedures, private to the IMC and designed to ensure that we could deal with claims quickly and consistently.

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<sup>85</sup> See Article 6(2) in Annex II above.

## **ANNEX VII**

### **ATTRIBUTION CRITERIA**

*We reproduce below Annex VIII of our Seventh Report, October 2005, in which we set out the analytical tools we used to determine whether a particular crime should be attributed to a paramilitary group.*

The following material demonstrates some of the tools we are developing to help us in our analysis of the attribution of paramilitary crime. We see it as an aid to thinking. We would welcome comments on it.

There are a number of ways of categorising the individuals concerned and the activity they undertake. The categories are not mutually exclusive or exhaustive. Situations may be in different categories at different times. There is also a question of timing, e.g: when were situations authorised? are they part of some ongoing activity? are they still authorised? was the modus operandi authorised or specified, for example were firearms to be carried and used? The attributions may be clearer in some situations or with some individuals than with others. The answers to these questions may be “no” as well as “yes”.

#### **Individuals**

1. Actual active current member of paramilitary group.
2. Close associate of paramilitary group.
3. Loose associate of paramilitary group (local association?).
4. Not a member of paramilitary group and never has been.
5. Ex-member or ex-associate, who may have been of categories 2 or 3.
6. Intentionally misleading claims about membership of paramilitary group.

7. History of membership/involvement with more than one paramilitary group over a period of time; may be in any of categories 1-6 above.

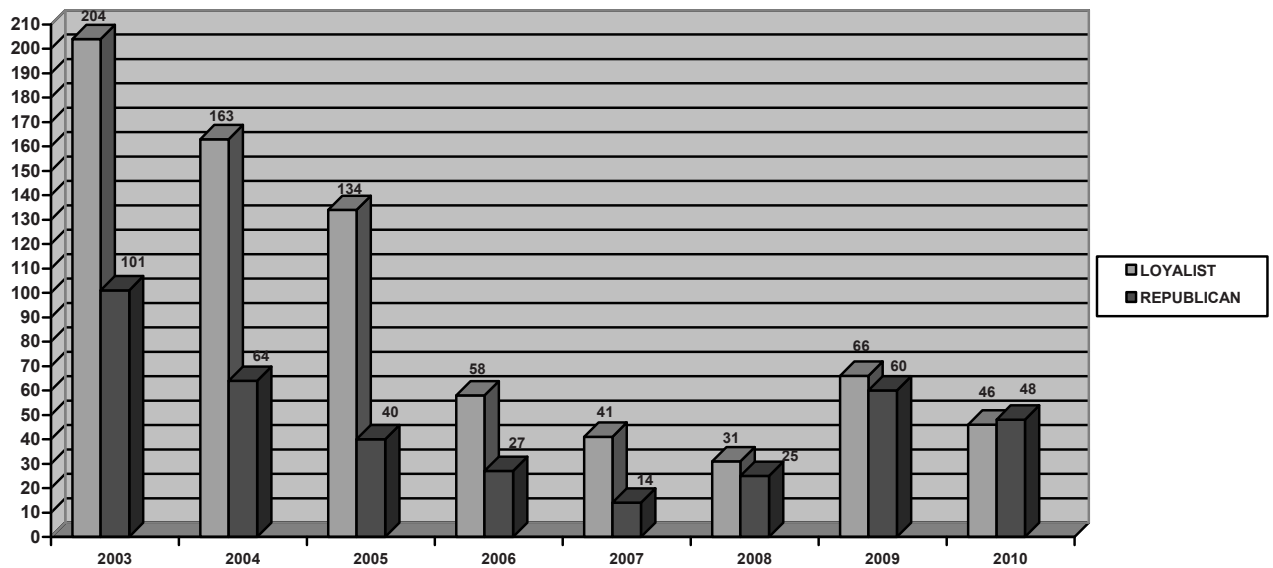
### **Situations**

1. Sanctioned, authorised or directed by paramilitary leadership. Part of political, terrorist or criminal strategy (includes feuds and respect issues).
2. Though not 1, carried out on behalf or to the benefit of paramilitary group. Part of political, terrorist or criminal strategy (includes feuds and respect issues).
3. Authorised by paramilitary leadership but there are questions as to whether it is in line with strategies.
4. Not authorised but adopted, shielded or protected post hoc by paramilitary leaders.
5. Not adopted, shielded or protected post hoc.
6. As 5 but actually denied.
7. Devolved authority for some situations.
8. Not authorised but for personal agenda or gain in whole or in part.
9. Cover story of involvement with paramilitary group, flag of convenience (includes a group or organisation pretending to be another).

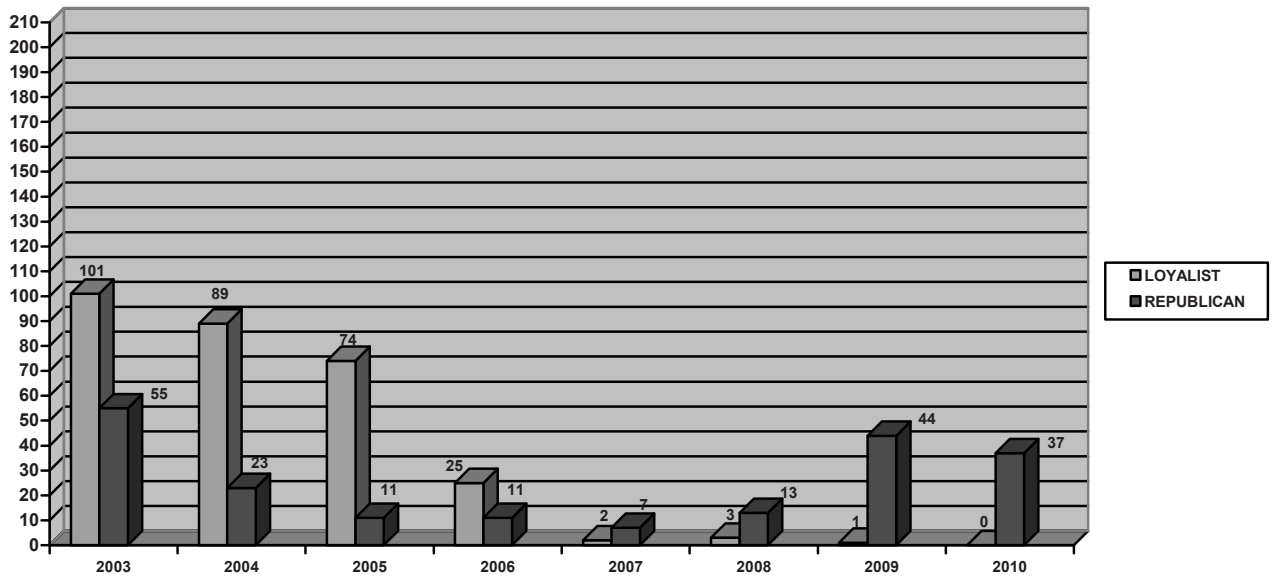
## ANNEX VIII

### PARAMILITARY VIOLENCE 2003 - 2010

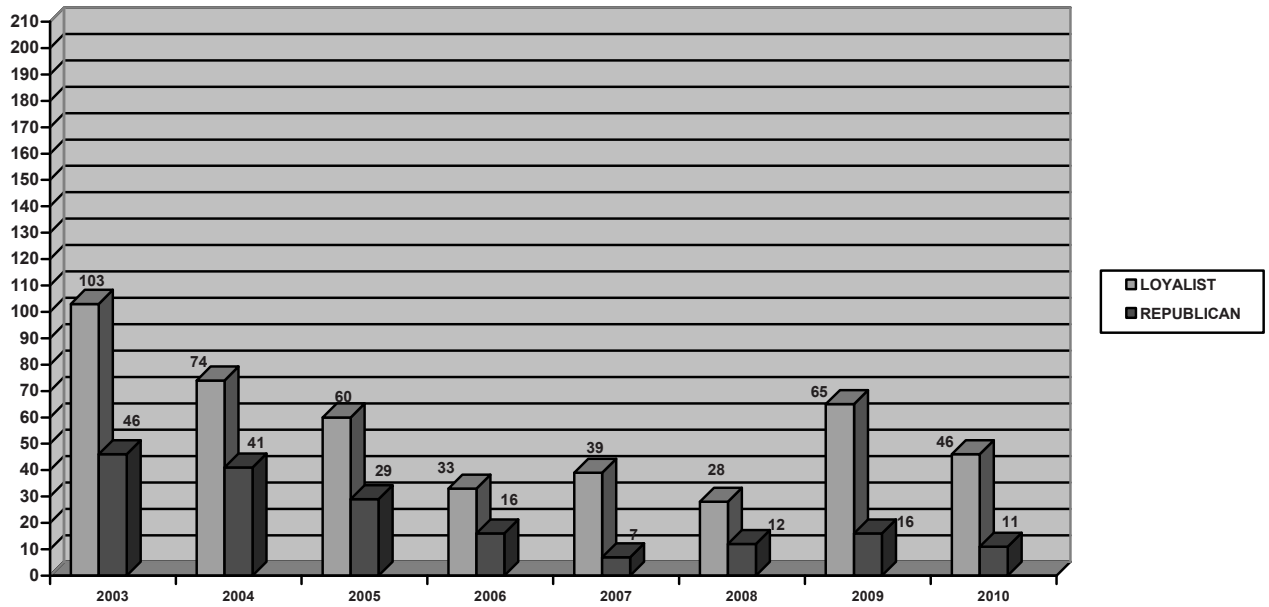
REPORTED CASUALTIES ARISING FROM SHOOTINGS AND ASSAULTS COMBINED BY  
ALL PARAMILITARY GROUPS JANUARY 2003 to DECEMBER 2010



REPORTED CASUALTIES ARISING FROM LOYALIST AND REPUBLICAN SHOOTINGS  
JANUARY 2003 to DECEMBER 2010



**REPORTED CASUALTIES ARISING FROM LOYALIST AND REPUBLICAN ASSAULTS  
JANUARY 2003 to DECEMBER 2010**



## **ANNEX IX**

### **THE IMC'S GUIDING PRINCIPLES**

These guiding principles were set out in the statement issued on 9 March 2004, reproduced in full as Annex II to the First Report, April 2004. They were repeated in all subsequent Article 4 and Article 5 reports.

- The rule of law is fundamental in a democratic society.
- We understand that there are some strongly held views about certain aspects of the legal framework, for example the special provisions applying to terrorism, and that those holding these views will continue to seek changes. But obedience to the law is incumbent on every citizen.
- The law can be legitimately enforced only by duly appointed and accountable law enforcement officers or institutions. Any other forcible imposition of standards is unlawful and undemocratic.
- Violence and the threat of violence can have no part in democratic politics. A society in which they play some role in political or governmental affairs cannot – in the words of Article 3 – be considered either peaceful or stable.
- Political parties in a democratic and peaceful society, and all those working in them, must not in any way benefit from, or be associated with, illegal activity of any kind, whether involving violence or the threat of it, or crime of any kind, or the proceeds of crime. It is incumbent on all those engaged in democratic politics to ensure that their activities are untainted in any of these ways.
- It is not acceptable for any political party, and in particular for the leadership, to express commitment to democratic politics and the rule of law if they do not live up to those statements and do all in their power to ensure that those they are in a position to influence do the same.

## ANNEX X

### **WORKING METHODS AND CONTACTS:** **EXTRACTS FROM THE FIFTH AND TENTH REPORTS**

*In our Fifth Report of May 2005 we gave an explanation of our working methods and the categories of people we had met. The relevant paragraphs are below.*

- 1.9 We have been asked a number of times how we make our assessments and on what information we base them. Some have asked us to put more material in the public domain. Some have challenged us on grounds that we may be or appear to be biased, and we continue carefully to consider that issue. We hope it would be helpful if we say something about the way we work.
- 1.10 We believe it is a great strength that the four Commissioners come from different backgrounds and have different perspectives. We seek to maximise the benefit this gives us by challenging each others' thinking as well as challenging those we meet. We try to develop assessments based on more than one source. We see if there are links between what we learn from different people and we expect to be able to triangulate different perspectives before we reach conclusions. We probe the nature and logic of the information we receive. We examine whether there are any inconsistencies. We challenge any gaps there appear to be. We question whether there might be any bias either in our own approach or in that of others and take steps to ensure it does not influence our conclusions inappropriately. We ask ourselves and our interlocutors whether other conclusions might as reasonably be drawn from the same set of circumstances. We test the confidence placed in the material and in opinions associated with it. We do all this before we come to any view, and before we write our reports. The conclusions we draw are our own.

1.11 Our sources are wide ranging. They include the law enforcement and other agencies of the UK and Ireland, as well as of any other country from which we have things to learn. But they are much wider than that. In addition to government officials and police officers we have met people from the following categories in Great Britain, Ireland North and South and in the United States:

Political parties; government officials; police; community groups; churches; charities; pressure groups and other organisations; former combatants, including ex-prisoners; representatives of businesses; lawyers; journalists; academics; victims; private citizens, individually and as families.

We urge everybody with something material to our work to get in touch with us<sup>86</sup>. We also try to take account of the work of other boards, commissions and similar bodies in Northern Ireland and elsewhere<sup>87</sup>.

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<sup>86</sup> You can contact the IMC through our website: [www.independentmonitoringcommission.org](http://www.independentmonitoringcommission.org); by E-mail: [imc@independentmonitoringcommission.org](mailto:imc@independentmonitoringcommission.org); by post at PO Box 709, Belfast, BT2 8YB or PO Box 9592, Dublin 1; and by telephone at +44 (0)28 9072 6117 in Belfast and +353 1 4752 555 in Dublin.

<sup>87</sup> There are a large number of boards, commissions and other bodies in Northern Ireland concerned with the criminal justice system, the maintenance of standards and with the transition to a peaceful society. They fulfil a variety of roles: executive, supervisory, monitoring and advisory. All have some form of interest in this issue. Most are confined to Northern Ireland but some operate on a UK basis. We are not aware of a comprehensive and publicly available list. We believe it to be, in alphabetical order: The Chief Inspector of Criminal Justice; HM Chief Inspector of Prisons; The Commissioner for Judicial Appointments; The Electoral Commission (UK); Equality Commission; Independent Assessor of Military Complaints Procedure in Northern Ireland; Independent Commissioner for Detained Terrorist Suspects; The Independent Monitoring Commission; Independent Reviewer of the Terrorism Act (Lord Carlile); Information Commissioner (UK); HM Inspector of Constabulary; The Interception of Communications Commissioner (UK); The International Independent Commission on Decommissioning; The Justice Oversight Commissioner; Northern Ireland Commissioner for Children and Young People; The Northern Ireland Human Rights Commission; The Northern Ireland Policing Board; Northern Ireland Sentence Review Commissioners; The Office of the Oversight Commissioner; The Parades Commission; The Police Ombudsman for Northern Ireland; Prisoner Ombudsman for Northern Ireland; The Probation Board for Northern Ireland; Regulation of Investigation Powers Act Commissioners. There are also individual inquiries in Ireland North and South: the Saville Inquiry and those established as a result of the report of the Cory Inquiry.

1.12 We are very careful what we say in our reports. From the beginning we have adhered to one firm principle. We treat everything we hear, including the identities of those who communicate with us, in complete confidence. Only in this way can they be expected to impart information to us, and without that information we cannot do the job the two Governments have charged us with. We will therefore not reveal our sources, though those people are free to say what they like about their communications with the IMC. The International Agreement lays down other constraints on us, for example so that we do not prejudice legal proceedings or jeopardise anybody's safety. But the most significant restraint is self-imposed: we will not say anything, or draw any conclusion, unless we have confidence in it, and we will qualify conclusions if we think that is necessary. We did this, for example, in our initial attribution of certain robberies in late October 2004<sup>88</sup>.

1.13 We are not infallible, but we do believe we are thorough in our methods and measured in our assessments. If we find one of our conclusions does not stand up in the light of later information we will acknowledge this in a subsequent report<sup>89</sup>.

*In our Tenth Report of April 2006 we described how we reported. The relevant paragraphs are below.*

1.5 First, as we have just mentioned, Article 3 sets out our objective. At the same time, our remit is clear: to monitor and report on continuing activity by paramilitary groups. From the start we have tried our best to describe what we found, without either embellishment or concealment. We have gone where the facts have led us, and have set things out as honestly as we can. We have always sought to give a full picture which fairly represents the totality of what is happening, pointing to progress where it has been made at

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<sup>88</sup> In our Third Report we said that members of republican paramilitary groups were responsible for recent large scale robbery and violent theft but that we could not make more firm attributions. In our Fourth Report the availability of further information enabled us to attribute the incidents specifically to PIRA.

<sup>89</sup> In our Third Report we said that the attribution of the murder of Michael O'Hare to an unspecified paramilitary group which we had made in our First Report was not correct, and we said that we and the PSNI had offered apologies and an explanation to the family.

the same time as drawing attention to paramilitary crime when it has occurred. We have been careful in the words we have chosen. For example, when we have referred to members rather than to the organisation undertaking some activity, we have not been saying that the organisation itself was necessarily responsible. We have distinguished where appropriate between members and former members. We are of course open to challenge, and though we have said before that we believe we are “thorough in our methods and measured in our assessments” we know that we are not immune from error, and we will always acknowledge in a subsequent report if ever one of our conclusions does not stand up in the light of later information<sup>90</sup>.

1.6 Second, we are well aware that the terms of our reports, which we craft with great care so as to give as fair and accurate a picture as possible, cannot for various reasons always be fully reported in the media. The general public will not read our reports in full<sup>91</sup>. It is inevitable that should there happen to be a particular focus or angle in the media reports, either of what is said in our reports or of political commentary about it, this will colour the picture people gain. After our Eighth Report in January 2006, for example, some people felt we had failed to give the full story, particularly in relation to PIRA. We are satisfied that, read as a whole, what we said then fairly represented the situation we found at that time, not least in emphasising the very considerable progress PIRA had made to follow a political path.

1.7 We are therefore clear about some fundamental points. We will follow the facts and will continue to report things as we find them, taking care in what we write to give as full and fair a picture as we possibly can of the complete situation. We cannot do more than this and we will certainly not do less. In our view there would be neither value nor credibility in an IMC which on the

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<sup>90</sup> IMC Fifth Report, paragraph 1.13 (May 2005). In the footnote accompanying this paragraph we referred to our correcting in our Third Report the attribution of a murder which we had made in our First Report, and to ourselves and the PSNI having offered an explanation and apology to the family.

<sup>91</sup> All our reports are available in full on our website ([www.independentmonitoringcommission.org](http://www.independentmonitoringcommission.org)). On the day of publication of our Eighth Report there were 37,537 hits on the IMC website. This was one third higher than the previous highest number of hits in one day.

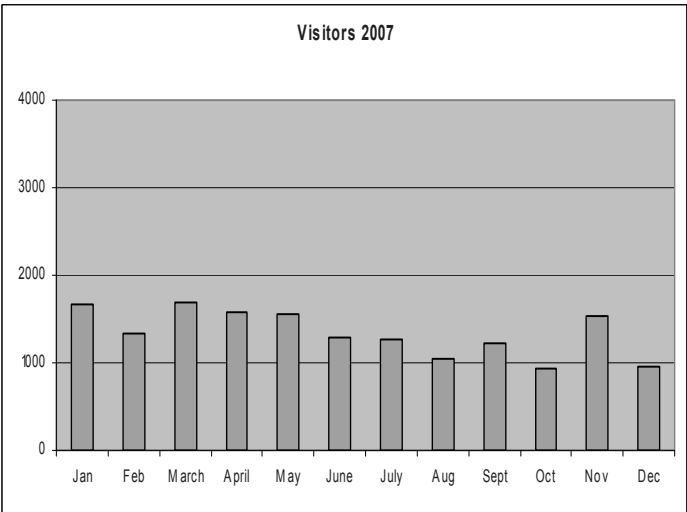
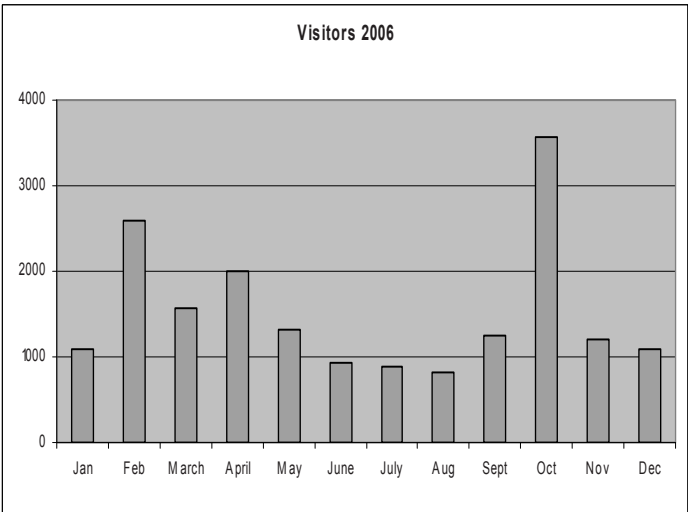
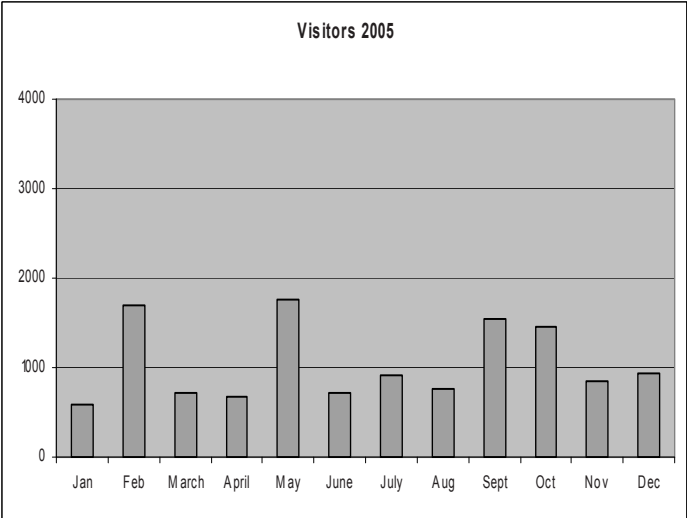
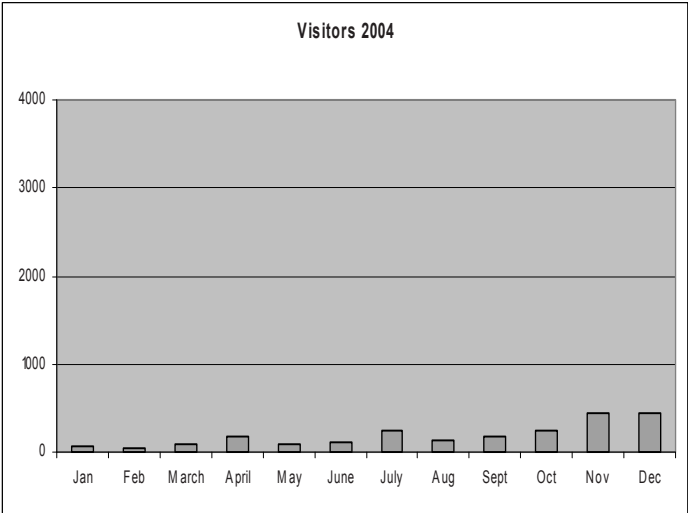
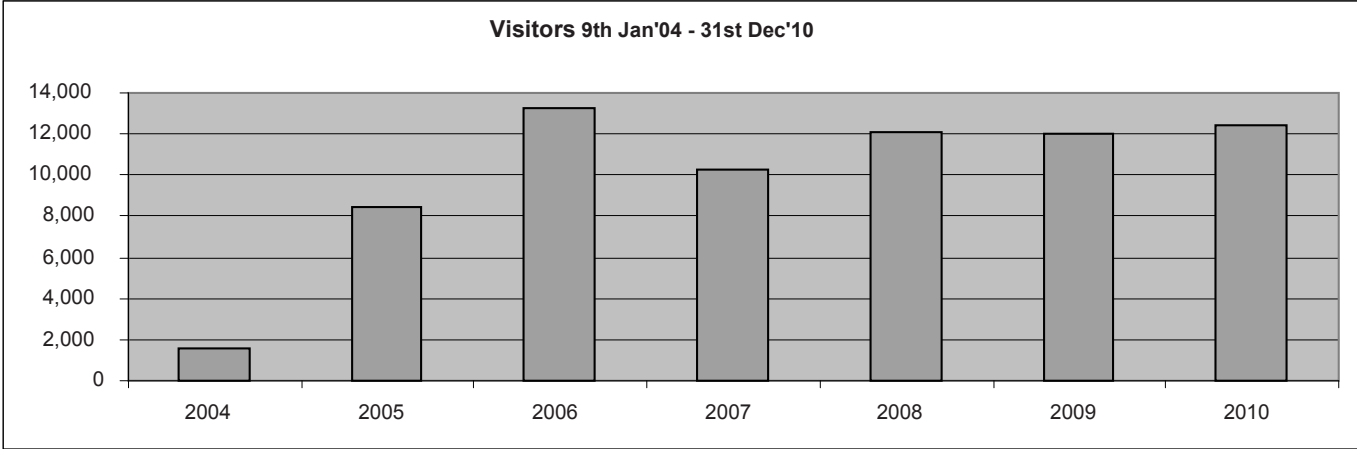
one hand deliberately concealed facts or fudged issues, or on the other hand embellished facts or exaggerated problems, because of what it believed to be the political circumstances at the time of reporting. This is how we think we can best fulfil our Article 3 remit. It is for politicians and the public at large to draw their own conclusions from our reports. Those who do not like our approach are not really challenging our reports; they are challenging the remit we have received from the two Governments.

## **ANNEX XI**

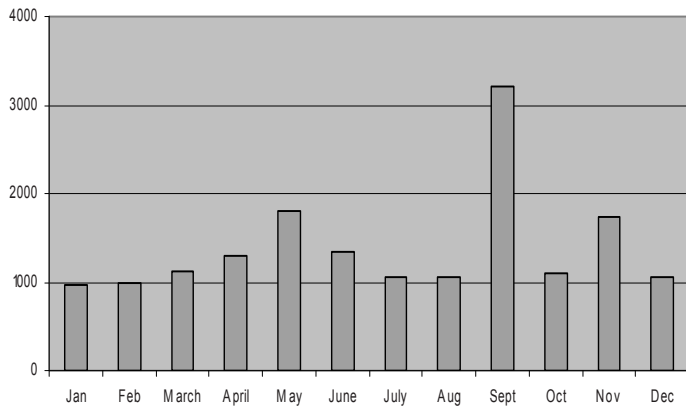
### **IMC WEBSITE: USE 2004 - 2010**

1.     *The following graphs show:*
  - *The number of visitors to the IMC website 2004-2010;*
  - *The number of pages viewed over that period.*
2.     *The in-year peaks in use generally reflect the publication of reports on paramilitary activity, the dates of which are in Annex III, though there is no apparent reason for the surge in May 2010. There was much less public interest in the reports on security normalisation.*

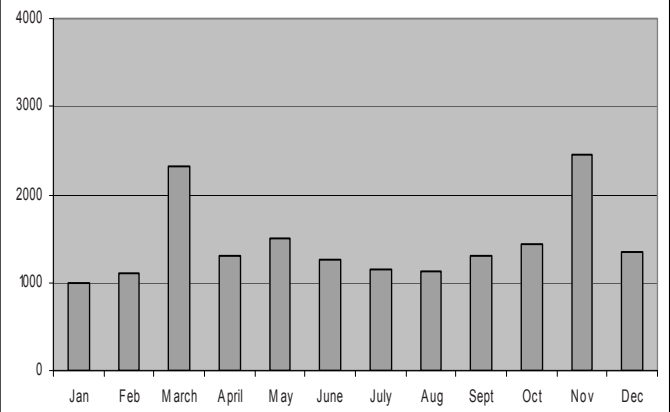
Number of website visits – 2004-2010



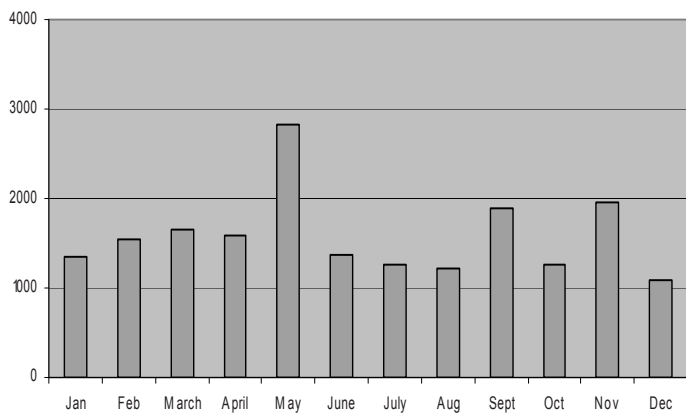
Visitors 2008



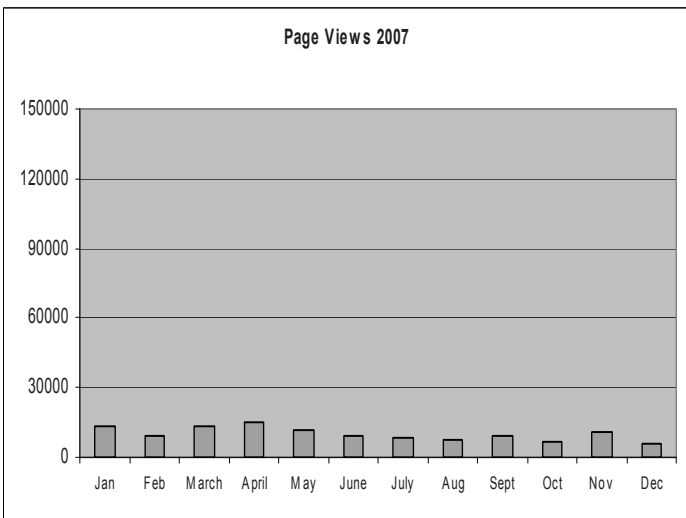
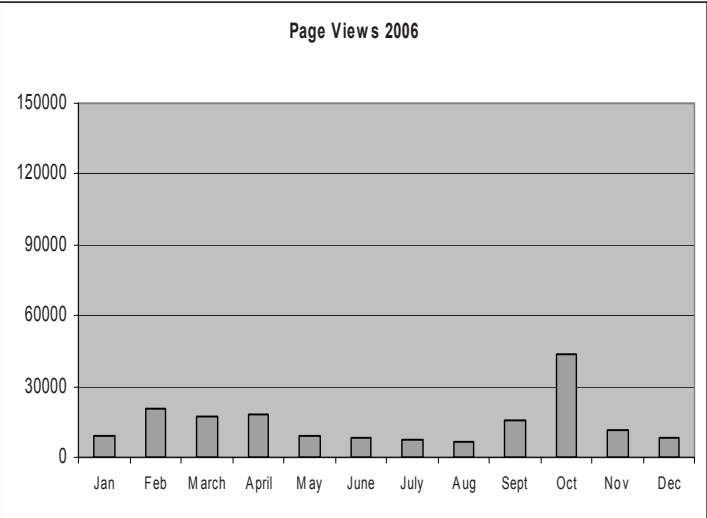
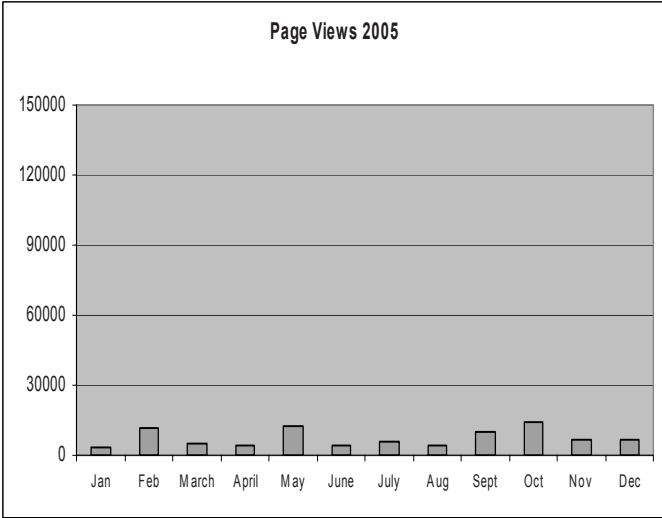
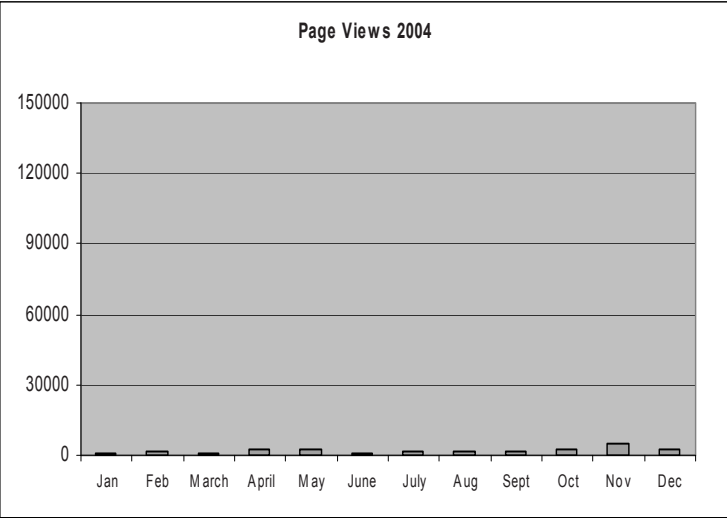
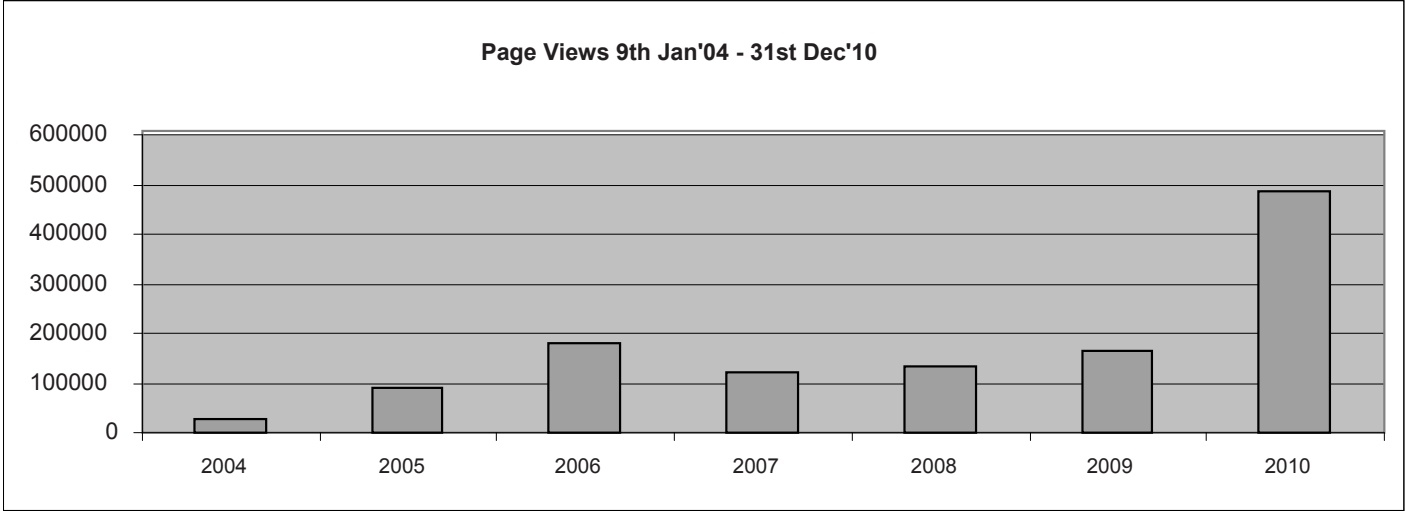
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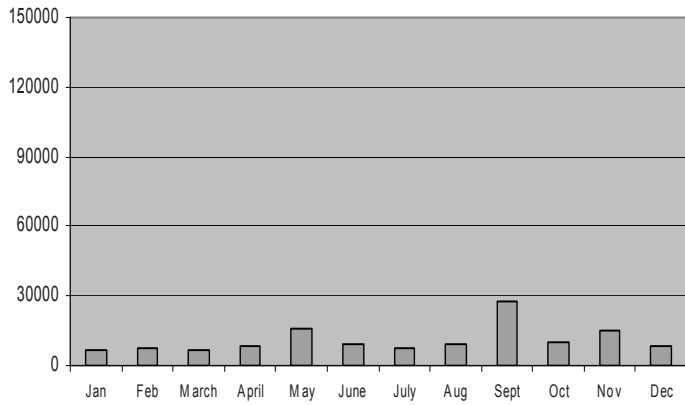
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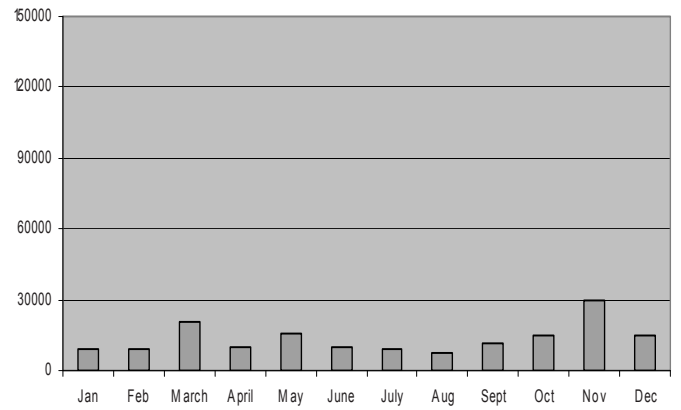
Number of pages viewed – 2004-2010



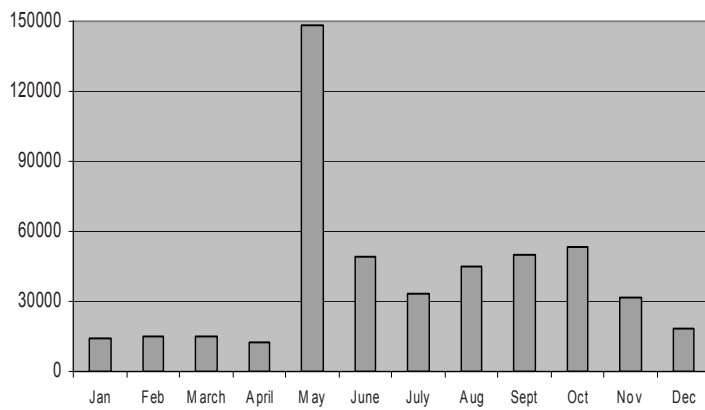
Page Views 2008



Page Views 2009



Page Views 2010



## ANNEX XII

### **IMC RECOMMENDATIONS**

1. *We refer in paragraph 2.5 to the power to make recommendations contained in Article 7 of the International Agreement, the text of which is in Annex II. In paragraph 8.22 we refer to our use of this power, pointing out that we did so in our first two years. After our Tenth Report in April 2006 we often expressed our views without making specific recommendations but we made direct representations to public agencies. This was also influential. In paragraph 13.2 we cite this power as one of the factors behind the contribution we made. In paragraph 13.4 we point to the British Government's implementation of recommendations. Some of the things we mention in Section 14 about our contribution were associated with recommendations we had made, as they were also with our less formal proposals.*
2. *Below is a list of the recommendations we made exercising the powers in Article 7. It does not include our many less formal proposals. All our Article 7 recommendations arose from our monitoring of paramilitary activity under Article 4, and none from monitoring security normalisation under Article 5.*

#### **First Report, April 2004**

*We noted that until the Assembly was restored we could not recommend measures that it might take. We therefore said: We nevertheless want to make clear that had the Assembly now been functioning, we would have recommended in respect of Sinn Féin and the Progressive Unionist Party measures up to and including exclusion from office. Any recommendations we might make following the restoration of the Assembly would be proportionate to the then prevailing circumstances. (paragraph 8.5)*

We recommend that the Secretary of State should consider taking action in respect of the salary of Assembly members and/or the funding of Assembly parties so as to impose an appropriate financial measure in respect of Sinn Féin and the Progressive Unionist Party. (paragraph 8.6)

We also recommend that:

- All politicians and others in prominent roles must exert every possible influence to bring about a cessation of paramilitary activity.
- No organisation, statutory, commercial or voluntary should tolerate links with paramilitary groups or give legitimacy to them.
- Continuing high priority must be given by all concerned to combating organised crime in Northern Ireland and to resourcing the agencies engaged in doing so.
- Paramilitary groups must decommission all illegally held weapons.
- Paramilitary groups must cease all forms of criminal activity.
- All political parties with people elected to public positions, or aspiring to election, must play a full and constructive part in the operation of all criminal justice institutions. (paragraph 8.7)

#### Third Report, November 2004

In responding to paramilitary crime, we recommend that:

- All UK agencies involved in the Organised Crime Task Force should ensure that their strategies fully reflect the significance of the organised crime threat in Northern Ireland, including the unique element of paramilitary participation.
- All relevant agencies should focus on how to maximise the benefits of assets recovery as a means of tackling paramilitary organised crime.
- The British Government should provide the Assets Recovery Agency with the necessary resources for its work in Northern Ireland.

- The Inland Revenue in the UK should ensure that its priorities for enforcement of the tax laws fully reflect the special challenge of organised crime in Northern Ireland and the role of paramilitaries within it. (paragraph 8.5)

In responding to other manifestations of paramilitary activity we recommend that:

- The British and Irish Governments should ensure that in any forthcoming introduction of regulation on charities they take account of the need to reduce the possibilities for paramilitary groups to launder funds through charities.
- In considering future controls over the funding of political parties both the British and Irish Governments should take account of allegations that paramilitary groups may be able to divert illegal funds to such parties, and should ensure that appropriate steps are taken to prevent this.
- The Secretary of State for Northern Ireland should consider whether research could usefully be undertaken on how and to what extent restorative justice schemes can help to encourage people to turn away from paramilitaries in a manner which ensures standards are maintained and safeguards fully observed.
- The Secretary of State for Northern Ireland should consider facilitating the preparation of guidance for people who have engaged with paramilitaries during this time of transition, as part of helping to end deference and deny legitimacy to paramilitary groups. (paragraph 8.6)

#### Fourth Report, February 2005

*Our Fourth Report was an ad hoc one about the robbery at the Northern Bank, Belfast, in December 2004 and all our recommendations were therefore confined to PIRA and Sinn Féin. As in our First Report, we noted that until the Assembly was restored we*

*could not recommend measures that it might take. We therefore said: If the Northern Ireland Assembly was now sitting we would be recommending the implementation of the full range of measures listed in paragraph 12, including exclusion from office. [These measures were exclusion of a Minister, Junior Minister or members of a political party from holding office; non-payment of the whole or part of their salary; non-payment of the whole or part of the financial assistance for a political party; and censure resolutions.]* (paragraph 20)

[We] recommend that the Secretary of State should consider exercising the powers he has in the absence of the Assembly to implement the measures which are presently applicable, namely the financial ones. (paragraph 21)

#### Fifth Report, May 2005

In responding to paramilitary crime, we recommend that:

- The review now being undertaken of the licensing regime for the security industry should take account of the need to ensure it bears down to the maximum possible extent on paramilitary involvement, in conjunction with other control regimes and other aspects of law enforcement;
- The arrangements for supervising the alcohol and taxi trades should be examined with the same end in mind. (paragraph 9.8)

On leadership, we recommend that the Secretary of State continues the financial measures in force in respect of the Progressive Unionist Party in the Northern Ireland Assembly. (paragraph 9.9)

#### Sixth Report, September 2005

*We referred to our previous recommendations about financial assistance to the Progressive Unionist Party, including the one in our Fifth Report (see immediately above). We noted that the Secretary of State had said that he was minded to accept the most recent recommendation and that he had considered representations the party had*

*made. We concluded, without making a further recommendation:* The events we describe in the report reinforce the conclusions we reached in our last report, namely that the removal of block financial assistance from the PUP in the Northern Ireland Assembly for twelve months should be renewed. (paragraphs 18-24)

*In this context we also referred to the specification of the UVF under the Northern Ireland (Sentences) Act 1998, which was dependent of the organisation being recognised as on ceasefire. We concluded as follows but did not make a recommendation under Article 7:* In view of the ongoing violence and brutal murders committed by the UVF and recorded in this report, we find it difficult to see how the Secretary of State could continue to recognise the UVF ceasefire. (paragraph 25)

[We] recommend that the PSNI and the Assets Recovery Agency build on the success they have already had and continue their intense and co-ordinated investigations aimed at the leadership of these two organisations. (paragraph 26)

#### Seventh Report (October 2005)

[We] recommend that the Governments of the UK and Ireland should introduce licensing regimes which would enable the closure of businesses which have been engaged in the illicit fuel trade and would keep out of the industry all those who have been involved in that illicit trade, together with anyone fronting for them. (paragraph 7.4)

#### Eighth Report (February 2006)

We recommend:

- In the circumstances described in this report we do not believe that the financial measures against Sinn Féin of the kind described in our Fourth Report should continue;
- In the light of what we describe in this report we do not think that financial measures against the PUP would be appropriate at this time. (paragraph 6.4)

*We went on to say that these recommendations did not mean we would not recommend the reimposition of financial measures should we feel that future circumstances justified that. (paragraph 6.5)*

Tenth Report (April 2006)

*In our Tenth Report we included a summary of all the recommendations we had made about paramilitary organised crime over the previous two years. We noted that there had been developments in some of these areas, cited some examples and said that we would continue to examine progress on all these recommendations.*  
(paragraphs 4.10 and 4.11)

*As we say in paragraph 1 at the top of this Annex, and in paragraph 8.22 earlier in this Report, after our Tenth Report we often expressed our views without making specific recommendations but we made direct representations to public agencies. This was also influential.*

## ANNEX XIII

### PRESS COMMENTS ON THE IMC

1. *The IMC has attracted widespread media coverage, mainly focused on the successive reports on paramilitary activity. The comments have expressed support, criticism and sometimes surprise. The press often used the reports as a basis for challenging politicians and paramilitaries.*
2. *In this Annex we offer a small selection of extracts from the written press. They are taken from editorials and other commentaries. We have sought to give a cross section of supportive and critical comment though the former was much more frequent, especially as time went on.*

**8 January 2004 - An Phoblacht – extract from an article by Joanne Corcoran** “The shambolic sop to unionists, otherwise known as the Independent Monitoring Commission, came into effect yesterday.

The body, which is entirely outside the realm and spirit of the Good Friday Agreement (GFA), is the only element of the two governments’ 2003 Joint Declaration that they have seen fit to implement.

There can be no doubt that the four commissioners, John Alderdice, John Grieve, Richard Kerr and Joe Brosnan, (no women), who are supposed to monitor paramilitary activity in the Six Counties, will be used as a smokescreen to justify arbitrary acts of exclusion by the British Government. There can be no doubt whatsoever that its attentions will focus entirely on republicans”.

**21 April 2004 - Belfast Telegraph - editorial** “With a healthy disregard for some politicians’ feelings, the Independent Monitoring Commission’s report has frankly castigated the paramilitary-linked parties for not doing enough to bring about an end to violence.

It spreads the blame equally between republicans and loyalists, threatening to name and shame those leaders who have a foot in both the political and paramilitary camps.

At a stroke, the Commission has blown away the ambiguity that often surrounds official condemnation of parties and organisations who have failed to live up to the spirit of the Good Friday Agreement.

It holds them to account, reminding them that 10 years into the paramilitary “ceasefires” and six years after the Agreement, people had a right to expect that obligations would be met.

There has been much criticism of the penalties that the IMC proposes, although these are largely symbolic. Neither Sinn Féin nor the PUP will be greatly worried by the promised withdrawal of government funds, but it tells the parties that they will no longer be treated with kid gloves.

The reaction of the politicians, who have been cosseted for so long, has been to accuse the Commission of being a puppet government quango – though its US and British representatives have international reputations – or to deny responsibility for paramilitary crimes.

Neither claim is convincing, since the Commission made its own exhaustive inquiries and it is a matter of fact that the PUP has failed, over many years, to curb the criminality of its associates.

The public will be hoping that the response of the two governments marks a turning point in the attempt to achieve an end to paramilitarism by convincing the parties that the days of “armalite and ballot box” politics are over.

A spotlight has been shone in many dark corners and no longer will compromised politicians be able to claim seats in high places while suspected of holding paramilitary office.

From every side, the “constructive ambiguity” which helped to bring about the Belfast Agreement but is now its curse is being dismantled.

The Irish government has no qualms about accusing Sinn Féin of benefiting from IRA crime and the British, acting on the advice of the IMC, is beginning to turn a cold shoulder to both republicans and militant loyalists.

The public will take heart from this transformation in attitudes, which should help to restore the integrity of the political institutions. First and foremost, however, it wants to see the paramilitary criminals brought to book.”

**21 April 2004 - Belfast Telegraph – extract from an article by Maurice Hayes** “The publication of the Independent Monitoring Commission Report is rather like finding an unexploded World War II landmine in the middle of a peace park.

It does not mean that the war is not long over, or that hostilities are about to restart. There is, however, potential danger to innocent bystanders and extreme embarrassment to those who are supposedly contracted to clear the minefields and decommission the armaments”.

**21 April 2004 – Irish Times – extract from an editorial** “The Independent Monitoring Commission (IMC) has done a timely service for the people of this island by conducting an evaluation of republican and loyalist paramilitary organisations in Northern Ireland,

and outlining their criminal activities and their control of local communities through intimidation and punishment beatings. It is easy to forget that behind insistent demands by some political parties for recognition of democratic mandates lie ruthless organisations, involved in murder and other criminal activities, that have no place in a civilised society.

The IMC explained that its report was to help the people of Northern Ireland to leave the Troubles behind and to end the stranglehold paramilitary organisations exercised over local communities. They had to move the political debate on from talking about ceasefires and possible breaches of them, it said, to one that concentrated on the total illegality of paramilitary activity. In that regard, it found the level of loyalist paramilitary violence, including murder and other criminality, had actually increased since the Belfast Agreement was signed, and that loyalist groups were now responsible for markedly higher levels of violence than republicans. And while most republican paramilitaries had stopped targeting the security forces, their fund-raising and criminal activities within the nationalist community had grown.”

**24 April 2004 – Irish Times – extract from an article by Mark Hennessy** “...the IMC is no poodle, since the tone of the 50-page document came as a surprise, even in some quarters in Dublin and London. Much of its information is not new, though the placement of an official stamp on charges that the IRA and other terrorist organisations are still as active as ever is damaging.

The scale of that activity has shocked some in official circles....

Worryingly for Sinn Féin, the IMC will “not go away,”...”

**25 April 2004 – Observer – extract from an article by Henry McDonald** “Despite the usual cynical unionist guffaws, the IMC’s report marks an important step in the struggle to bring paramilitarism to a close. No one, least of all the commissioners, is deluding himself – paramilitary subcultures are imbedded in vast swathes of the north. But the importance of the IMC is not what’s already been said but rather what might yet have to come for republicans and the bonehead loyalists”.

**25 April 2004 - Sunday Independent – extract from an article by Eilis O’Hanlon** “The Catholic and Protestant underclasses in the North are like women who refuse to leave violent partners, and there is little outsiders can do in the face of such perverse solidarity. The IMC has arrived at the door to confront the wife-beater, only to find the wife refusing to press charges and instead, backing her husband’s angry claims of being the ultimate victim of the piece. That is the real sickness which the report exposed.”

**27 April 2004 - Irish News – extract from an article by Breidge Gadd** “It would be interesting to live long enough to find out if history will view the Independent Monitoring Commission (IMC) as contributing positively or negatively to peace in Ireland. It would be churlish to doubt the good intentions of the members of the IMC but try as I might in reading and rereading their report it reads a bit like the Janet and John guide to paramilitary activity in Ireland – a handy if somewhat pompous pocket guide for those

completely unfamiliar with the subject. Come to think of it, the authors themselves write, not from the position of experts producing a report made simple for an ignorant readership but rather indeed as people themselves unfamiliar with the subject.

For people appointed with such a heavy and important responsibility there is flaccidness throughout the report that is disquieting. For example, it is not clear from the report how the conclusions reached have been linked with the facts presented. Also, commissioners claim independence but see no need to evidence this. Who, for example, serviced the commission? Were staff appointed on the basis of their independence and distance from both British and Irish governments and their security departments? Because, as we know, secretaries to commissions and boards carry great influence – particularly if commission members are themselves unfamiliar with the terrain to be examined.

In the report's favour, facts and figures are clearly set out and therefore useful in assessing progress. But then these facts and figures are already well in the public domain, as is an understanding of the nature and background of the main paramilitary organisations and their modus operandi. The report claims to have taken evidence from a number of people but we get no idea of the extent and objectivity of those to whom the commission talked. Given that a sizeable proportion of the population was cynical of and hostile to the very establishment of this body, we can assume that the commission could not and did not receive a representative selection of views....

The report, however, does unequivocally set out the size of the challenge facing all of us if we are to face down paramilitarism. It could have been a more useful report for both authors and readers had there been at least some attempt to place the conclusions within a political, historical and community context.

Without this overall scene-setting and in the absence of any attempt to understand and to ask the question 'why', I am afraid that at best the report's impact is one-dimensional. However there are two major strengths in the commission's existence. The first one is that the commissioners state clearly that they want to listen (and hopefully learn from that experience) and the second one is that their very existence focuses attention on a difficult and complex problem that certainly needs attention. Perhaps now that they exist and aren't going to go away, they can turn their attention to using their mandate to put pressure on all of those people and bodies who can take actions designed to solve the problems as well as the relatively easy action of naming and shaming the obvious suspects."

**25 May 2005 - Daily Ireland – comment by an unnamed reporter** "As Ireland holds its breath in anticipation of a positive IRA response to Gerry Adams appeal for it to take a wholly political path, the International Monitoring Commission is treating us to more scare stories.

Surely, one of the great benefits of a new era in the peace process will be to rid us of this Idiotic, Misbegotten and Conceited body."

**23 September 2005 – Daily Ireland – extract from an article by an unnamed reporter** "It's not the lack of intellectual rigour or the absence of depth that makes

reports of the Independent Monitoring Commission not worth the paper they're written on – rather it's the slavish way in which they follow whatever line the British government seems to be following at the time....

We've said it before and we'll say it again, the British government uses the IMC rather as a drunk man uses a lamppost: more for support than illumination. There is nothing in any of these six reports, absolutely nothing, that the British government and its various shadowy agencies didn't already know, and in much greater detail....”

**3 October 2005 – News Letter – extract from an article by an unnamed reporter**

“Much has been made of the role of the Independent Monitoring Commission who will analyse intelligence data from both sides of the border and publish reports in October, January and April.

The IMC has been courageous and honest in its previous reports. A report a couple of weeks ago on loyalist paramilitary groups was a damning indictment of their violent activities.

The IMC must remain resolutely independent of Government and resist all pressure to produce a report that glosses over IRA activity. They must make sure they get all the information they need, they must shine the spotlight on the darkest corners of IRA activity and they must publish the truth as they see it.

It is a huge responsibility but this community and our political leaders deserve to be given the facts.

The IMC is not the only group with a difficult but crucial role in the months ahead.”

**20 October 2005 – Belfast Telegraph – extract from an editorial** “The IMC was set up, as a result of UUP pressure, to provide an independent, international, judgment on the paramilitary activity of both republicans and loyalists. It has served its purpose well, even if republicans – once critical – are now dependent on its good opinion.

The next report should provide another confidence-building measure, much greater than the present, with pressure mounting on the unionists to re-engage politically.

Real change will be difficult, however, until the loyalist paramilitaries learn that only politics, not terror, can advance their political aims.”

**20 October 2005 – Irish Times – extract from an editorial** “The IMC correctly identifies organised crime as the greatest long-term threat to a prosperous and peaceful Northern Ireland. While paramilitary organisations continue to raise cash through illegal activities, communities will be intimidated, economic growth will be stifled and the rule of law will not apply uniformly. That is why the two governments should move quickly to close down outlets that sell laundered diesel, while giving greater attention to drug dealing and cigarette smuggling. Without the money to fund their activities, paramilitary organisations will eventually go out of business.

This document could mark a turning point in Northern Ireland and provide circumstances conducive to political confidence-building. In the past, reports by the IMC were denigrated by Sinn Féin as being both biased and security driven. Now that a positive account has been produced concerning IRA activity, however, unionist politicians will find it more difficult to avoid engaging in dialogue with republicans. Already, Northern Ireland Secretary Peter Hain and Minister for Foreign Affairs Dermot Ahern have planned a series of meetings with the various parties in an effort to address the political differences that divide them. And the Taoiseach has indicated his desire to push for a restoration of the suspended powersharing executive and Assembly by Easter.”

**9 March 2006 – Daily Ireland – extract from an editorial** “Meanwhile, with clanging inevitability, the ninth report of the Independent Monitoring Commission has attempted to offset the damage caused by its last one. The IMC now says that the IRA does not pose a ‘terrorist threat’ and that the organisation has decided to follow a peaceful path, as if that information suddenly appeared to them in a vision.

It matters little, of course, whether the IMC praises or damns the IRA, their words, whether they’re true or false, are capable of providing a context and a justification for any political agenda of every party, except the republican one.”

**27 April 2006 – Irish Times – extract from an article by Gerry Moriarty** “The British and Irish governments believe yesterday’s positive Independent Monitoring Commission report on IRA activity should provide the “foundation stone” to facilitate the DUP and Sinn Féin agreeing by the end of November to share power in a devolved Stormont administration.

In the Dáil yesterday Mr Ahern said the IMC report was an “encouraging boost” to efforts to reinstate a fully functioning Northern Executive, while Mr Blair took time from a busy schedule to do three broadcast interviews to highlight the “significance” of the report.”

**4 October 2006 – The Guardian – extract from an article by Máirtín Ó’ Mulleoir and 5 October 2006 – Andersonstown News – extract from an editorial** “The IMC is independent in much the same way as Orkney – which is why it can perform the amazing feat of scoring a perfect 12: its last 12 reports have echoed, to the letter, British and Ireland government policy.”

**5 October 2006 – Belfast Telegraph – extract from an editorial** “Coming on the eve of the talks on devolution in Scotland, the IMC’s verdict sets the scene for a resolution of the remaining obstacles. If the four-man team, analysing information from many sources, is convinced that the IRA has adopted an exclusively peaceful role, then the pro-union parties have to connect in a new way with Sinn Féin.

Opinions will differ about the reliability of the IMC’s judgment, unable to decide who killed Denis Donaldson, the British agent within the IRA, because of lack of information. Yet there is unmistakable evidence, in the lack of proven IRA activity and its involvement in peace-keeping during the marching season, that it is leaving its paramilitary past behind.

Most importantly, the IMC found that the “general headquarters” department, which has been responsible for bombing-making, training and procurement of weapons has been dismantled. Volunteers have been “stood down”, allowances have ceased and disaffected members have been “encouraged” to resign. The Army Council continues to exist, as do the “command and control” structures which caused so much concern in the last IMC report, but their function may be to steady nerves and oversee the extended transformation process.”

**5 October 2006 – Irish News – extract from an editorial** “When the Independent Monitoring Commission was established it was characterised as a sop to unionists but it has served a useful purpose in efforts to move paramilitary groups away from violence and move all political parties closer to agreement.

Even its critics from within the republican movement must concede that the 12<sup>th</sup> report of the IMC effectively places greater pressure on unionism and loyalism than it does on Sinn Féin.”

**5 October 2006 – Irish Times – extract from an editorial** “We do not believe that the IRA is now engaged in terrorism.” This weighty judgment in the latest six-monthly report from the Independent Monitoring Commission on paramilitary violence yesterday sets the scene for final efforts by the two governments to secure a powersharing deal before their November 24<sup>th</sup> deadline.

It is a very positive report, and a thorough one, covering IRA training, recruitment, targeting, procurement and engineering. Residual involvement in criminality is the only area of activity it finds still extant. This remarkable state of affairs shows there is real potential to hope that a breakthrough can be made if political leadership and will are shown by the major parties over the next seven weeks.

Reactions to the report yesterday bear this out. Both governments used superlatives to describe it. Taoiseach Bertie Ahern said it is of the “utmost significance”, signalling that it changes the situation radically for the better. Prime minister Tony Blair said “the IRA’s campaign is over. The door is now open for a final settlement”.

**7 December 2007 – Belfast Telegraph – extract from an article by Brian Rowan** “The IMC is now in some kind of finishing straight – and when it crosses its line, whether in April or in the autumn, then we are in a very different world.

Many of us were very sceptical when the IMC was given a role in the peace process, believing it would simply copy the homework of the police and the intelligence services. But it has made an important contribution – thinking beyond the labelling of incidents and explaining the realities and the business of conflict resolution.”

**5 September 2008 - The Guardian - editorial** “In Northern Ireland, what would once have been seen as extraordinary has become normal, as this week’s report from the Independent Monitoring Commission shows. After five years - and 19 reports - tracking the activity of paramilitary groups in the province, the Commission has concluded that

the IRA's "former terrorist capability has been lost". There is, it says, no evidence that it is involved in anything other than political activity. The Army Council, which once coordinated attacks, "is by deliberate choice no longer operational or functional". These findings stand in happy contrast to the Commission's early reports - the first, in 2004, found the IRA "in a high state of readiness" - and the change is a tribute to everyone involved in the peace process, including the IMC itself. By offering neutral, regular and informed assessments, the body has put pressure on participants to match up to their promises, and reassured the public too - the closest thing possible to a guarantee that the astonishing evolution of the IRA and loyalist groups away from violence is genuine. As such, it has become a sort of referee of the peace process, blowing the whistle when it sees a foul. Perhaps there are things that it does not see. But without the IMC, and the Independent International Commission on Decommissioning which preceded it, every rumour would pass untested and every partisan claim unchallenged. Its job will be done when the commission feels able to decommission itself."

**29 November 2008 – Irish News – extract from an article by Patrick Murphy** "The last word from republicans on the existence or otherwise of the PIRA was "They haven't gone away, you know". Since then most advice on the matter has come from the Independent Monitoring Commission (IMC). But how independent is the IMC?

While its individual members are of the highest integrity, it is difficult to avoid the conclusion that the organisation is not independent. It receives briefings from the intelligence services, evaluates the information and tells us what it thinks. But since it has no other source of information outside the intelligence agencies, it is effectively telling us what they told it. That moves it from independent to highly dependent. They appear to believe that British intelligence is based on the ethos of cricket. It recruits only sound chaps, modelling themselves on the bravery of Captain Oates, who wandered into an Antarctic blizzard, saying he was going out and would probably be gone for some time.

In reality, British intelligence operates through deceit, dishonesty, murder, blackmail, double-crossing, cheating, conniving and downright thuggery. It may sound harsh but there is simply no other way to run an intelligence service. Their use of loyalist paramilitaries and informers beat the PIRA. So the intelligence agencies will tell the IMC whatever it takes to bolster support for the current political administration. That is what intelligence services do, which means that the IMC, and other opinions based on supplied intelligence are effectively worthless."

**8 May 2009 – News Letter – extract from an editorial** "It is the first report by the IMC since the murder of two soldiers and a police officer in March. The report says that as well as targeting members of the security forces the Continuity IRA and the Real IRA were recruiting and trying to buy weapons.

The authorities should treat this report as a real warning. While the dissidents may not have the capability to mount a prolonged terrorist campaign, there is no doubt about their ability to inflict murder and mayhem on our community.

The time to deal with them is now, before they get any bigger and before they become more proficient and experienced in their evil trade."

**16 September 2010 – Irish News – an article by an unnamed reporter** “There will be no real surprise at the Independent Monitoring Commission’s verdict that the murder of Bobby Moffett was sanctioned by the leadership of the Ulster Volunteer Force.

However, its recommendation, supported by Secretary of State Owen Paterson, that no sanctions should be taken against the organisation sends out entirely the wrong message to paramilitary groups supposedly on ceasefire who continue to engage in serious criminality.

In this case the UVF murdered a man, the most serious offence in the criminal calendar, which will make people wonder just how terrible a crime has to be before a grouping faces any form of censure.

If no action is taken over murder, then why should paramilitaries fear any negative IMC report on drug dealing, cigarette smuggling, extortion or robbery?

This weak response to an appalling killing underscores the limitations of the IMC and the government when dealing with such organisations.

The murder of Bobby Moffett was an unspeakable crime.

He was shot dead in what the IMC described as a “public execution” to stop him flouting UVF authority and to send a message to the community that this authority was not to be challenged.

However, the Shankill Road community provided their answer when they turned out in huge numbers, and in the face of despicable intimidation, to attend the funeral of Mr Moffett.

Those who are prepared to stand up for what is right need to know that the government is fully behind them and will take action beyond words of condemnation”.

**6 November 2010 - Irish Times - editorial** “Life in Northern Ireland has improved immensely in recent years as violence has diminished and the effects of the peace process have taken hold. There are economic and social problems. And serious distrust still exists between the communities. But the Provisional IRA has departed; a devolved, powersharing government is in place and there has been a transfer of justice and policing powers from Westminster. The way lies open for the continuing normalisation of society.

The Independent Monitoring Commission (IMC) has contributed in no small way to these developments. Established in 2004 by the Irish and British governments, its work involves all paramilitary organisations. Its regular comments on the continuing threat posed by loyalist and dissident republicans, along with attribution of their various involvements in criminality and violent activities, has motivated politicians to reach difficult compromises rather than permit a slide back into anarchy. Six years after its establishment, however, the two governments believe it has fulfilled its intended function and the next report will be its last. That exercise will provide an overview of paramilitary trends and activities and the threats they pose.

It is a depressing reality that extreme republicans still believe war and street violence can force unionists and nationalists into a so-called socialist republic. Oglagh na hÉireann, which split from the Real IRA and draws support from former Provisional IRA and INLA members, insists that military action can achieve a united Ireland. It is actively recruiting and training young members and has been involved in robberies, kidnapping and extortion. There is equally disturbing news from within the loyalist community. The IMC found the UDA and the UVF are continuing to recruit, which is inconsistent with their ceasefire commitments. Leadership has fragmented and criminal activity continues. Falling living standards are likely to make the peace process and devolved government more vulnerable. Because of that, purveyors of intolerance and hate must be rejected.”

## ANNEX XIV

### **LESSONS DRAWN FROM PARTS C AND D**

1. *This Annex has three parts:*
  - (i) *The lessons drawn from Part C on how the IMC operated;*
  - (ii) *The lessons drawn from Part D on its contribution;*
  - (iii) *A summary of the lessons learnt, which we feel may be useful for people to consider in other circumstances.*
2. *In drawing out these lessons we repeat a theme we pursued in the body of the report, namely that a key factor in how we worked and so to our contribution were the personal relationships we established within the Commission. These cannot be encapsulated as a lesson.*

#### **1. LESSONS FROM PART C – HOW THE IMC HAS OPERATED**

The following is a list of the lessons which we think can be drawn from what we say in Part C about how we operated. It corresponds with the numbered sections.

##### **7. The Team:**

The value of members of the team having a diversity of backgrounds, experience and perspective which can be put to corporate use (7.1-7.3);

The value of continuity in the team so it functions more closely (7.4);

The value of having a team capable of exploiting that diversity rather than a singleton monitor (7.5);

The importance of the team being consensus-minded and working closely together for a common purpose (7.7).

8. The Way We Worked

The value, especially in untried territory, of always asking if there are better ways of tackling the task (8.1);

The value we derived from adopting a proactive approach to our task, seeking to influence opinion and perceptions and actively seeking views and information rather than waiting for them to be offered to us (8.2);

The importance in demonstrating independence from the start (8.3);

We were much helped by the regularity and frequency with which we were able to meet (8.4);

By employing a number of different researchers and analysts we gained a wide range of expertise and knowledge and exposed ourselves to different perspectives (8.6);

The importance of always sticking to the evidence and carefully triangulating what we learnt from different sources before coming to conclusions (8.6);

The importance of having a wide range of sources and of taking the initiative to obtain views and information (8.11-8.12);

The value in the early establishment of scope, standards and criteria (8.13-8.16);

The value of the public exposure of methods of work as a means of gaining public confidence (8.17);

The importance of offering complete confidentiality to those giving information and the fact that this offer was sustainable because of the legal immunities on which it was based (8.18-8.21);

The force of the recommendations we made (8.22).

## 9. Our Reports

Precise and carefully chosen words enabled us convincingly to present complex situations with the necessary qualifications and nuance (9.3);

Simple, sometimes blunt, language helped in the communication of our serious and complex issues to a wider audience (9.4);

Because ours was a series of reports, in which we often returned to the same subject several times, we found consistency of format helpful (9.5);

A determination to do all we could to avoid errors of fact and judgement and the importance for our credibility of a willingness to admit publicly that we needed subsequently to amend a judgement in the light of further information or to correct a point of fact (9.6-9.7).

## 10 Starting Up, Administration and Secretariat

The value for the group's credibility of its being able to meet in shadow form in advance of the formal launch so that it got off to a flying start (10.1);

Even something as apparently minor as the location of offices can bear of the group's perceived independence (10.2);

Having a suitably qualified and experienced Secretariat that handles all administrative matters efficiently and at the most senior level is an essential contribution to Commissioners' discussions and thinking and especially to the drafting of reports (10.3-10.4).

11 What We Might Have Done Differently

(At risk of a commonplace) when repeatedly exposed to public scrutiny, constantly question what you may be missing or could do differently.

2. **LESSONS FROM PART D – THE CONTRIBUTION OF THE IMC**

12. General Issues

The position of the IMC, independent of government but with access to official sources of information, able to speak freely and in terms governments could not easily use, played an important part in our contribution. In establishing monitoring bodies elsewhere the sponsoring governments or international organisations should carefully consider the positioning and the implications it might have (12.2).

13. Factors

The importance of the two Governments showing by word and action that the IMC mattered to them. This affected how we were viewed by others, and was especially important at an early stage before we had had the opportunity to establish our own reputation. The support of the two Governments in ensuring we had access to security and intelligence information (13.4-13.5).

*We repeat below the lists of factors arising from the nature of the IMC and from what we did which we think usefully contributed to our impact. We do so not because they are all likely to be relevant in any particular set of circumstances but so as to enable others to take from the list whatever might be of value.*

*Factors arising from the nature of the IMC – from paragraph 13.2*

- Our independence, which enabled us to say what others could or would not say and to establish our credibility;

- The power of continuous reporting, which meant that we could return repeatedly to activities or issues we thought important and that paramilitaries came to realise we would not let them off the hook. An important element in this was the fact that the International Agreement did not allow either the two Governments or the IMC itself to delay the cycle of six monthly reports. There could be additional ad hoc ones, but twice a year everybody knew the Governments would publish one of our reports;
- Our longevity, which has enabled us to map events over seven years. Transition from conflict is a long slow process. We could trace events and offer a perspective relevant to the circumstances. Where there was change, we could convincingly show it. Where there was not, we could repeatedly shine the spotlight;
- The immunities, which protected us and our material and provided a legal basis for the assurance of confidentiality we gave our interlocutors, which was so important to their being candid with us;
- The power to make recommendations, which enhanced our ability to influence things;
- The diverse and international nature of the team, the varied expertise and networks of contacts this brought, its continuity and collegiality.

*Factors arising from how we operated – from paragraph 13.3.*

- From the start we were proactive and determined to have a beneficial impact and to make the best possible use of our powers, our capacities and our independence;

- We all made a sustained and very substantial commitment of time and effort;
- Early publication of our scope, standards and criteria enabled us more readily to hold paramilitary groups to account, to demonstrate we were independent and to achieve consistency of reporting;
- A blunt and consistent style of reporting combined with the rejection of terms we felt were inaccurate or misleading. Thus: frank descriptions of paramilitary crimes and their impact; “victims” for all who suffered, including the communities with paramilitaries in their midst; no use of the term “punishment beatings”, which implied spurious legitimacy, but shootings and assaults; no “ceasefire” because it was our responsibility to monitor all aspects of paramilitary activity and because the term ceasefire had been used by many groups as a shield to avoid scrutiny or criticism of their non-terrorist activities;
- Defining our task broadly from the start, in particular to include all forms of paramilitary crime, which went hand in hand with our rejection of “ceasefire”;
- The breadth of our sources and the manner in which we analysed the information and views we obtained. One reason for this breadth was our early declaration that our door was open and that we were keen to hear from people. Other factors were our confidentiality policy and growing public confidence in our reporting.

### 3. SUMMARY OF LESSONS LEARNT

*In the box below we summarise the preceding lessons. We offer the points not as a formula for success but because we feel they might be useful for people to consider in other circumstances.*

Being proactive and bold.

A team, as distinct to an individual, bringing diversity of experience, skills and contacts to corporate use and able to achieve consensus.

Continuity for the team and regularity of meeting so that personal relations are built and understanding of the issues progressively developed.

Constantly looking for better ways of operating.

Publicly establishing the operating ground rules at an early stage so that everybody knows what to expect and what standards will be applied.

Obtaining the widest possible range of advice, information and research so that the team is exposed to a diversity of opinions and sources.

Ensuring that all the information the team holds, including the identity of interlocutors, is confidential so as to maximise the candour with which people will speak.

Ensuring the team is genuinely independent and looking from the start for ways in which to build confidence in that independence as well as in its integrity and competence.

Demonstrating that the team's conclusions are based on evidence and being open about the methodology used.

A qualified, experienced and senior secretariat making an essential contribution to thinking, discussion and the drafting of reports.

Telling it as it is in clearly and bluntly expressed reports, while at the same time ensuring judgements are carefully framed and nuanced.

Having a fixed, regular and relentless process of reporting.

Returning to previously examined issues, to re-shine the spotlight and to show where change has taken place.

The power to make recommendations which could have a direct and material impact.



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