

SECOND REPORT OF THE INDEPENDENT MONITORING COMMISSION

Presented under Article 5(2) of the International Agreement establishing the
Independent Monitoring Commission

Ordered by the House of Commons to be printed 20th July 2004

© Parliamentary Copyright 2004

The text in this document (excluding the Royal Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Parliamentary copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be addressed to The Licensing Division, HMSO, St. Clements House, 2-16 Colegate, Norwich, NR3 1BQ.
Fax: 01603 723000 or email: licensing@cabinet-office.x.gsi.gov.uk

CONTENTS

1. Introduction
2. Context
3. What is normal law enforcement?
4. Security Normalisation Activity: The Use of the Military in support of the Police Service of Northern Ireland
5. Security Normalisation Activity: The Repeal of Counter-Terrorist Legislation Particular to Northern Ireland
6. Conclusion

ANNEXES

- I Article 5 of the International Agreement
- II The IMC's Guiding Principles
- III Letter of Request from the British Government
- IV Towers and Observation Posts: Definitions
- V Towers and Observation Posts in use December 1999 and May 2004
- VI Map showing locations of towers and observation posts in the South Armagh area
- VII Joint PSNI/Military Bases in use December 1999 and May 2004
- VIII Military Bases in use December 1999 and May 2004
- IX Monthly troop levels December 1999 to May 2004

1. INTRODUCTION

- 1.1 We submit this report under Article 5 of the International Agreement establishing the Independent Monitoring Commission.
- 1.2 Article 5, of which the full text is at Annex I, places two distinct requirements on the Commission. We believe it is important to set them out clearly so that the basis of this report is fully understood.
- 1.3 Article 5(1) comes into force at such time as the British Government has published a specific programme of security normalisation. It obliges the Commission to monitor whether, 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, the commitments the British Government has made in that programme are being fulfilled to the agreed timescale, and it lists the things which the Commission is obliged to monitor. Under Article 5(1) the Commission is required to report its findings to the British and Irish Governments every six months.
- 1.4 Article 5(2) empowers the British Government at any time to request the Commission to submit a report giving an account of the security normalisation activity that it has undertaken. The British Government determines the period any such report is to cover and the normalisation activities it is to encompass.
- 1.5 The British Government has not announced a programme of security normalisation and accompanying timetable, so Article 5(1) has not at present been activated.
- 1.6 The Secretary of State for Northern Ireland made a request to the Commission on behalf of the British Government to prepare a report under Article 5(2) in a letter dated 20 April 2004, a copy of which is at Annex III. In brief, he asked the Commission to:
 - Report on the normalisation activities set out in Article 5(1)(a)(i) to (v) of the International Agreement, namely the activities which will feature in the Joint Declaration normalisation programme once that programme is commenced.

- Cover normalisation activities which have taken place since the British Government published its Security Strategy Paper in December 1999.
- Take account in so doing of the effects of normalisation on the ground and the programme of reform to deliver a community based policing environment in Northern Ireland.
- Submit the report by the end of June or as soon as possible thereafter.

1.7 The activities covered by (i) to (v) of Article 5(1)(a) are:

- The demolition of towers and observation posts in Northern Ireland.
- The withdrawal of troops from police stations in Northern Ireland.
- The closure and dismantling of military bases and installations in Northern Ireland.
- Troop deployments and withdrawals from Northern Ireland and levels of British Army helicopter use.
- The repeal of counter-terrorist legislation particular to Northern Ireland.

1.8 The provisions of Article 7 of the International Agreement, which empower the Commission to recommend remedial action and measures which it thinks might be taken by the Northern Ireland Assembly, do not apply in the case of reports under Article 5.

1.9 Fundamental to this report, as to our first one¹, is Article 3 of the International Agreement which lays down our objective.

¹ The First Report of the Independent Monitoring Commission was published on 20 April 2004. It examined paramilitary groups in Northern Ireland and the activities in which they were engaged. It is available on the IMC website (www.independentmonitoringcommission.org); as British House of Commons paper 516 and on the Northern Ireland Office website (www.nio.gov.uk); from the Department of Justice, Equality and Law Reform's website (www.justice.ie).

The objective of the Commission is 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.

This Article guides us in all that we do. So too will the principles which we set out in the statement we issued on 9 March, and which we repeat in Annex II.

1.10 The scope of this report is therefore determined by the terms both of the International Agreement and of the request from the British Government. We recognise that security normalisation is an issue which attracts strong views in all parts of Northern Ireland. We know there are expectations in some quarters that we will express opinions about whether what has been done is justified and sufficient. It should be borne in mind, however, that this is a report under Article 5(2) not Article 5(1) and it does not therefore involve the monitoring of progress made on security normalisation against commitments given in a programme by the British Government. We will, of course, be monitoring such progress in future.

1.11 However, by means of this report we are able to establish publicly and comment upon the precise nature of the normalisation activities which have taken place since December 1999. Up-to-date information is not publicly available in one place and we think it is very important to set out clearly and authoritatively what the position is so that people can come to their own views about it.

1.12 We also believe it would be valuable to encourage wider debate about what is meant by security normality. Much discussion about security normalisation focuses on the things specifically referred to us, namely standing down of military support for the police and the repeal of special legislation. This is so even though the term was used more widely in the Joint Declaration issued by the British and Irish Governments in April 2003. In Section 3 of this report we raise some questions about this. Security normalisation is also closely linked both under the Belfast Agreement and the Joint Declaration with the new policing arrangements and structures and must be viewed within the broader context of completing the evolution to a society in Northern Ireland that is normal, peaceful and secure.

1.13 In preparing this report we have made it our purpose to seek as wide a range of views as we can. We have sought the views of all the Assembly political parties and of other political groups, though we regret that some have not felt in a position to respond. We made clear at the time of the publication of our report on paramilitary activity in April, as we had in our statement in March, that we wanted members of the public and groups of all kinds to communicate their views to us. To encourage people to let us have relevant information and views we have placed advertisements in the press and have indicated on our website areas in which we are particularly interested². The communication of views from all parts of the community is as important for this report as it is for our other work. We are grateful for the extensive consultation with other oversight bodies whose responsibilities border on ours. In preparing this report we have taken full account of all that we have learnt.

² You can contact the IMC through our website: (www.independentmonitoringcommission.org); by E-mail: imc@independentmonitoringcommission.org; by post at: PO Box 709, Belfast, BT2 8YB, or PO Box 9592, Dublin 1: and by telephone; (Belfast) +44 (0)28 90 726117, or (Dublin) +353 1 4752555.

2. CONTEXT

- 2.1 The Belfast Agreement of 1998 sets the framework on security normalisation within which our remit under the International Agreement is placed. In the context of the proposals for devolved government in Northern Ireland and for North-South and British-Irish institutions it said that the development of a peaceful environment could and should mean a normalisation of security arrangements and practices. It also noted that the British Government would make progress towards as early a return as possible to normal security arrangements consistent with the level of threat and with a published overall strategy.
- 2.2 The Patten Report³ of the following year laid the foundations for the wide-ranging programme of policing reform to which we refer below. In the context of the police assuming a more normal profile it recommended a number of things relevant to our remit on security normalisation, for example that the role of the Army should be reduced as quickly as the security situation allowed so the police could patrol without military support, and that police stations should assume a more normal appearance. The Patten report did not envisage the complete cessation of military support for the police. It referred in particular to the use of the Army in policing public order and endorsed a military role in bomb disposal.
- 2.3 The Joint Declaration of April 2003 both laid the ground for the IMC and elaborated the position on security normalisation. It spoke of an “enabling environment” within which there could be a normalisation of security arrangements, and that with a definitive transition to exclusively peaceful and democratic means normalisation would be implemented over a defined time-frame. It said that the outcome would be change to the profile of the police and Army over a two year period. In an annex it defined the objectives of normalisation in specific terms and set out in some detail the measures that would be taken⁴. In doing so it discussed not only the aspects of normalisation which we are specifically directed by the International Agreement to monitor but also other changes in the police service to which we refer below. Some

³ Report of the Independent Commission on Policing for Northern Ireland; September 1999.

⁴ In particular, paragraph 6 of the Annex outlined the planned position once peaceful conditions had been achieved and the subsequent paragraphs detailed the steps by which this might be achieved over a period of two years.

of the measures specified have already been undertaken. The exposition contained in Annex 1 to the Joint Declaration has set the British Government's benchmark for security normalisation and we believe that it will form the basis of its normalisation programme when it is published. The enabling environment referred to in the Joint Declaration has not yet been fully realised. However, this does not mean that acts of normalisation consistent with the prevailing assessment of the security threat cannot be proceeded with, as has been happening even during the preparation of this report. Normalisation of security arrangements is contingent upon and must be measured against such an assessment. The level of community support the police enjoy is also a vital factor.

2.4 The Belfast Agreement and the Joint Declaration set the context for this report. They also provide the background to the structure of the International Agreement to which we refer in Section 1 whereby there is a long-term process for reporting on the British Government's published security normalisation programme (Article 5(1)) and an arrangement for the interim (Article 5(2)). This latter allows *inter alia* for an IMC report to cover any period specified by the British Government – in this case since December 1999. This report enables us in particular to describe and comment on what has happened since then and to set a baseline on security normalisation for the early summer of 2004 to which we and others can refer in future.

2.5 There are three contextual points we wish to make. First, our report in April on paramilitary groups described the nature of their current activities. What we said then was not designed to be a full threat assessment from which conclusions specifically related to security normalisation can be drawn although, of course, it would be relevant in that regard. Nor was it a comprehensive analysis of everything bearing on the need for military support for the police. For example, significant paramilitary activity in relation to shootings, beatings and organised crime are primarily a police matter and do not necessarily imply a need for military support. Our analysis could not provide the basis for judgements about troop levels or installations – such judgements do not form part of what the IMC has to report on under Article 4. Furthermore, it is not simply the level of the terrorist threat taken in isolation which determines the need for military support, in Northern Ireland or

elsewhere, but rather that threat taken in conjunction with the capacity of the police to respond satisfactorily on their own to it. The assessment of the threat and the formulation of these judgements about the response capability will be central to our future reports under Article 5(1), and we refer to that below.

2.6 We nevertheless think it would be helpful to summarise the key factors from our first report, though we invite readers to read the report to gain a fuller understanding⁵. It is important to bear in mind that the picture is neither even nor static. Some groups are not on ceasefire; the state of preparedness to resume terrorism, the use of violence, and the extent and nature of involvement in organised crime, vary from group to group and from time to time. The key factors are:

- There has been a very significant reduction in the number of deaths attributable to paramilitary groups since the Belfast Agreement in 1998 although they still continue at a level that gives rise to concern. Most of the deaths are caused by loyalist groups (Section 4).
- Other forms of violence by paramilitary groups have significantly increased over the same period; some of this violence is associated with measures to control local communities. Again, loyalist groups are responsible for the greater proportion (Section 4).
- Some paramilitary groups in Northern Ireland maintain a state of readiness for terrorist activity (Sections 3, 4 and 6).
- Paramilitary groups are heavily engaged in organised crime, which is significantly greater in its scale, impact and complexity in Northern Ireland as a result. The groups equip themselves and continue to operate more effectively because of the funds they earn from crime (Section 6).

⁵ There are a number of definitions of the relevant terms in this area. In addition to Article 4 (see Annex 1) we have had in mind paragraph 13 of the Joint Declaration of the British and Irish Governments of May 2003; legislative definitions of terrorism, as for example in the British Terrorism Act 2000 and various international instruments; and the definition of organised crime used by the National Criminal Service in the UK, namely the activities of “serious and organised criminals (those involved, normally working with others, in continuing serious criminal activities for substantial profit or gain, whether based in the UK or elsewhere)”.

- 2.7 Second, we recognise that strong and differing views are held in Northern Ireland about military support for the police. To some it is a necessary response to terrorism which caused over 3,000 deaths, and one which ought to remain in place until that threat is finally removed. Many view it as the proper and legitimate exercise of authority by the sovereign government. Many others see it as disproportionate in the light of the very significant reduction in bombing and attacks on security forces and as overbearing and intrusively symbolic of a political situation which they wish to see changed. For example, it has been put to us that the continued deployment of the Army above and beyond the normal garrison of 5,000 does not seem to be justified by the statistics of paramilitary activity against the security forces or the potential for an unexpected upsurge in such activity. These divergent perceptions of the required levels of Army deployment are contributed to by the fact that the process for making the threat assessment is not transparent.
- 2.8 There are various permutations of these views, on both the practical and political aspects. They are influenced too by the extent to which people's daily lives may be affected – most strikingly, perhaps, by observation towers and the use of helicopters – and by matters that have a political significance such as cross border incursions. The fact remains, however, that security normalisation is an objective of the Belfast Agreement and the IMC's task in this regard is to discharge the monitoring and reporting obligations conferred on it by Article 5 in an objective and impartial manner.
- 2.9 Third, we are very conscious that there is a much wider context of normalisation than what is set out in Article 5 and that there are many others deeply involved in pursuing and measuring change in law enforcement and criminal justice generally, and we have taken account of what they are doing. In addition to the policing and law enforcement bodies themselves, the Policing Board, the District Policing Partnerships, the Police Ombudsman and the Office of the Oversight Commissioner and various inquiries are playing crucial roles in bringing about and monitoring major changes to policing. They are addressing, for example, such contentious issues as the PSNI Full Time Reserve, Holding Centres, reduction in the number of police stations and issues dealing with collusion. The criminal justice system more widely is undergoing change, including the establishment of the Public Prosecutions

Service of Northern Ireland. The posts of the Justice Oversight Commissioner and the Chief Inspector of Criminal Justice establish mechanisms whereby the reform programme is closely monitored and the criminal justice system can be assessed as a single whole. Finally there are bodies concerned with the oversight of counter-terrorist legislation to which we refer in Section 5 below.

- 2.10 These organisations have different responsibilities from ours, and it is not for us in any way to usurp their role, though fulfilment of our own role will make it necessary for us to comment on some of the same matters. To give one example out of many possible ones, the removal of fortifications from police stations is part of the Patten programme of reforms which falls to the Oversight Commissioner but it clearly also relates to security normalisation. It is important that those who read this report have the work of these other bodies in mind and take full account of the nature of the changes being implemented at this time, as well as of the extent of the oversight of them. The security normalisation measures with which we are concerned are taking place in a context of significant change and wider normalisation, and where relevant to our remit we touch on some of those issues below.

3. WHAT IS NORMAL LAW ENFORCEMENT?

- 3.1 Law enforcement in Northern Ireland is far from normal in terms both of the task faced and the response to it.
- 3.2 As we described in our first report, paramilitary groups remain active though the profile of their activities has changed. There have been no terrorist-related deaths of members of the security forces since 1998, and overall the threat that paramilitaries pose to them is much less than it once was. But it has not gone away, certainly so far as dissident republicans are concerned, and members of the security forces can still be at risk from them, and individually still in receipt of threats. There are still areas of Northern Ireland where it is difficult for the police to enforce some laws in the way taken for granted in other parts of the UK and Ireland. The reasons for this include the threat they face from some paramilitary groups, the influence exerted in certain areas by paramilitary groups, and in some places the historical paucity of community confidence and varying support. Organised crime with extensive paramilitary connections and the associated criminal exploitation of the border present special issues for Northern Ireland. The picture across Northern Ireland is very mixed and can vary sharply within relatively small areas. In some places the position is essentially the same as would be found elsewhere in the UK and Ireland. In some communities, however, the police lack the support and confidence of the community which is the basis of conventional law enforcement. A few places still have many of the characteristics of the period of significant terrorist threat before the ceasefires. The picture continues to change.
- 3.3 Equally clearly, the response to this situation is not normal. The British Army are in continuing support of the civil authorities rather than deployed exceptionally in response to individual incidents on specific ministerial authority as would be the case in the rest of the UK, and in some circumstances they have special law enforcement powers. The number of troops in Northern Ireland remains some three times higher than the Joint Declaration envisaged would be the case in normal circumstances. Military installations and helicopters are still used extensively for law enforcement. There is in force a considerable body of counter-terrorist legislation which is specific to Northern Ireland. Equally, as has been repeatedly

said to us by people from both sides of the community, the presence of the Army is far less visible than it used to be, particularly but not only, in urban patrolling. Thus within a situation which is certainly not normal some significant changes have already taken place. Decisions to reduce the number of British troops available to support PSNI have been announced during the course of the preparation of this report. At the same time there is plenty of evidence to suggest that in those areas which are most affected by the level of continuing deployment of the Army in support of the police, by helicopter use, and by observation posts there remains dissatisfaction and annoyance with the invasion of privacy and the military environment created thereby. The number of complaints received by the Army from the public remains substantial. It has also been suggested to us that there is a perception of insufficient accountability for intelligence operations conducted by the Army in Northern Ireland.

- 3.4 The transition from continuing Army support to exceptional deployment requires a development of confidence both by the police themselves and by the communities they serve. The Joint Declaration itself recognises this.
- 3.5 The situation faced by the law enforcement authorities and the response to it are the result of the events since the late 1960s, and in some cases of a much longer history. The law enforcement task and the response both grew incrementally and the measures now in place are in many respects the result of that incremental growth. In contrast, one result of the Belfast Agreement and other changes to which we referred in Section 2, is that there are now developments planned and taking place which address many of these issues, such as the establishment of the PSNI as a normal civilian police force firmly anchored in community support. When the British Government publishes its programme of security normalisation those developments will be taken significantly further forward. In this context, we recognise that it will remain throughout the responsibility of the Chief Constable to advise the British Government on security matters.
- 3.6 The task we face in this report on security normalisation may not be in line with some people's expectations. In the absence of the British Government's programme we can only report on what has happened. Clearly we cannot monitor and assess

progress on the delivery of commitments made in such a programme, whose key objective would be to return troop levels and activities to those that would be normal in any other part of the UK. We are told that the present security profile is the response to the current perceived threat. However, the basis for that threat assessment and the procedure by which it is arrived at are not transparent and are not subject to review by the IMC. In the absence of such a documented programme and the reasons for it, with a series of precisely defined stages and targets, it is not our function to get behind the judgements made about the threat and assess things for ourselves, and we do not at present have the means of doing so.

3.7 If we are to fulfil our task successfully when we come to report under Article 5(1) we will need a ruler to measure the changes proposed and introduced under the security normalisation programme against the assessment of the threat. The core question we will address is:

- What measures beyond the normal are justified by the security threat, which we know is subject to change?

Other questions are:

- For the purposes of normalisation, how is an assessment made of the relative impact of terrorism as conventionally understood and of other forms of paramilitary criminal activity, given the account in our first report of paramilitary groups being variously engaged in either or both?
- How are the conclusions about the link between that assessment and the number of military personnel and installations arrived at?
- Are these conclusions continually refined and acted on as circumstances change?
- What is the impact and significance of particular normalisation measures that might be taken in the nature of military support or of the counter-terrorist legal framework?

- Are there alternative measures to those now being taken which might adequately meet the requirements?
- What effect are community policing, evolving justice processes and abnormal security measures having on each other?
- What is the effect on the threat assessment of factors such as the ceasefires, the continued existence of the PIRA and the activities of loyalist paramilitaries and dissident republican paramilitaries?

3.8 The answers to these questions are not easy. We recognise that the way in which the situation can vary from place to place can mean that the measures taken vary. In many parts of Northern Ireland things can be described as essentially normal, though even where that seems to be the case circumstances can suddenly change, as the recent loyalist feud in Belfast and North Down has shown. Where there remains a terrorist threat, as there does for instance from dissident republicans, it is fundamental that members of the public and of the security forces should not be placed in jeopardy. This may mean not only a substantial police response but military support too. This may delay a police response and impose disproportionate demands on police resources so that other “normal” policing is sacrificed; and it may require the presence of the Army even though the incident itself is minor. This is not only a consequence of abnormal circumstances; it militates against an early achievement of the wider normalisation which is surely an objective shared generally by the people of Northern Ireland.

3.9 It is complexities of this kind that we expect the publication of the British Government’s security normalisation programme will help to clarify. The Joint Declaration set out the characteristics of normalisation in the context of a peaceful society which we expect will underpin this programme. What is regarded as normality by way of law enforcement will, of course, continue to evolve over time, as it has always done. There are well known differences between the policing measures required in different communities, for example city centre and rural. Changing demands require different responses, for example to phenomena such as organised crime or international terrorism, on which latterly the UK authorities now

daily exercise powers in some British cities in a way now largely abandoned in Northern Ireland. But in the short term, and in the necessary enabling environment, what will be called for in Northern Ireland will be a clear statement of goals, a plan for reaching these goals, and a means of measuring progress. We want our reports on the security normalisation programme to play a part in increasing public understanding of the issues as they develop in Northern Ireland so that people's views are formed as far as possible on the basis of an open and clear understanding of the situation.

3.10 There are two other points we think it is important to note. First, as alluded to in the previous Section, the aspects of security normalisation on which we primarily focus are only one part of a much wider scene, and that scene itself is in a state of constant development. The measures which we describe in the following Sections should be viewed not in isolation but against the background of what else is happening in society and to law enforcement and criminal justice in Northern Ireland, and also of the demands that changing circumstances make on the services concerned. Normalisation in the fullest sense is thus a very broad and continually evolving concept.

3.11 Second, changes in methods of law enforcement cannot be compartmentalised; they are part of a connected process. They do not depend on a single person or body and are undertaken in response to changing needs. Nor does any single person have a monopoly of wisdom on what should be done or when. Changes will come about through the combined efforts of those who lead the services in question, those who supervise them, and those whose job it is to oversee the change programmes. Crucially, the people of Northern Ireland must be actively involved in the introduction of these changes and in debating what should or should not be done. That is why we recommended in our previous report that those political parties not participating in the Policing Board or District Policing Partnerships should now join them. Although the normalisation measures we describe below are the responsibility of the British Government, experience has amply demonstrated that it is only through the continuing commitment and invaluable contribution of bodies such as the Policing Board, the District Policing Partnerships and the Police Ombudsman as well as all those promoting change within the PSNI, that this wider

programme of change can come about, and responsibility for it be accepted. As envisaged in the Belfast Agreement and the Joint Declaration, the logical outcome of an enabling environment and of the whole process of security normalisation and development of a community-based police service would be the devolution of policing and justice to Northern Ireland institutions.

4. SECURITY NORMALISATION ACTIVITY: THE USE OF THE MILITARY IN SUPPORT OF THE POLICE SERVICE OF NORTHERN IRELAND

4.1 We examine here the position under the various heads of Article 5(1) dealing with the use of the military in support of the police as we are requested to do by the British Government. They are:

- 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.

4.2 We deal with the repeal of counter-terrorist legislation in the next Section.

4.3 In each case we set out the position at December 1999. The British Government's Security Strategy Paper, against which we are asked to measure changes, was published on 22 December 1999. We then show the changes that have taken place since that date some of which are quite significant. Finally, we show the position at 31 May 2004⁶. We envisage that this should serve as a baseline for any future reports we make under Article 5. These figures were provided to us by the British Government. Throughout we have in mind the question of what is the necessary level of military support – a question we will address in depth when we report under Article 5(1). Although we have of necessity selected a cut-off date of 31 May 2004, we recognise that further steps are being taken as appropriate. During June it was announced that two battalions – some 1,200 men - were to cease to be available to support the PSNI. The removal of the military presence from the joint base at Rathfriland has also recently been announced.

The demolition of towers and observation posts in Northern Ireland – Article 5(1)(a)(i)

4.4 The International Agreement refers to “towers and observation posts”. These are the terms in common parlance with some potential for overlap in meaning, not

⁶ In the case of helicopter flying hours the data is not available in this form and we use the nearest equivalent, see paragraphs 4.16 to 4.23 below, where we also comment on future data requirements.

precise military ones. We have taken them in their natural sense, namely as sites used solely or primarily for observation, whether for the purposes of protection or to gather information, or solely or primarily for communication. We also take the term to cover both ground level and elevated sites. Annex IV explains the types of military sites we have included. We note that because hill-top sites are normally supplied by helicopter, their use relates directly to the amount of helicopter flying.

4.5 On 22 December 1999 the British Army utilised 19 sites for observation and communication purposes. On 31 May 2004 10 of these sites had been closed, leaving 9 in use⁷. Annex V lists the sites and their locations, and Annex VI has a map identifying the location of those in the South Armagh area.

4.6 The number of these sites has been halved since December 1999. Those closed include two of the five sites in South Armagh that were earmarked in the Joint Declaration for closure in the first phase of normalisation in an enabling environment. Among the issues relating to the remaining posts that we will be considering when we come to monitor a security normalisation programme under Article 5(1) are the following: the threat posed by dissident republicans in the areas affected; the effect of the continued existence of such sites on community attitudes to law enforcement; and whether there are alternative means by which any remaining security threats might be satisfactorily addressed.

The withdrawal of troops from police stations in Northern Ireland – Article 5(1)(a)(ii)

4.7 On 22 December 1999 the Army was jointly based with the then RUC at 20 locations. On 31 May 2004, 8 of these had been closed, and there were 13 in use, including one opened in 2003⁸. Annex VII lists the joint bases on these two dates. One of the closed military sites, Aughnacloy, is being dismantled; the Army remains present as a guard for the whole base but plans to withdraw and hand full responsibility to the PSNI by the end of September 2004, leaving 12 in use.

⁷ Of the sites still in use, one is a communications site. One tower is at a site which is not now used for other purposes; because of the continuing use of the tower for observation and communication purposes the whole site is therefore deemed still to be open. Of the sites closed, two were at joint PSNI/Army bases which are still in use.

⁸ PSNI Maydown became operational only in December 2003.

4.8 The withdrawal of troops from police stations is, of course, one feature of change to more community-based policing in Northern Ireland. It is closely linked to other developments such as reduction in the numbers of police stations, changes in their type and style and removal of fortifications. Progress on all those other matters is related to community support for the PSNI and is subject to oversight by the Oversight Commission.

The closure and dismantling of military bases and installations in Northern Ireland- Article 5(1)(a)(iii)

4.9 The Security Strategy Paper referred to 26 bases and installations closed since 1995 and outlined steps taken over the same period to remove barriers and checkpoints and to return requisitioned land. It did not list the bases then in use.

4.10 We deal here with all forms of military bases and installations not covered by paragraphs 4.4 - 4.6 on towers and observation posts. On 22 December 1999 the British Army had 32 such bases and installations. We note, as stated in the Joint Declaration, that the intention is that when at peacetime garrison strength, in an enabling environment, the British Army would occupy no more than 14 sites. To reach this figure would require a reduction of 18. On 31 May 2004 the number of such bases had already reduced to 24 or 44% of the reduction required to reach the target of 14. Annex VIII lists the bases and installations in use on these two dates. Two bases specifically earmarked in the Joint Declaration for closure in the first two phases of a normalisation programme, namely Ebrington Barracks and Clooney Base, have been closed.

Troop deployments and withdrawals from Northern Ireland – Article 5(1)(a)(iv)

4.11 The Security Strategy Paper indicated that the number of military personnel on operational duties during 1999, just under 15,000 save for temporary reinforcements during the “marching season”, was lower than at any time since 1970. The position in December 1999 was as follows:

Military personnel based in NI ⁹ :	14,319
Rearbased ¹⁰ :	<u>1,591</u>
TOTAL	15,910

4.12 Over the whole period since then the annual average of the monthly figures has been:

	1999	2000	2001	2002	2003	Jan-May 2004
In NI	14,892	14,093	13,748	13,681	13,311	12,658
Rearbased	1,452	1,511	1,147	798	1,108	1,957
TOTAL	<u>16,344</u>	<u>15,605</u>	<u>14,895</u>	<u>14,479</u>	<u>14,420</u>	<u>14,615</u>

4.13 These averages do not reveal fluctuations between months, particularly because of the marching season; the greatest difference over a full year was 1,772 in 2003 and the least was 524 in 2001. The fall in these averages from 1999 to the first five months of this year was 11%. The full monthly figures from 1999 are given in Annex IX¹¹.

4.14 The position during 2004 has been as follows:

	Jan	Feb	March	April	May
In NI	12,435	12,635	12,715	12,874	12,631
Rearbased	1,913	1,965	1,901	1,887	2,117
TOTAL	<u>14,348</u>	<u>14,600</u>	<u>14,616</u>	<u>14,761</u>	<u>14,748</u>

4.15 Accordingly the average of the monthly totals over 2004 has been 14,615 for January to May. We note that the Joint Declaration stated that in the context of a peaceful society the abnormal Army deployment needed over the previous 30 years

⁹ These figures, and those given in the following paragraphs and associated annex, include members of all the regular armed services in Northern Ireland in support of the police. They include full-time and part-time home service members of the Royal Irish Regiment; in the case of the part-timers, they are counted on a per capita basis, not as full-time equivalents. They do not include members of the Territorial Army, who are not available for deployment in support of the police in Northern Ireland.

¹⁰ Rearbased means those troops normally based outside Northern Ireland but available to the GOC to deploy within Northern Ireland as he determines from time to time according to the level of support required by the police.

¹¹ The monthly figures in Annex IX, unless otherwise specified, represent a snapshot of manning levels on one particular day in each month; they are not averages.

would cease. It envisaged a staged withdrawal of troops in an “enabling environment”, with Army support for the police being reduced to a residual level, that is to say providing specialised ordnance disposal and support for public order as described in the Patten Report. The result would be that when the British Army are at garrison strength, there would be some 5,000 personnel in Northern Ireland, about a third of the present figure. The gap between current actual deployment and the envisaged peace time level is still very wide therefore. The Joint Declaration envisaged that in an enabling environment there would be an early announcement and commencement of implementation of a structured plan for a phased reduction of troops to peace time levels. We expect that this will be a key feature of the British Government’s security normalisation programme and of the IMC’s monitoring of the implementation of that programme.

Levels of British Army helicopter use – Article 5(1)(a)(iv)

4.16 The figures on helicopter use are in financial not calendar years, and are not available on a monthly basis. It is not therefore possible to state the precise position at either December 1999 or May 2004. We think it is also important to make as clear as possible the distinction between operational flights, training and air tests. This breakdown is available only from 2002-03. The use of helicopters differs from the other things described above in that it creates a major disturbance for all those who live near the flight paths. It is a source of grievance for some people irrespective of their views about the use of British troops and installations in support of the PSNI.

4.17 The position on the number of operational hours flown is as follows:

FINANCIAL YEAR	HOURS FLOWN
1999-00	24,734
2000-01	25,717
2001-02	24,043
2002-03	20,403
2003-04	16,566

4.18 Accordingly the number of operational hours flown has reduced by 33% from 1999-00 to 2003-04.

4.19 These operational hours do not represent the total time spent in the air by military helicopters in Northern Ireland. Training flights, and the air testing of the aircraft or of equipment, are in addition. The position under these two headings for the two financial years for which figures are available for the three main helicopter types (Puma, Lynx, Gazelle) flown operationally in Northern Ireland is as follows:

	2002-03	2003-04
Training	4,274	5,498
Air Tests	1,008	1,040
TOTAL	5,282	6,538

4.20 These figures do not include the two types of helicopter (Chinook, Sea King) which are rear-based, for which this breakdown is not available.

4.21 Finally, we think it would be valuable to give an indication of the number of complaints the Army have received about their use of helicopters. The figures are available only from 2000, and are in calendar years so they cannot be directly correlated to those for flying hours. The position is:

2000	544
2001	493
2002	421
2003	492 ¹²
2004 (to 31 May)	83

4.22 It is clear from the preceding paragraphs that the historical information on helicopter use is not sufficiently clear or comprehensive. We will need the information on the period after May 2004 to be so for future reports.

¹² Of these, 127 were from one individual whose first recorded complaint was on 4 January 2003.

4.23 The Joint Declaration envisaged that in the context of a peaceful society army helicopters would be used essentially only for training for operations elsewhere and that a police helicopter would be used in a normal policing role, as is common in other police services (this would require the provision of a helicopter to the PSNI). The extent of the present use of army helicopters is a long way from that situation and is very high by comparison with normal societies. The extent of that use is, of course, directly linked to the overall level of deployment of the Army and to the continued use of observation sites in elevated rural locations. However, it remains an issue of considerable public concern in the areas affected and for as long as abnormal levels of army helicopter activity continue all possible steps should be taken to reduce and ameliorate the impact on local communities.

5. SECURITY NORMALISATION ACTIVITY: THE REPEAL OF COUNTER-TERRORIST LEGISLATION PARTICULAR TO NORTHERN IRELAND

- 5.1 The request of the British Government asks us to give an account of the repeal of counter-terrorist legislation particular to Northern Ireland since the publication of its Security Strategy Paper in December 1999.
- 5.2 There have been significant changes to British counter-terrorist legislation over the period since 1999, affecting both the UK as a whole and Northern Ireland in particular. They make any comparison between the position in December of that year and the present somewhat complicated.
- 5.3 In December 1999 the main statutory provisions for counter-terrorism were contained in four Acts of Parliament. These were the Prevention of Terrorism (Temporary Provisions) Act 1989 and the Criminal Justice (Terrorism and Conspiracy) Act 1998. Both Acts applied to the UK as a whole, though they contained provisions connected with the affairs of Northern Ireland. Two Acts – the Northern Ireland (Emergency Provisions) Acts of 1996 and 1998 – extended to Northern Ireland only. In broad terms these four Acts, taken together, addressed three issues: international terrorism affecting the whole of the UK; terrorism having its origins in Northern Ireland which affected mainland Great Britain; and terrorism within Northern Ireland.
- 5.4 These four Acts were largely superseded by the Terrorism Act 2000¹³. It consolidated, re-enacted with modifications or repealed various existing provisions and introduced new ones; it also applied to the UK as a whole some provisions which had previously applied to Northern Ireland alone. The greater part of the 2000 Act applies to the entire UK and these provisions are permanent until repealed. The UK-wide provisions address all forms of terrorism, international, domestic and that related to Northern Ireland. Provisions particular to Northern Ireland were contained in Part VII of the 2000 Act; they are temporary and subject both to regular

¹³ The provisions relevant to this report were incorporated in the 2000 Act. Some provisions of the Criminal Justice (Terrorism and Conspiracy) Act 1998 remain in force.

review and to annual parliamentary renewal. Most of these latter provisions came into force in February 2001.

5.5 Since the 2000 Act there has been further British counter-terrorism legislation, which applies to the UK as a whole and is therefore not relevant to our report.

5.6 Against this background we think it would be helpful to structure this part of our report in the following way:

- To note, as context, the framework within which the present Northern Ireland provisions are handled.
- To record the changes to provisions particular to Northern Ireland made by the implementation of the Terrorism Act 2000.
- To record the changes to such provisions made since then.
- To summarise the nature of the provisions now in force, and to comment as appropriate.

Framework within which the provisions particular to Northern Ireland are handled

5.7 The provisions of Part VII of the Terrorism Act 2000 which are currently in force are subject to annual renewal, without which they cease to have effect. The renewal is effected by an Order made by the Secretary of State following the approval of both Houses of the British Parliament. By the same procedure individual provisions can cease to have effect or can be brought into force. This means that if the Secretary of State believes a provision which has ceased to have effect is again required he can quickly invite Parliament to give renewed effect to it. Primary legislation is required to amend or add to Part VII. Primary legislation would also be required to re-enact Part VII if it is to continue in force after February 2006.

5.8 The British Government's decisions on the renewal of the Part VII provisions and on whether individual provisions should cease to have effect or should be brought

into force, and the parliamentary vote on renewal, are informed by the reports of the Independent Reviewer of the Terrorism Act, presently Lord Carlile, QC. Lord Carlile examines the use of and need for the provisions in Part VII. His reports are published¹⁴. We note that although he has commented on individual provisions he has concluded that special provisions are still justified by the security situation in Northern Ireland.

5.9 Against this background, we note but do not comment on the view of the British Government that the existing provisions are proportionate and necessary in the present circumstances though when we report under Article 5(1) we will do so. We are very aware that there are those who disagree with this view and who seek the repeal of all or some of these provisions. We note too that the British Government is committed by the Belfast Agreement and the Joint Declaration to the removal of the provisions particular to Northern Ireland when the security situation allows. Finally, we are aware of the view of the British Government that all these provisions are ECHR compliant, though that is, of course, a matter which is ultimately for the courts.

5.10 Under the terms of the Terrorism Act 2000 there is an Independent Assessor of Military Complaints Procedures whose task is to review the manner in which the British Army deal with complaints made to them about their practices, such as the use of helicopters¹⁵.

5.11 There is also a non-statutory Independent Commissioner for Detained Terrorist Suspects whose role is to inspect detention facilities and to monitor individual interviews. He reports annually to the Secretary of State and his reports are published¹⁶. His assessment is not directly concerned with whether or not provisions in Part VII should be renewed or cease to have effect, but is relevant to the context within which the British Government and Parliament come to decisions on these matters.

¹⁴ Lord Carlile's latest report is Report on the Operation in 2003 of Part VII of the Terrorism Act 2000, published on 15 January 2004.

¹⁵ The Eleventh Annual Report of the Independent Assessor of Military Complaints Procedures for the year 2003 was presented to the Secretary of State on 28 June 2004.

¹⁶ Eleventh Annual (2003) Report of the Independent Commissioner for Detained Terrorist Suspects, presented to the Secretary of State on 31 March 2004.

5.12 Complaints about the exercise of police (but not military) powers under Part VII, as about the exercise of other police powers in Northern Ireland, are within the remit of the Police Ombudsman for Northern Ireland whose reports to the Secretary of State are published¹⁷.

*Changes made by the implementation of the Terrorism Act 2000*¹⁸

5.13 Two provisions in the legislation which applied exclusively to Northern Ireland were repealed by the Terrorism Act 2000. They were:

- The offence of wearing hoods in public places. The provisions in Northern Ireland are now similar to those in England and Wales.
- Certain grounds for refusing an explosives licence.

5.14 A number of provisions applying exclusively to Northern Ireland were re-enacted with modifications by the Terrorism Act 2000. They were:

- The previous legislation empowered a member of the Armed Services¹⁹ in certain circumstances to arrest a person and detain him for up to four hours. The common law requirement on how to state the grounds for making the arrest was met if the soldier stated he was acting as a member of the Armed Services. The amendment now makes clear that the statement of the grounds for the arrest does not legalise an act which would be illegal under the Human Rights Act 1998.
- Under the previous legislation a person could be required to remain in a location during the search of premises. The power was exercisable by the police or Armed Services and was capable of being read as open ended. The 2000 Act expressly provides that after an initial period of four hours such detention may, if it is necessary, be extended by the police by one more period of four hours.

¹⁷ The published reports of the Police Ombudsman for Northern Ireland are available on website (www.policeombudsman.org)

¹⁸ Provisions of the Act were brought into force at various dates from July 2000 to February 2001, and there were a number of transitional arrangements. We record here only the changes of continuing effect.

¹⁹ In British legislation the relevant powers are conferred on members of "Her Majesty's Forces", and they can in law be exercised by a member of any arm of those forces. We have used the term "Armed Services" in a legal context to convey this breadth, although in practice it is normally members of the Army that are involved.

- The power conferred on the Secretary of State to authorise the police or Armed Services to take possession of land or property was restricted to circumstances where this is necessary for the preservation of peace or maintenance of order.
- Procedural safeguards were introduced into the provisions relating to court orders for the forfeiture of documents useful to terrorists.
- Substantial changes were made to the provisions relating to private security services. These enable conditions to be attached to licences and empower the Secretary of State to refuse or revoke licences where a condition is not complied with; give a right of appeal to the High Court where a licence is refused or revoked or where a condition is imposed; and establish arrangements for appeal to a tribunal where the Secretary of State has issued a certificate to protect sensitive information during such High Court proceedings.
- The provision of the 1996 Act which made possession of documents relating to an organisation evidence of being a member of the organisation, was repealed.

Changes made since the implementation of the Terrorism Act 2000

5.15 The following provisions of the Terrorism Act 2000 applying only to Northern Ireland have ceased to have effect by Parliamentary Order since its enactment:

- Section 76, which allowed the court in certain circumstances to admit a confession by the accused in evidence in a trial on indictment for a scheduled offence. The provision ceased to have effect from 26 July 2002, as a result of which the normal rules of admissibility apply.
- Section 97(1) and (2), which allowed the Secretary of State to make an order conferring on members of the Armed Services powers to examine people at a border or port normally exercised only by police, customs or immigration officers. As a result of this provision ceasing to have effect, members of the Armed Services can no longer be empowered to act in a similar role to these other officers at a border or port. The provision ceased to have effect on 19 February 2003.

- Paragraph 36 of Schedule 4, which had enabled the Secretary of State, instead of the High Court, to make a restraint order on somebody's property if it appears to him that an application to the Court would necessitate the production of material which might endanger any person or prejudice a police officer's ability to investigate offences connected with raising, using or laundering funds for terrorist purposes. Thus there is no longer a power for the Secretary of State to intervene in a process which is normally one for the courts. The provision ceased to have effect in February 2003.
- Paragraphs 19 to 21 of Schedule 5, which had enabled the Secretary of State in certain circumstances, and subject to various safeguards, to make an order conferring on a police officer the authority which would normally be conferred by a search warrant issued by a Justice of the Peace or Judge. As a result, such search warrants can now be issued only on judicial authority. These provisions ceased to have effect in February 2003.
- Section 97(3), which allowed the Secretary of State to make an order containing special provisions about entering or leaving Northern Ireland by land. This provision ceased to have effect in February 2004 and the Terrorism Act 2000 has no different provisions in this regard in relation to Northern Ireland.
- The power of a County Court Judge to authorise the police in certain circumstances to search for and retain items in connection with the investigation of terrorist offences was removed and conferred instead on Crown Court Judges with effect from 7 July 2002.

Provisions particular to Northern Ireland still in force

5.16 It follows from what we say in the previous paragraph that the great bulk of the Terrorism Act 2000 provisions particular to Northern Ireland are still in force. They are subject to review and annual renewal in the way we outlined in paragraphs 5.7 and 5.8 and are in addition to the powers in other parts of the 2000 Act which are of UK-wide application. We cannot give a comprehensive account of them, for which the detail is key, but in broad terms they provide:

- The special treatment of certain “scheduled” offences for prosecution and other purposes because they are broadly terrorist-related offences. The most important of those other purposes is non-jury trial before a “Diplock” Court (judge without jury), with an automatic right of appeal to the Court of Appeal without leave, restrictions on magistrates granting bail and longer (up to 28 days) remand in custody.
- Special law enforcement powers for the police and members of the Armed Services to deal with terrorism, with associated safeguards.
- An offence of the collection, recording or possession of information about certain types of persons likely to be useful to terrorists. (There is also UK-wide provision elsewhere in the Act which makes it an offence to collect or possess information of a kind likely to be useful for terrorism).
- That a court may in trials on indictment for possession of firearms, petrol bombs and explosives, make assumptions about the accused’s knowledge or control of items found at premises he occupied or used which the accused can displace by discharging an evidential burden.
- A special evidential procedure on charges of membership of an organisation that the opinion of a superintendent of police is admissible and whereby a court may in certain circumstances draw inferences from an accused’s failure to mention when questioned things he might reasonably have been expected to mention.
- A number of other measures on remission of sentence in relation to those convicted of scheduled offences, the closure of roads, taking possession of land, the regulation of private security services, the inspection of explosives, the making of regulations for the preservation of peace, and the forfeiture of property by order of the courts.
- The office of the Independent Assessor of Military Complaints Procedures.

- 5.17 It has been submitted to us that non-jury trials held under Section 75 of the Terrorism Act 2000 should be heard before three-judge courts and that such a move would be a clear signal of a return to normality and would have a considerable beneficial effect on public confidence in the administration of justice. It has also been submitted to us there should be a presumption in favour of trial by jury, with cases being “scheduled in” to be heard before a non-jury court if there was a clear view that a fair trial could not otherwise be obtained.
- 5.18 A considerable body of counter-terrorist legislation particular to Northern Ireland therefore remains in force. Article 5(1) envisages that the programme of security normalisation measures to be put forward by the British Government will include proposals for the repeal of counter-terrorist legislation particular to Northern Ireland. When we come to report under Article 5(1), we will have to make assessments that will inevitably take us into some of the kinds of issues that are addressed by the Independent Reviewer of the Terrorism Act and we will need to consult closely with him, though the judgements we make in the exercise of our role, will, of course, be our own.

6. CONCLUSION

6.1 The following key points may be drawn from what has been said in the earlier sections of this report.

- Law enforcement in Northern Ireland is far from normal in terms both of the task faced and the response to it.
- As we described in our first report, paramilitary groups remain active and the incidents of shootings and beatings by them has increased, though the threat they pose to security forces is a very great deal less than it used to be and there have been no terrorist-related deaths of members of the security forces since 1998.
- The Army is in continuing support of the civil authorities rather than deployed exceptionally in response to individual incidents on specific Ministerial authority as would be the case in the rest of the UK, and in some circumstances they have special law enforcement powers. Normalisation involves a transition from continuing support to exceptional deployment.
- Some significant changes by way of reduction in abnormal security arrangements have already taken place since December 1999:
 - The number of towers and observation posts has halved, from 19 to 9.
 - By September this year the number of locations where the Army is jointly based with the police will have nearly halved, from 20 to 12.
 - The gap between the number of military bases and installations in Northern Ireland and the projected peacetime number of 14 has been nearly halved, from 32 to 24.
 - The average monthly number of military personnel available to support the PSNI has reduced by 11%, from 16,344 to 14,615.

- The number of army helicopter operational hours flown in Northern Ireland has reduced by 33%.
- Some of the provisions of counter-terrorist legislation particular to Northern Ireland have ceased to have effect and others have been amended.
- The current situation remains well short of the normal profile identified in the Joint Declaration for achievement in an enabling environment by way of a normalisation programme over a two-year period.
- In particular, the overall level of deployment of the Army in Northern Ireland has not reduced very significantly since 1999, though the level of actual use of the Army in support of the police has reduced considerably and the nature of that use has altered substantially.
- The enabling environment referred to in the Joint Declaration has not been fully realised but that does not mean that acts of normalisation consistent with the prevailing assessment of the security threat cannot be proceeded with, as has happened during the preparation of this report.
- The number of troops available to support PSNI remains some three times higher than the Joint Declaration envisaged would be in Northern Ireland in normal circumstances.
- In those areas that are affected by the continuing level of deployment of the Army in support of the police, by helicopter usage, and by observation posts, there is ongoing dissatisfaction and annoyance with the invasion of privacy and the militarised environment created thereby.
- Normalisation of security arrangements is contingent upon, and has to be measured against the prevailing assessment of the security threat. The level of community support the police enjoy is also a vital factor.
- Security normalisation is part of a wider context of normalisation and is closely linked to changes in justice and law enforcement more generally, especially the development of community-based policing.

- As envisaged in the Belfast Agreement and the Joint Declaration, the logical outcome of an enabling environment and of all these changes would be the devolution of policing and justice to Northern Ireland institutions.

6.2 The situation we now report on is an interim one pending the publication by the British Government of its programme of security normalisation and the provisions in Article 5(2) are designed for those circumstances. **The reports we envisage producing under Article 5(1) once that programme has been published will be different. Then:**

- **The circumstances will be different.**
- **Our remit under Article 5(1) will be wider and deeper.**
- **We will monitor specific commitments in the programme set against a timetable for implementation.**
- **We will also be empowered to formulate our conclusions in the light of our own assessment of the paramilitary threat and of the British Government's obligations to ensure the safety and security of the community as a whole.**

This will be a very different task, incorporating the assessment of performance against targets and qualitative judgements.

6.3 As we indicated above, when reporting under Article 5(1) **we will need the clarity given by a clear statement of goals, a plan for reaching those goals and a means of measuring progress. Accordingly:**

- **We will expect to start with an assessment of the threat.** The publication of the British Government's security normalisation programme and our subsequent reports on it will create a new situation where that assessment of the threat becomes topical and important in public debate.

- **Public confidence in the threat assessment will be a vital consideration** and we will want to see how, in a manner consistent with security needs, we can be as open as possible about it.

- **Against the background of the assessment of threat, we will examine how judgements are made to determine the need for military support, both overall and at the level of individual operations.** A crucial factor will be the way in which information is provided and assessed so that well-founded decisions can be reached on the level of military support required and on the need for special legal measures. This seems to us the key consideration in deciding the pace of security normalisation and whether it is realistic to adhere to the programme, or possible to speed it up. As with the assessment of the threat, **the validation of these overall judgements will be vital to public confidence in normalisation.** It is also important for members of the PSNI: the force has taken very significant casualties over the years and individual officers are entitled to know that risks are properly calculated. The phrase “psychology of normalisation” has been used to us. We find it a useful concept because so much depends on the creation of confidence in normalisation throughout the community as a whole; the more the confidence, the greater the scope for enlightened and balanced leadership. We are determined to play our full part in informing public debate to that end.

- **We will look at the way in which the decisions are taken about the need for the Army to work with the police, including in the new context of greater delegation of authority to District Command Unit level within the PSNI.**

- **We will examine on a continuing basis the analysis made in the light of experience of the security situation and of events on the ground, both strategically (for example at the end of the year to ask whether the level of military provision had been correctly assessed in planning) and operationally.**

- As already mentioned, our attention has been drawn to some aspects of the Terrorism Act 2000 and we expect that it will be to other aspects too.

- **We will also monitor and report on commitments made in the security normalisation programme about counter-terrorist legislation, and will do so in close consultation with the Independent Reviewer of the Terrorism Act.**
- **We will set out our comments and conclusions.**

We believe that this approach will usefully serve our underlying purpose, namely to promote the transition to a peaceful society and stable and inclusive devolved Government in Northern Ireland.

6.4 As we indicated above, the Belfast Agreement and the Joint Declaration form the basis on which we will undertake this future work, as they have here. The Joint Declaration sets out clearly what is involved in security normalisation and the thinking lying behind it. **Irrespective of the date of the implementation of the British Government’s security normalisation plan, we intend to take as our factual starting point the baselines on military support and legal measures we have established in Sections 4 and 5 of this report so that members of the public can readily review any changes that have taken place.** We are obliged by the International Agreement under which we are established to consult widely, and we will continue to do this. We underlined above the need to bear in mind the wider context of change in policing and criminal justice in Northern Ireland.

6.5 Finally, as in our first report on the activities of paramilitary groups, we should like to end by **repeating our invitation to political parties and to members of the public to let us know what they think about this report and about our future work. We are keen to receive as wide a range of views as possible about the issues we are concerned with and about what we do²⁰.**

²⁰ You can contact the IMC through our website: (www.independentmonitoringcommission.org); by E-mail: imc@independentmonitoringcommission.org; by post at: PO Box 709, Belfast, BT2 8YB, or PO Box 9592, Dublin 1; and by telephone; (Belfast) +44 (0)28 90 726117, or (Dublin) +353 1 4752555.

ANNEX I

ARTICLE 5 OF THE INTERNATIONAL AGREEMENT

- (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.

ANNEX II

THE IMC'S GUIDING PRINCIPLES

These guiding principles were set out in the statement the IMC issued on 9 March 2004.

- 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 III

LETTER OF REQUEST FROM THE BRITISH GOVERNMENT

The Independent Monitoring Commissioners
PO Box 709
BELFAST
BT2 8YB

20 April 2004

INDEPENDENT MONITORING COMMISSION, FIRST REGULAR REPORT

I should be grateful if you would accept this letter as a formal request for a report under article 5(2) of the Agreement.

As you know, article 5(2) is distinct from the monitoring of normalisation activities set out in the Joint Declaration normalisation programme which is yet to be commenced. I should be grateful to receive an article 5(2) report by the end of June, or as soon as possible thereafter.

You will know that article 5(2) enables the British Government to commission the IMC to prepare a report on security normalisation activity undertaken over a specified period. Article 5(2) goes on to provide that the period to be covered by such a report, and the activities it shall monitor, shall be notified to the Commission by the British Government.

I would ask for the article 5(2) report to take account of all normalisation activities which have taken place since the publication of the Government's Security Strategy Paper in December 1999 up to the present time. The activities to be covered are those set out in article 5(1)(a)(i) to (v) of the Agreement, namely the activities which will feature in the Joint Declaration normalisation programme once that programme is commenced. The report should also take account of views on the effects of normalisation on the ground and the programme of reform to deliver a community based policing environment in Northern Ireland.

I should like to take this opportunity to thank you for your valuable work and the important contribution it is making to the process. I shall be placing a copy of this letter in the Libraries of both Houses of Parliament.

RT HON PAUL MURPHY MP
Secretary of State for Northern Ireland

ANNEX IV

TOWERS AND OBSERVATION POSTS: DEFINITIONS

1. As outlined in paragraph 4.4, we have taken the term “towers and observation posts” to encompass all military sites used solely or primarily for observations, whether for the purposes of protection or to gather information, and solely or primarily for communication. We also make clear that we take the term to cover ground level and elevated sites.
2. The British Army use other terms to classify their sites covered by our definition. For the avoidance of any doubt we set out below the military terms we have deemed to be included in this part of the report.

Sangar: A sangar is a protected sentry post, normally located around the perimeter of a base. Its main function is to provide early warning of enemy/terrorist activity/attack in order to protect forces both within the base and those deployed within sight of the sangar.

Supersangar: A supersangar is an elevated sangar and may be indistinguishable from what is commonly termed a tower.

Observation Post: An observation post is an installation whose primary role is to collect information, as directed by and in support of the PSNI.

Remote Communications Site: A site used primarily for electronic communications.

3. Sites are described by their primary purpose – sangar or supersangar if it is to protect, observation post if it is to collect information. In practice there may be considerable overlap between the roles. A site designed mainly to protect may play an important role in gathering information, and vice versa.

4. It will be seen from this that:

- in common usage “observation post” may mean a sangar, a supersangar or an observation post as defined above;
- in common usage “tower” may mean a supersangar, an elevated observation post or a remote communication site.

ANNEX V

TOWERS AND OBSERVATION POSTS IN USE DECEMBER 1999 AND MAY 2004

The left hand column lists the sites in use at 22 December 1999. In the right hand column “open” indicates the site is still in use; “closed” that it was shut between December 1999 and 31 May 2004.

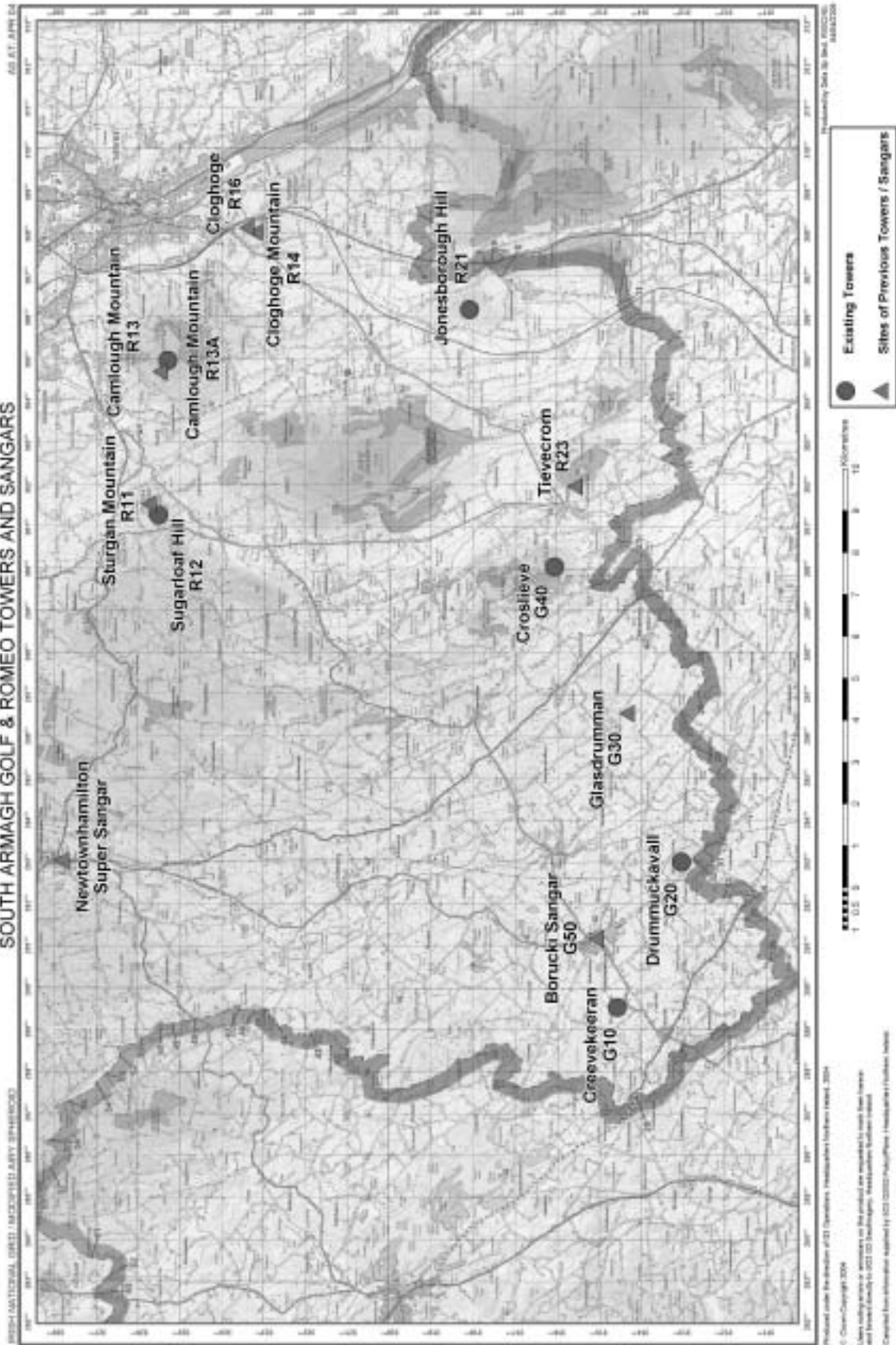
SITES AT 22 DECEMBER 1999	POSITION AT 31 MAY 2004
Broadway	Closed
Divis Tower (Belfast)	Open
Divis Key Point ²¹	Open
G10 (Creevekeeran)	Open
G20 (Drummuckavall)	Open
G30 (Glasdrumman)	Closed
G40 (Croslieve)	Open
G50 (Borucki Sangar at Crossmaglen Joint PSNI/Army base)	Closed
Musgrave Park Hospital	Open
Newtownhamilton Supersangar ²²	Closed
R11 (Sturgan Mountain)	Closed
R12 (Sugarloaf Hill)	Open
R13A (Camlough Mountain)	Open
R13 ²³ (Camlough Mountain)	Closed
R14 (Cloghoge Mountain)	Closed
R16 (Cloghoge)	Closed
R21 (Jonesborough Hill)	Open
R23 (Tievecrom)	Closed
Templar House	Closed

²¹ Divis Key Point is a remote communications site.

²² Newtownhamilton Joint PSNI/Army base remains; the Supersangar has been taken down.

²³ Because R13A (a Tower with a recently constructed 20m communications mast) remains, the site at which it is located (R13) is also still deemed to be open although it is not now used for other purposes.

SOUTH ARMAGH GOLF & ROMEO TOWERS AND SANGARS



ANNEX VII

JOINT PSNI/MILITARY BASES IN USE DECEMBER 1999 AND MAY 2004

The left hand column lists those places where the military were jointly based with the police on 22 December 1999. In the right hand column “open” indicates the military remain; “closed” that they have withdrawn and PSNI are solely responsible for the site²⁴.

POSITION AT 22 DECEMBER 1999	POSITION AT 31 MAY 2004
AUGHNACLOY BASE	To close September 2004
PSNI BELCOO ²⁵	Closed
PSNI BELLEEK ²⁵	Closed
PSNI CASTLEREAGH	Open
PSNI CROSSMAGLEN	Open
PSNI FORKHILL	Open
PSNI GROSVENOR ROAD ²⁵	Closed
PSNI KEADY	Open
PSNI KINAWLEY	Open
PSNI LADAS DRIVE	Closed
PSNI LISNASKEA ²⁵	Closed
PSNI MAYDOWN ²⁶	Open
PSNI MIDDLETOWN	Open
PSNI NEW BARNESLEY ²⁵	Closed
PSNI NEWTOWNBUTLER ²⁷	Open
PSNI NEWTOWNHAMILTON	Open
PSNI OLD PARK	Open
PSNI RATHFRILAND ²⁸	Open
PSNI ROSSLEA	Open
PSNI STRABANE ²⁵	Closed
PSNI WOODBOURNE ²⁵	Closed

²⁴ At one site – PSNI Kesh – from which the military had withdrawn before December 1999 there remains some infrastructure such as hardened accommodation blocks and portacabins which is still owned by the military. Most of this is leased back to the PSNI. At PSNI Warrenpoint similar military infrastructure remains most of which is also leased back to the PSNI.

²⁵ Position as described in footnote 24.

²⁶ Operational from December 2003.

²⁷ This PSNI station is due to become a “lock and leave” one shortly, and when it does the military will withdraw.

²⁸ The removal of the military presence from Rathfriland was recently announced.

ANNEX VIII

MILITARY BASES AND INSTALLATIONS IN USE DECEMBER 1999 AND MAY 2004

The sites marked with an asterisk are those at which the Joint Declaration said the regular garrison would be based in the context of a peaceful society.

BASES AT 22 DECEMBER 1999	POSITION AT 31 MAY 2004
Abercorn Barracks, Ballykinler*	Open
Aldergrove*	Open
Ballykinler Training Camp*	Open
Bessbrook	Open
Clogher	Open
Clooney Base	Closed
Cookstown	Closed
Drumadd Barracks, Armagh	Open
Duke of Connaught's Unit, Belfast*	Open
Ebrington Barracks	Closed
Fort George	Closed
Girdwood Park, Belfast	Open
Grosvenor Barracks, Enniskillen	Open
Harmony House, Lisburn	Open
Killymeal House, Dungannon	Open
Kinnegar, Holywood*	Open
Laurel Hill House, Coleraine*	Open
Lisanelly Barracks, Omagh	Open
Long Kesh	Closed
Malone Road	Closed
Magherafelt	Closed
Magilligan Training Camp*	Open
Mahon Barracks, Portadown	Open
Masonic, Londonderry	Open
Massereene Barracks, Antrim*	Open

Moscow Camp, Belfast	Open
Palace Barracks, Holywood*	Open
Shackleton Barracks, Ballykelly*	Open
St Lucia Barracks, Omagh*	Open
St Patrick's Barracks, Ballymena*	Open
Steeple Barracks, Antrim	Closed
Thiepval Barracks, Lisburn*	Open

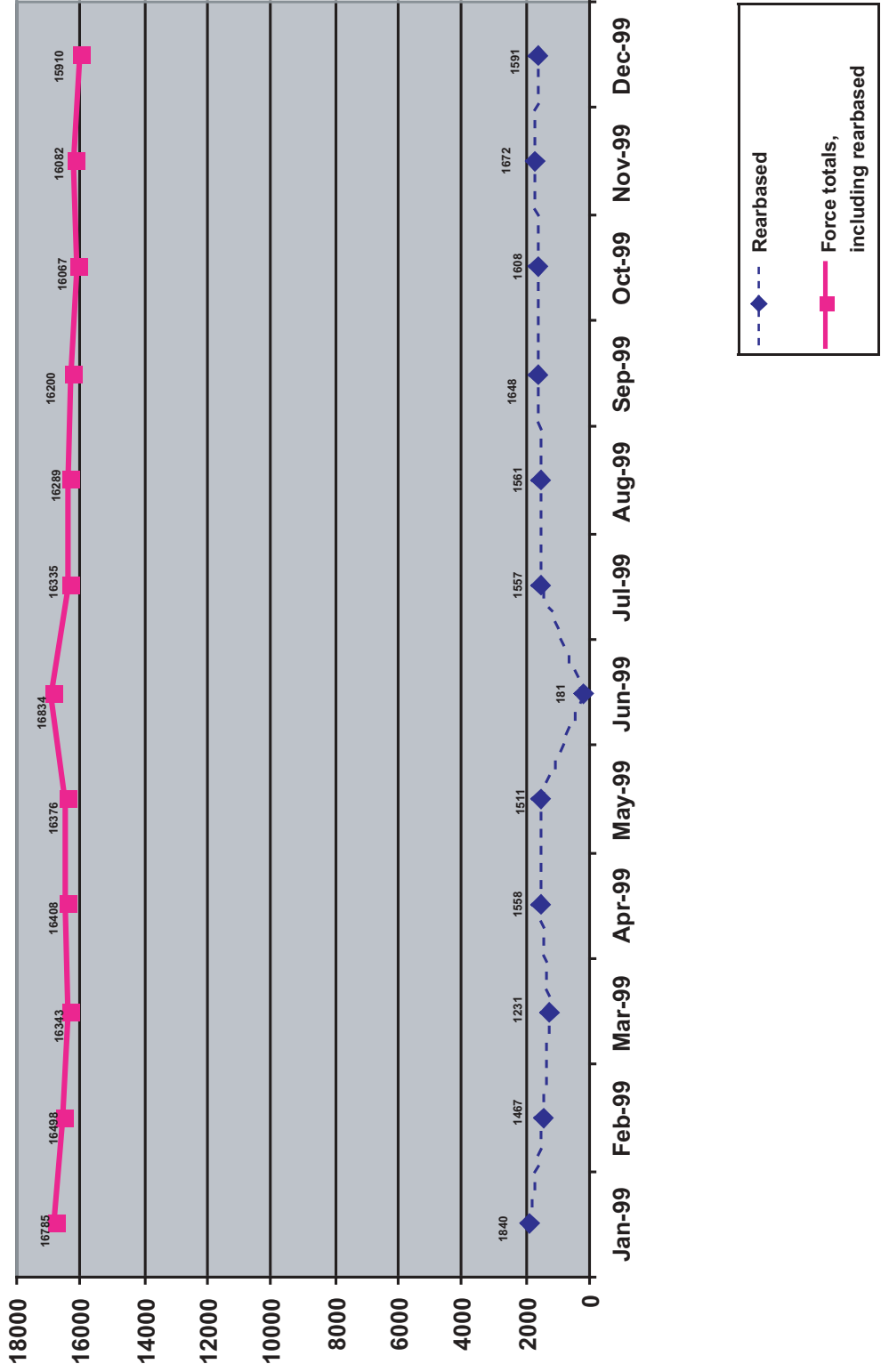
Divis Key Point was listed in the Joint Declaration as one of the bases for the regular garrison. It is covered in Annex V above as one of the towers and observation posts.

ANNEX IX

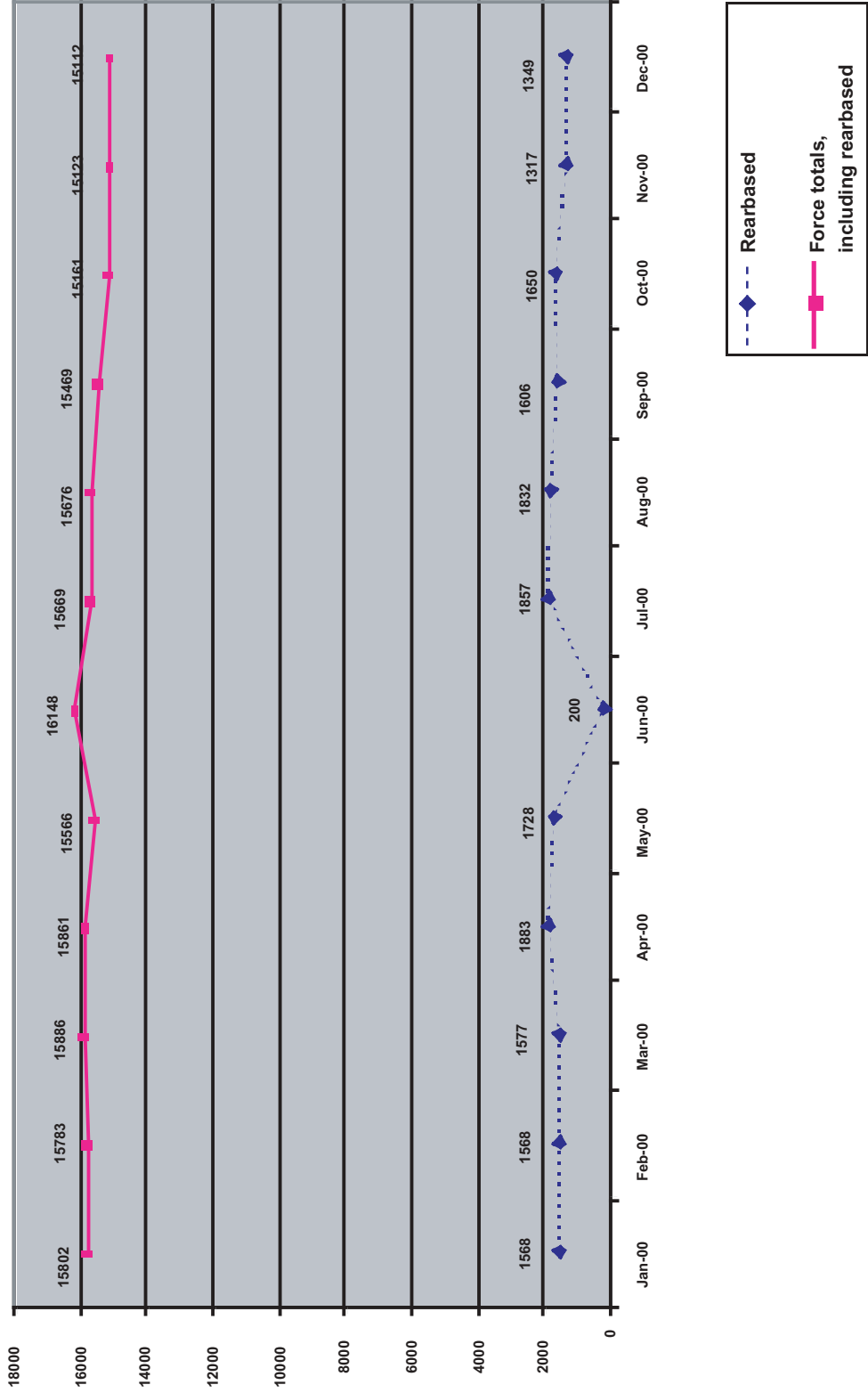
MONTHLY TROOP LEVELS DECEMBER 1999 TO MAY 2004

These figures represent a snapshot of manning levels on one particular day in each month; they are not averages.

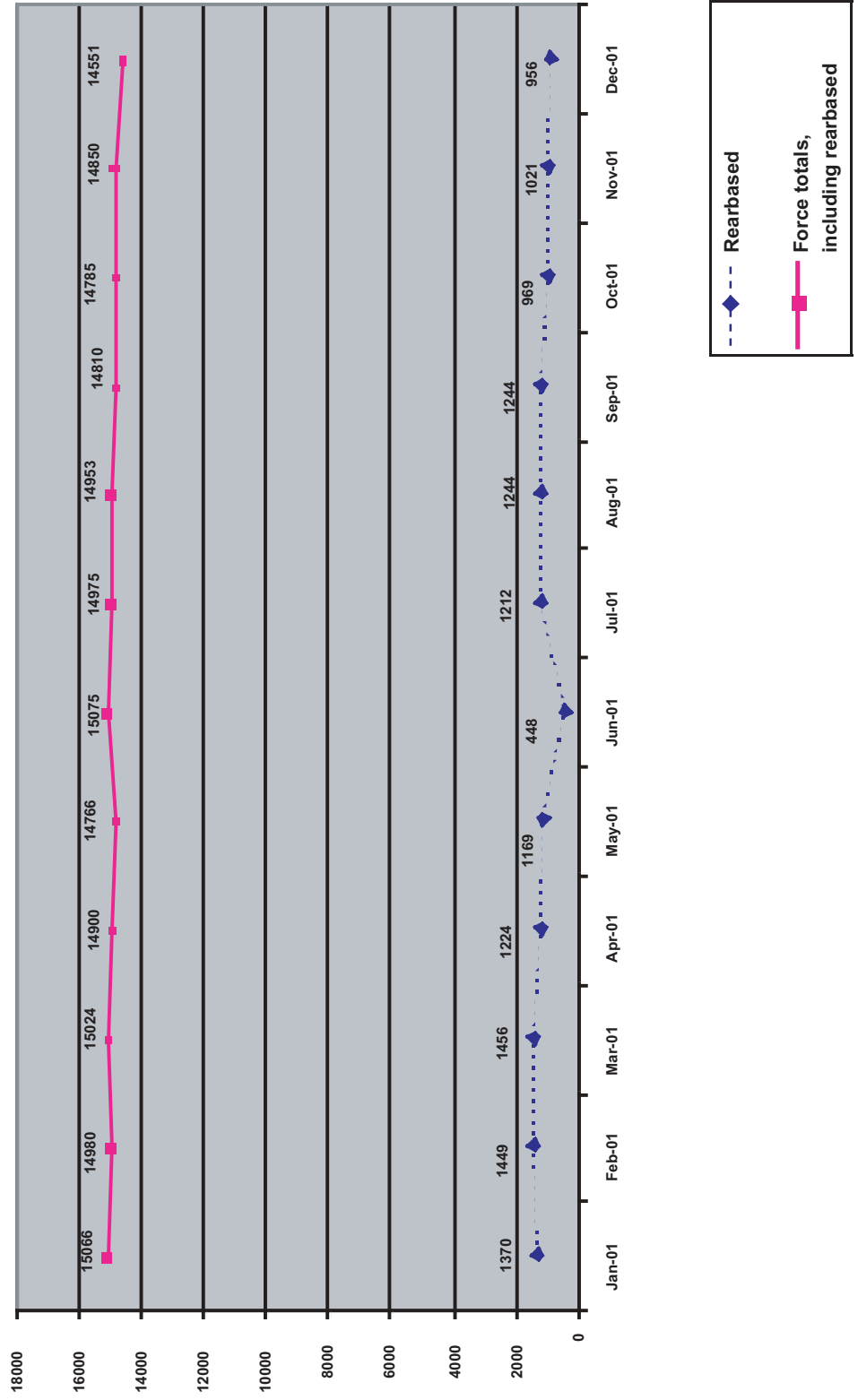
MONTHLY TROOP LEVELS - 1999



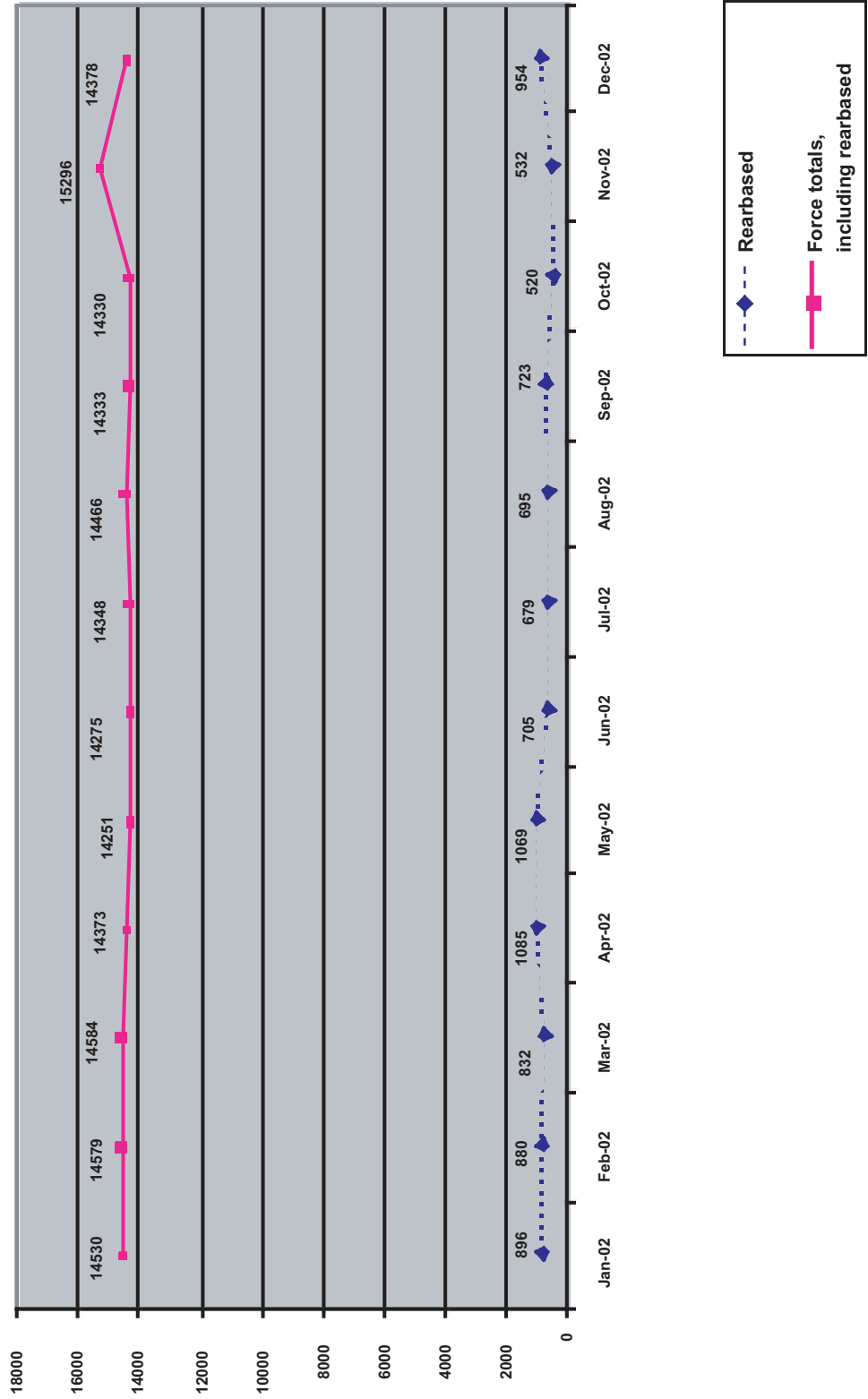
MONTHLY TROOP LEVELS - 2000



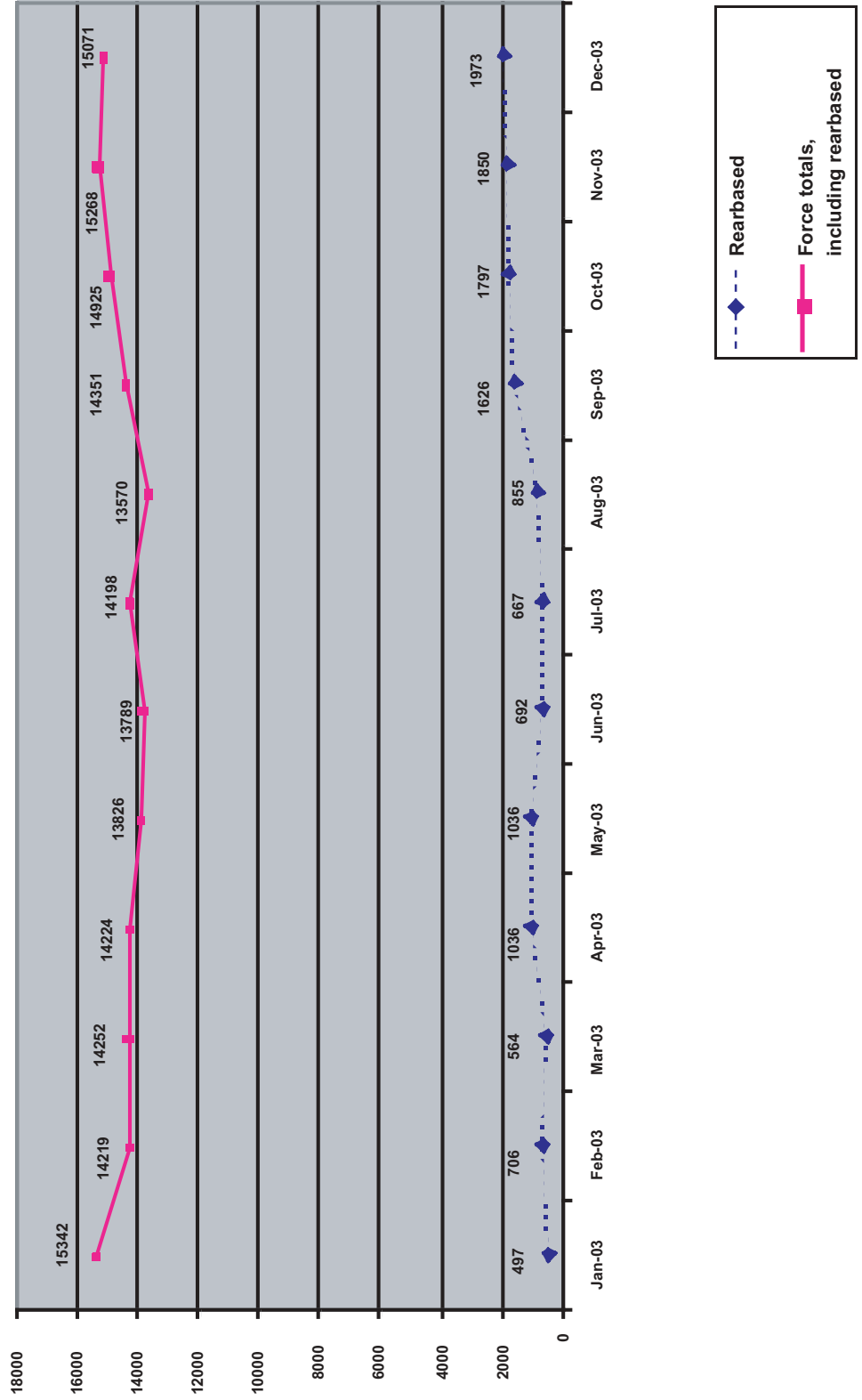
MONTHLY TROOP LEVELS - 2001



MONTHLY TROOP LEVELS - 2002



MONTHLY TROOP LEVELS - 2003



MONTHLY TROOP LEVELS - 2004

