

# **AGREEMENT**

**BETWEEN THE BRITISH AND IRISH GOVERNMENTS**

**APRIL 2003**

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## MONITORING AND COMPLIANCE

1. On account of the divisive legacies of the past and the deficit of mutual confidence between both communities, we now judge it necessary to build various safeguards and assurance mechanisms into the proposals set out in the Joint Declaration. These do not reflect a lack of confidence by the two Governments in the willingness of the various parties to meet their commitments. However, it is our judgement that, without such mechanisms, it will be impossible to generate the confidence which is required all round if we are to achieve the necessary outcomes. We accept that some parties will not be able to endorse these proposals, but the two Governments believe that they are essential to secure the future of the Agreement.
2. A new independent body will therefore be created that will monitor and report on the carrying out of the commitments relating to the ending of paramilitary activity and the programme of security normalisation, as set out in paragraphs 12-19 and Annex 1 of the Joint Declaration. It will also have a more general responsibility to consider claims by any party in the Assembly that another party is fundamentally in breach of requirements in the Declaration of Support or elsewhere in the Agreement. The body will have four members, two appointed by the British Government (including one from Northern Ireland) and one each by the Irish and US Governments. It will carry out its activities with a view to promoting public confidence and ensuring that any serious non-compliance with these acts of completion is identified and reported. The terms of reference of this independent body are outlined in the attached annex.
3. The following procedures will apply. Any incidents of non-compliance by any party will, in the normal course of events, be subject to either political exposure or, where appropriate, the process of law. However, with a view to further enhancing public confidence, the Governments recognise that it will also be important to consider other appropriate responses to non-compliance in the light of any reports on breaches by the Independent Monitoring Body. In this connection, the Governments propose that if the Independent Monitoring Body concluded, following its own inquiries, that there were good reasons to believe that a party or individual member of the Assembly was in breach, it would report its findings to the two Governments, making clear what action needed to be taken to remedy the breach and what measures, if any, it would be appropriate to apply. The Governments would initiate discussions in the Implementation Group to consider the action to be taken in response to the report. If the Implementation Group recommended that a motion be put before the Assembly, the Secretary of State would give notice requiring the motion to

be moved. Any motion put before the Assembly following the tabling of a report would be subject to decision on a cross-community basis. Where such a motion failed to attract cross-community support, or where the Implementation Group had failed to agree a course of action, it would be a matter for the British Government, in consultation with the Irish Government and the parties, to resolve the matter in a manner consistent with the report of the Independent Monitoring Body. The British Government would envisage amending the Northern Ireland Act 1998 to enable a variety of responses appropriate to the gravity of the breach in question, including motions of censure, the withholding of allowances, temporary suspension from participation in the Agreement's institutions or, in the most serious cases, exclusion for varying periods, to be made.

## ANNEX

### **TERMS OF REFERENCE OF THE INDEPENDENT MONITORING BODY**

1. In relation to the remaining threat from paramilitary groups the Independent Monitoring Body would publish its findings on:
  - any continuing paramilitary involvement in attacks on the security forces, murders, sectarian attacks, involvement in riots, and other criminal offences;
  - any continuing involvement of paramilitary groups in training, targeting, intelligence gathering, acquisition or development of arms or weapons and other preparations for terrorist campaigns;
  - the extent to which any paramilitary groups still appear to be engaged in punishment beatings/attacks and exiling;
  - their assessment of whether the leaderships of such organisations are directing such incidents or seeking to prevent them; and
  - trends in security incidents.
2. In relation to the British Government's commitments to a package of security normalisation measures, the Independent Monitoring Body would publish reports as to whether those measures were 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, including:
  - demolition of towers and observation posts;
  - withdrawal of troops from police stations;
  - closure and dismantling of military bases and installations;
  - troop deployments and withdrawals from Northern Ireland and levels of British Army helicopter use;
  - the repeal of counter-terrorist legislation particular to Northern Ireland.
3. At the request of the Governments, the Independent Monitoring Body may be asked to consider claims by any party in the Assembly that another party is in breach of requirements in the Declaration of Support or elsewhere in the Agreement.
4. The Independent Monitoring Body would report to the two Governments, making recommendations as to appropriate remedies for particular breaches and what measures, if any, it would be appropriate to apply.
5. The Independent Monitoring Body would have access to all the information necessary to carry out its functions, subject to appropriate conditions to ensure confidentiality.
6. The Independent Monitoring Body would be expected to publish reports as and when required and, in any event, at least every six months.
7. The Independent Monitoring Body would consult as required with the Policing Board, the Oversight Commissioner and the Independent International Commission on Decommissioning.