

The Commonwealth Heads of Government Meeting at Limassol, Cyprus 21-25 October 1993

A Memorandum by the Commonwealth Secretariat

The Commonwealth Heads of Government at their Cyprus Meeting discussed several topics of importance for Law Ministers. Some of them were specifically referred to the Law Ministers' Meeting for consideration. Others were commended for action at the national level. The purpose of this memorandum is to draw attention to these areas and to the conclusions, recommendations and concerns of Heads of Government in relation to them expressed in their Communique and in the Report of the Committee of the Whole on Commonwealth Functional Co-operation which the Heads of Government endorsed. Relevant extracts of each appear as Annex A.

he Rule of Law and Human Rights

Heads of Government reaffirmed their commitment to democracy, fundamental human rights, the rule of law, the independence of the judiciary and just and honest government, as essential ingredients of the Commonwealth's fundamental political values. They reiterated their commitment to the International Bill of Rights, reaffirmed their belief that women's rights were an integral part of human rights and expressed support for the principles embodied in the Vienna Declaration on Human Rights and the Convention on the Rights of the Child.

In this context they urged all Commonwealth governments who had not done so to:-

- (i) make every effort to become party to the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights by 1995;
- (ii) ratify by 1995 the Convention on the Elimination of All forms of Discrimination Against Women; and
- (iii) adopt the draft UN Declaration on the Elimination of Violence Against Women.

In relation to the promotion of democratic values, human rights and the rule of law the Heads of Government noted with appreciation the work of the Secretariat. They pointed to the successful monitoring of nine elections since the Harare meeting and observed that it might be valuable to hold periodic meetings of experts to assess the Commonwealth's experience in this field and to build on existing success.

A full treatment of the human rights aspects of the Heads of Government's Communique and the Report of the Committee of the Whole on Commonwealth Functional Co-operation in the context of the work of the Commonwealth Secretariat's Human Rights Unit appears in paper LMM(93)43 before the Meeting.

Possible action by the Meeting

The Meeting may wish to:-

- (a) endorse the sentiments expressed at Limassol;
- (b) request the Secretariat to provide any necessary assistance;
- (c) examine ways in which existing Commonwealth experience in these various fields might be shared so as to keep to a minimum the calls made on central Commonwealth resources; and
- (d) place the matter on the agenda for the next meeting of Senior Officials of Commonwealth Law Ministries for a stocktaking of progress made towards meeting the wishes of CHOGM in this respect.

International Crime and Mutual Legal Assistance

Heads of Government considered the increasingly international problems of money laundering, commercial crime and the illicit traffic in drugs. It was urged that member states take steps swiftly to implement the 40 recommendations of the Financial Action Task Force (which appear in Annex B to this memorandum) as an important step in combating each of these aspects of international criminal activity.

(a) Money Laundering

In relation specifically to money laundering Heads of Government and the Committee of the Whole welcomed the formation of the Caribbean Financial Action Task Force. They also stated the importance of Law Ministers examining how Commonwealth countries could best work together to combat the laundering of the proceeds of all types of crime through the enactment of appropriate domestic legislation and enforcement of regulatory standards. The paper submitted to the Meeting by the British Government on money laundering is reproduced as Annex B to this Memorandum.

Possible action by the Meeting

The Meeting may wish to highlight the need to implement the 40 recommendations of the Financial Action

Task Force and consider the best approach thereto, including the possible role for the Meeting of Senior Officials of Commonwealth Law Ministries.

(b) Illicit Drugs

The Committee of the Whole on Commonwealth Functional Co-operation considered the problems of the illicit traffic in drugs and substance abuse itself. Its recommendations, endorsed by Heads of Government were:-

- (i) that all Commonwealth countries not yet party to the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Vienna, adhere to the Convention and enact the necessary domestic legislation as soon as possible;
- (ii) that member states support the UN Drug Control Programme and, if appropriate, take advantage of the advisory and assistance facilities available in the Dublin Group of donor countries;
- (iii) that the Secretariat, in collaboration with UNDCP and other relevant bodies, continue to organise appropriate training and other activities to counter aspects of both supply and demand for illicit drugs;
- (iv) that all Commonwealth countries adopt appropriate domestic legislation to trace, freeze and confiscate the proceeds of drug trafficking;
- (v) that all Commonwealth countries develop bilateral and multilateral approaches to deal with illicit trafficking.

A breakdown of the existing state of Commonwealth country membership of multilateral drug conventions appears at Annex C.

Possible action by the Meeting

The Meeting may wish to identify any problems which assistance might overcome with regard to individual countries becoming party to the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

(c) Mutual Legal Assistance

In addition to the swift enactment of domestic legislation in the above areas the Committee also called for enhanced international co-operation in combating both international financial abuse and illicit trafficking in drugs. It urged:-

- (i) the implementation of the Commonwealth Scheme for Mutual Assistance in Criminal Matters;
- (ii) the priority attention on the part of Law Ministers to legislative programmes enabling legal assistance to be given to other countries in respect of any drug trafficking offence.

Possible action by the Meeting

The Meeting may wish to consider whether the Secretary General should take the initiative to bring about a fully international meeting of central authorities. This would facilitate effective collation and exchange of Commonwealth and other international experience and develop the familiarity with other legal systems on which successful mutual assistance is based. (Ministers will wish to be aware of the wish of the United Nations that such a conference be held but that it is presently impossible for a conference to be organised under its auspices.)

The Meeting may wish formally to place all three matters treated under paragraphs (a)-(c) above on the agenda for the next Meeting of Senior Officials for a stocktaking of progress made towards meeting the various wishes of CHOGM in these respects.

The Commonwealth of Learning

Heads of Government received with satisfaction the Report from the Commonwealth of Learning (the "COL") and an independent Progress Review commending the achievements of the organisation. They noted, however, the grave financial situation now facing the COL: the COL's current budget of C\$6 million reflects a reduction of 25% from that of the last two years and funds in prospect for 1994-5 are in the region of only C\$3.5 million. The Meeting made a strong appeal for increased contributions from member countries with the intention of perpetuating the COL's valued work and of ensuring the pan-Commonwealth character of the organisation.

Possible action by the Meeting

After reviewing the distance learning training scheme for legislative drafters, Law Ministers may wish to impress upon their own funding agencies for the Commonwealth of Learning the importance of the contribution the organisation has to make, inter alia, in the field of promoting just and honest government.

International Criminal Court

The Committee of the Whole welcomed the work of the International Law Commission on the development of a draft statute for an international criminal court. It recognised the difficulties of the project but stressed the value of its implementation. The recommendation of the Committee accepted by the Heads of Government was that Law Ministers undertake such further consideration of the issues involved and means of progressing with the proposal as might be appropriate. A commentary on the ILC's draft statute for an International Criminal Court appears as Annex D to this memorandum.

Possible action by the Meeting

The Meeting may wish to:-

- (a) request the Secretariat to prepare an appropriate paper, drawing attention to any issues of difficulty;

and

- (b) invite the next Meeting of Senior Officials to discuss the paper and to report to Ministers accordingly.

Disarmament

Heads of Government welcomed the recent START I & 2 treaties. They also welcomed the decision of the Conference on Disarmament to work for a universal and verifiable Comprehensive Test Ban Treaty and urged all states possessing nuclear weapons to stop their testing programmes pending its conclusion. The Meeting called for the earliest possible ratification of the Chemical Weapons Convention by member states and for the strengthening of the provisions contained in the Biological Weapons Convention.

Possible action by the Meeting

The Meeting may wish to:

- (a) endorse the need for action as identified by Heads of Government requesting the Secretariat to produce an appropriate "accession kit" as an aid to adopting the Chemical Weapons Convention; and
- (b) place the matter on the agenda for the next Meeting of Senior Officials for a stocktaking of progress made towards meeting the wishes of CHOGM in this respect.