

COMMONWEALTH LAW MINISTERS' STATEMENT ON PREVENTION OF CORRUPTION

Commonwealth Law Ministers, meeting in Kuala Lumpur from 15 to 19 April 1996, acknowledged the existence of corruption in the provision of services in the public interest, whether by the public or the private sector, as a serious multidimensional national and international problem which inhibits development, creates poverty, destroys confidence in the legal and political systems, and undermines good governance.

Ministers recognised the threat posed by corruption to democratic institutions and good governance, and the need to combat corruption effectively in order to achieve the goals set out in the Harare Declaration, as elaborated upon by the Millbrook Commonwealth Action Programme.

They therefore considered it essential that those holding leadership positions demonstrate by their personal conduct their commitment to integrity and that they support all those responsible for preventing and combating corruption. Further, they emphasised that measures which nurture the evolution of a democratic society - characterised by an independent judiciary, open government operating by way of transparent procedures, democratically constituted institutions, an adequately-remunerated public service, and free and responsible mass media - should be protected and encouraged. In this context, Ministers noted various structural devices that had been employed by a number of member countries, such as financial accountability requirements, anti-corruption commissions, freedom of information legislation and public accounts committees.

In terms of the economic effects of corruption, it was noted that corruption in international business transactions and foreign aid projects can contribute to the initiation of unnecessary projects and to the diversion of funds and resources from projects which are vitally necessary. Ministers expressed approval of the work of the OECD in addressing the fact that bribes paid by foreign businesses, particularly from industrialised countries and which are often tax deductible in their home countries, are conducive to the creation of corrupt cultures.

Ministers also noted that there is a growing need for the network of mechanisms for combating corruption to cover the provision of services in the public

interest by the private sector, given the trends towards contracting out and the privatisation of services previously provided by government entities and the shift in the nature of governance which this entails.

The links that often exist between corruption, drug trafficking, and organised crime were recognised and the need for continuing and improved mutual legal assistance in investigations and prosecutions in relation to criminal offences emphasised.

Ministers noted the diversity of national laws and experiences of Commonwealth jurisdictions in the field of preventing and combating corruption and stressed the need to share knowledge of these. They were encouraged by those strategies which have achieved some success, and identified the need for an "holistic" approach which combines a number of strategies rather than pursuing any of them in isolation. Key strategies to be applied in combination should include a political commitment to the eradication of corruption, effective anti-corruption legislation, and adequate remuneration of public officials. They recognised, however, that none of these strategies would succeed without the creation of a culture hostile to corruption and that in this regard public education has an important role to play.

The initiatives of other international bodies such as the International Anti-Corruption Conferences and the OECD were also noted with interest. Ministers emphasised the need for the Commonwealth to co-ordinate and liaise with them.

Ministers therefore express their collective commitment to work on both the domestic and international fronts to combat corruption. In particular they:

1. Undertake to implement strategies to prevent and combat corruption, to the extent that they have not already done so, and to keep the Secretariat fully informed of relevant developments;
2. Call upon the Secretariat, in consultation with member governments, to examine all aspects of the problem, to advise Ministers on developments and initiatives in the field, to propose courses of action which may assist member jurisdictions to address and to resolve the problems of corruption more effectively, and in particular to:

- (a) collect and disseminate examples of national laws and experiences in combating corruption, and advise on developments and initiatives in the international field;
 - (b) identify those strategies which have been effective in changing national and international standards, especially those strategies which have helped to promote an "anti-corruption" culture; and
 - (c) develop model legal strategies for combating corruption, including an appropriate legal framework which takes into account the increasing role of the private sector in the system of government. This will include the development of minimum standards for Commonwealth members in the form of a Model Integrity Code.
3. Request the Secretariat to co-operate with other intergovernmental and non-governmental organisations working to combat corruption;
 4. Commit themselves to ensure that national responses to Commonwealth initiatives on mutual assistance in criminal matters and the rendition of fugitive offenders are fully applicable to corruption offences; and
 5. Agree to establish an advisory working group which shall be convened by the Secretariat and which shall advise and assist the Secretariat in the performance of its tasks.