

**A Review of the Activities of the
Commonwealth Secretariat
in the Legal Field**

REVIEW OF ACTIVITIES OF THE COMMONWEALTH SECRETARIAT IN THE LEGAL FIELD

Memorandum by the Commonwealth Secretariat

INTRODUCTION

1. The period since the last meeting of Commonwealth Law Ministers held in Mauritius in 1993 has been a very eventful one. Senior Officials of Law Ministries met in Malta in May/June 1995 followed in September by a meeting in Namibia of the Law Officers of small Commonwealth jurisdictions both of which feed into the Law Ministers' Meeting and act as complementary channels through which legal developments and concerns in the public sector reach Ministers collectively. But in many ways the Commonwealth Heads of Government Meeting in New Zealand in November 1995 marked another watershed in the further development and advancement in the promotion of the Commonwealth's fundamental values. All these Meetings, culminating in New Zealand with more clearly defined measures for promoting and defending Commonwealth values, demonstrated the dynamic nature of the Commonwealth Association. Even by comparison with the high standards established at previous Meetings, the Senior Officials and Law Officers' Meetings were seen as part of the continuing process of improvement in the advancement of Commonwealth mutual legal co-operation.

2. Among the most momentous events of the period since the last Law Ministers' Meeting was the resumption by the Republic of South Africa of its membership of the Commonwealth Association. This was followed by its participation at the Malta meeting of Senior Officials where, with a great sense of history and achievement, the role that the Commonwealth had played in helping to resolve one of the most intractable human problems that has faced the international community this century was recalled. There, Senior Officials had the opportunity to add their welcome and to express their pleasure at the prospect of the participation of the Government and people of South Africa in all future meetings, activities and programmes.

3. It is also appropriate to record here the Secretariat's delight in the admission of two new members - Cameroon and Mozambique - to the Association thus bringing the total membership roll to 53. The Legal and Constitutional Affairs

Division, for its part, has taken the earliest opportunity to initiate contact with the Ministers of Justice of the new and returning member countries and their officials. Although in the case of South Africa it would have been almost two full years since its return to the fold, Law Ministers will no doubt wish, at an appropriate stage of the proceedings, to express their own special welcome to their colleagues from the new South Africa, and to Cameroon and Mozambique on the occasion of their first participation at a Commonwealth Law Ministers' Meeting.

4. As this is his first Ministerial Meeting, it would be appropriate to take the opportunity to formally introduce Professor Reginald Austin who assumed office as Director of the Legal and Constitutional Affairs Division soon after the Mauritius Meeting. Within a relatively short time of assuming office, Professor Austin has caught the flavour of the legal Commonwealth to which he was not altogether a stranger. The Legal and Constitutional Affairs Division would like to express its gratitude for the warmth of the welcome that has been extended to him by those Ministers and their staff whom he has already had the privilege to meet.

5. It is once again a pleasure to record the presence at this Meeting not only of the Secretary General himself who, although not a lawyer, has always taken a keen interest in the work of the Division in his capacity as our former supervising Deputy Secretary General, but also of Mr Srinivasan who succeeded Sir Anthony Siaguru in office as Deputy Secretary General (Political) and now supervises, amongst others, the work of the Legal and Constitutional Affairs Division. It may be recalled that following the restructuring of the Secretariat and the introduction of a programme driven system of work, there is now more emphasis on a collegiate approach to the work of the Division in which the Deputy Secretary General (Political) plays a strategic role.

6. The period since the 1993 has, regrettably however, not been entirely without difficulties. The advances in democratisation associated with the happy return of South Africa and the admission to membership of both Cameroon and Mozambique at the New Zealand CHOGM, must be balanced against the Association's agonising observation of events in Nigeria and its suspension from membership. One positive outcome of that unhappy event was the adoption by Commonwealth Heads of the Millbrook Commonwealth Action Programme designed to give

effect to the commitments contained in the Harare Commonwealth Declaration. The Action Programme includes measures to support processes and institutions needed for the practice of the Harare Principles, as well as measures to deal with violations of those Principles. The Harare Commonwealth Declaration and principles continue to be a focal point of Secretariat activities, particularly in the field of the promotion of good governance.

7. The Division continues to be guided in its work by a commitment to ensuring a free flow of information on legal developments throughout the Commonwealth and providing assistance, when sought, to governments and their organs so that they may benefit from the experiences of other jurisdictions. In some specialised areas such as combating and countering international crime, including money laundering; managerial reform and the management of electoral processes, the Secretariat has developed its own expertise which is deployed to assist governments in capacity building and in supporting and strengthening the democratic institutions of the state.

8. A regular feature of the Division's work is a steady flow of requests for information on a wide range of matters. Frequently, requests are for materials and precedents to assist proposed legislative reform. This review will cover the range of work arising from such requests and all the multi-faceted aspects of the Division's work including recent developments arising from new mandates and priorities set for the Division.

9. The role played by the regular meeting of Senior Officials in shaping the direction of the work of the Division continues to gain in significance. The working relationship between the Division and Senior Officials both in their individual capacities as Law Ministry officials and our primary "clients" and collectively as a forum for the exchange of professional experience and common consideration of concerns, mandated to be examined by Law Ministers, has similarly gained in significance. The Meeting held in Malta in May 1995 demonstrated how valuable and effective this forum has become in preparing the ground for Law Ministers' Meetings and in facilitating mutual legal co-operation generally. A report of that meeting has been circulated as paper LMM(96)3.

10. Two other parallel meetings where senior Commonwealth Law Officers traditionally discuss matters of special interest to small states and in which professional staff of the Division traditionally play an important role are the regular meetings of

Law Officers of small Commonwealth jurisdictions (LOSJ) and, at the regional level, the Pacific Islands Law Officers (PILOM).

11. In September 1995, Namibia hosted the fifth pan-Commonwealth Meeting of Law Officers of small Commonwealth jurisdictions and similarly in October 1995, Vanuatu hosted the 14th Meeting of the Pacific Islands Law Officers.

12. The Division always stands ready to assist member states whenever requested to and will continue to do so.

PROVISION OF INFORMATION

Commonwealth Law Bulletin

13. Over the years and in many quarters, the *Commonwealth Law Bulletin* (the *Bulletin*) has come to be acknowledged as an instrument of practical use. To legal officers in Attorneys-General offices around the Commonwealth, to Ministries of Justice, judges, magistrates, law reform officers, legislative drafters, law teachers and legal practitioners alike, the *Bulletin* has symbolised a source book. It could thus be compared with the essential "up-dating" information provided to medical practitioners by drug companies or the regular refresher courses provided to professionals whose field of expertise requires constant development and is therefore an extension of the concept of continuing legal education without the need to bring its beneficiaries into traditional regular "training sessions".

14. Virtually all the material published in the *Bulletin* is, in a sense, training material. It is used as such for the development of Commonwealth legal institutions and the maintenance of expertise by a variety of professional people - legislative counsel; public prosecutors; judicial officers; law reformers; law teachers; Ombudsmen; Human Rights Commissioners; Electoral Officers; legal practitioners and any other lawyer, public or private who has access to it. Because it is designed to be a constantly up-dated mini-library of legal developments around the Commonwealth, it is able to provide uniquely Commonwealth material which feeds the constantly evolving common legal language, and the developing common legal values which are central to the fundamental values of the Commonwealth.

15. Unfortunately, the cumulative pressures which over the years have taken their toll on the relatively small staff of the Division have resulted in unavoidable backlog in the Division's work of facilitating the general flow of information through

the traditional medium of the *Bulletin*. It has been a matter of concern and embarrassment that this Secretariat flagship publication in the legal field has been running behind schedule for some time and has taken longer than had been thought would be the case to clear the backlog. However, recent allocation of additional human resources has ensured that determined efforts are now being made to bring the *Bulletin* back to its normal publication schedule. The expectation is that the backlog would have been cleared by the end of 1996 when all the outstanding numbers up to and including the July 1996 issue would have been published and despatched to readers. We expect the October 1996 issue, as would normally be the case, to be ready for despatch to readers sometime in January 1997. This would represent a considerable relief for the Division and, we believe, would be welcomed around the Commonwealth, especially in small jurisdictions. The Division is deeply conscious of the fact that the *Bulletin* represents a major investment in both time and expense on the part of our correspondents who toil to help us gather and share these essential materials. For all this, and for the patience of our readers, the Division is profoundly appreciative.

16. However, reduced resources continue to be a serious problem for the *Bulletin*. New priorities have a negative effect on the Commonwealth Secretariat budget. The Division has argued that the *Bulletin* is an essential developmental tool for the achievement of stable democratic government - without which sustainable economic growth is impossible in the long run. This argument has been accepted, and a portion of the costs of producing the *Bulletin* will be met for perhaps the next financial year or two by the CFTC. But the CFTC is seen as a source of initial, rather than permanent funding of developmental initiatives, and in the current crisis of resources, even this partial funding will be discontinued. It is unlikely to be replaced by Commonwealth Secretariat funding, and the Division and the Commonwealth legal community faces a stark choice in this.

17. The *Bulletin* serves both developing and developed Commonwealth states. If the law is one of the consensual cementing agencies of the Commonwealth, the exchange of ideas, concepts, techniques, and rationales of the law as a social instrument provided by the *Bulletin* helps to give that consensus. Its role in a Commonwealth which now includes new legal traditions may be even more critical.

18. The problem, reduced to its most basic form, is that the *Bulletin* has always been seen as a

free service to the legal establishments of Commonwealth member states: Ministries, Judges, Magistrates, Commissioners operating legal institutions and University Law Schools. Subscriptions are also taken out, but the *Bulletin* is not a marketed product, it is an essential service enjoyed by all legal establishments however well or poorly resourced they are. The Division is now forced to make it clear that unless the *Bulletin* is brought nearer to self-financing status, it will not be able to continue. The message from its erstwhile sources of funding is that: those who can pay should pay for their copies of the *Bulletin*; it should be put on a commercial basis if possible, probably by establishing a joint venture between the Division and a suitable law publisher.

19. The Division is currently exploring the options. It believes that certain basic principles must be must be secured. These include:

- editorial control must remain with the Division and the prime objective of the *Bulletin* must continue to be the provision of comparative Commonwealth legal material.
- the *Bulletin* must continue to be available free or at a heavily subsidised price to those jurisdictions which cannot afford to purchase it. Some criteria will need to be worked out as to how such jurisdictions will be identified.

The indications so far suggest that provided there is a significant reduction in the free service, the *Bulletin* could be preserved and possibly enhanced through a commercial partnership. The Division has now established a basis for its production and with the continued creative support of Law Ministers and other Commonwealth legal colleagues, will pursue a realistic solution to the problem.

20. It is against this background and in response to the challenge of diminishing resources that the Division has embarked on negotiations with a firm of commercial publishers to explore the possibilities of commercial publication but these negotiations are at an early stage and it would be premature to speculate on the result.

21. Our objective and commitment, however, is to secure the continuation of publication of the *Bulletin* in a form in which it will continue to be accessible to jurisdictions that most need the useful service that we believe it has rendered over the last twenty years or so.

Law Reports of the Commonwealth

22. The difficulties that the Division has faced with

regard to the timely publication of the *Bulletin* notwithstanding, it has been closely associated with the editors of the Law Reports of the Commonwealth through the provision of many of the cases that are reported in it and through representation on its Editorial Committee. It may be recalled that this now established and authoritative series of law reports was launched in 1985 by a private sector publisher with the active encouragement of the Legal Division. The series was launched to fill a perceived need which the *Bulletin* is not able to satisfy fully and it continues to do so as a useful companion to the Bulletin.

Other legal information and assistance

23. Within the limits of its very limited and inevitably stretched resources, the Division also provides assistance on a regular basis on a whole range of matters as and when requested but on an ad hoc basis, particularly to small states who rely to a lesser or greater extent on the *Bulletin* for much of their legal information. Much of the assistance provided in this way will often be in the nature of information, legislative precedents or advice needed to facilitate a proposed law reform or policy review.

The Commonwealth Law Book Programme

24. Launched in 1984 by the Commonwealth Lawyers Association with the encouragement of the Legal Division, this programme having grown beyond its small beginnings has in some ways become a victim of its limited success. It is now jointly sponsored by the Commonwealth Lawyers Association, the Commonwealth Legal Education Association and the Commonwealth Magistrates and Judges Association. It has operated from inception in close collaboration with Book Aid International, formerly Ranfurly Library Service whose commitment to the ideals of the programme has not diminished. In spite of experiencing resource constraints, Book Aid International continues generously to provide warehousing and shipping facilities. Clearly without their involvement, the programme would probably not have come into existence in the first place, and would not have been able to continue for as long as it has.

25. It is appropriate here to also mention and to acknowledge the assistance provided by the Commonwealth Foundation by way of financial grants towards the running costs of the programme over a period of three years beginning from the 1996/97 financial year. One of the difficulties the programme faces is meeting its main recurrent cost for the collection of donated books and their

shipment to beneficiaries in various parts of the Commonwealth.

26. In excess, now, of 100,000 volumes of law books have been supplied under the programme since its inception in 1984 from its London-based operations. This does not include the volumes supplied directly to beneficiaries from Australian, Canadian and New Zealand based agencies for which no statistics are available. The Division continues to tap its wide range of contacts among practitioners and libraries in both the public and private sector who donate books they would otherwise pulp, while Book Aid International, for its part, continues to provide warehousing as well as shipment facilities. But the programme, again essentially a free service based on the belief that information and education in a common legal tradition is conducive to good governance, is still in dire need of funds to sustain its long term viability.

Publications

27. In addition to the *Commonwealth Law Bulletin*, the Legal and Constitutional Affairs Division publishes a range of other titles as the circumstances require to meet specific needs. Since the Law Ministers' Meeting in Mauritius, the following publications have been produced:

General

- 1993 Meeting of Commonwealth Law Ministers, Mauritius: Minutes
- 1993 Meeting of Commonwealth Law Ministers, Mauritius: Memoranda, 2 Volumes
- Commonwealth Law Bulletin and Index, Quarterly, Vol. 20
- Commonwealth Legal Education Association Newsletter, Quarterly
- "The Key" (Newsletter of the Commonwealth Correctional Administrators)
- Report of Meeting of Senior Officials of Commonwealth Law Ministries, Malta, 1995

Human Rights

- Developing Human Rights Jurisprudence: Volume 6: The Sixth Judicial Colloquium on the Domestic Application of International Human Rights Norms, Bloemfontein, South Africa, 1993

- Workshop on Administrative Law, Blantyre, Malawi, 1994, Report and Documentation
- Workshop on Administrative Law, Mahe, Seychelles, 1994, Report and Documentation
- Workshop on Administrative Law, Maseru, Lesotho, 1995, Report and Documentation
- Workshop on Administrative Law, Gaborone, Botswana, 1995, Report and Documentation
- Good Government and Administrative Law: An introductory Guide, 1996

Mutual Assistance/Administration of Justice

- Report of the Oxford Conference on Mutual Legal Assistance: December 1994
- Money Laundering Workshop Report: Papers from the Money Laundering Workshop, Port of Spain, June 1994
- Action Against Transnational Criminality, Volume III: Conference Papers, Papers from the 1993 Oxford Conference on International and White Collar Crime, April 1994
- Commonwealth Legal Assistance News (CLAN), Volumes 4 - 11
- Commonwealth Commercial Crimewatch, Volumes 3 - 10
- Mutual Assistance in Criminal Matters: Guide to National Practice and Procedure, Part 1 and 2: October 1995 (Loose leaf service)
- Combating Money Laundering: Guide to National Laws, Parts 1 and 2: November 1995 (Loose leaf service)

FUNDAMENTAL POLITICAL VALUES AND GOOD GOVERNANCE

28. The Commonwealth Harare Declaration remains a focal point by reference to which virtually all the activities of the Secretariat are now conceived, planned and evaluated. In keeping with its traditionally catalytic approach to its mandate, the Division has sought to actively promote the ideals of democracy, democratic processes, the rule of law and just and honest government. In this respect, professional staff of the Division have played a full supporting role in the election monitoring activities of the Secretariat, including South Africa, Namibia, St. Kitts & Nevis and Tanzania.

29. At a practical level in two parallel developments, the Legal and Constitutional and Legal Affairs Division has been working to sensitise the Commonwealth legal fraternity and senior managers, in both the public sector and some sections of the non-governmental sector, to developments in the field of human rights and to the imperatives and demands of good, open and accountable government.

30. On the one hand, the series of judicial colloquia launched in 1988 in conjunction with the London based International Centre for Human Rights (INTERIGHTS), to promote the domestic application of international human rights norms has been acknowledged as a valuable addition to the existing mechanisms for promoting a better understanding of human rights and as contributing to the development of human rights jurisprudence. Following the success of the colloquia so far held mainly in the Africa region, where significant constitutional changes have been taking place it is proposed to hold a follow-up colloquium in the immediate future in South Africa to focus on the constitutional implications of the domestic application of international human rights norms. This is expected to involve other judiciaries in the region which have not participated in the previous colloquia. The intention is for the series to continue as a form of continuing judicial education, subject to the availability of funds which have so far been provided to a large extent from private sources.

31. In 1992, the Division launched a programme of administrative law workshops which have complemented the judicial colloquia and the principal objective of which is to sensitise public officials to the important role played by administrative law in facilitating good government through the judicial review of administrative action. At the heart of the exercise is the need for all who exercise executive powers which affect the public in their everyday lives to be guided in their actions by the principle that government must be conducted in accordance with the law. The first of these workshops held in the Zambian capital, Lusaka, produced the *Lusaka Statement on Government under the Law* which received the endorsement of Law Ministers in Mauritius as providing a sound basis for the promotion of best practice in government. Subsequent workshops have been held in Malawi, Seychelles, Lesotho and Botswana and the participants were unanimous in expressing their shared conviction that the principles contained in the Lusaka Statement were of universal application. With the exception of Botswana, the workshops have been held in countries that have recently been in transition from a military or single-party to multi-

party democratic government. As a result of the workshops, there is increasing awareness of the need for transparency and accountability in government which are essential ingredients in promoting the development of a democratic ethic and a culture of tolerance. The range and level of participation recorded at the workshops clearly illustrate the importance governments attach to the ideals of democracy, the rule of law and good government which Commonwealth Heads of Government, in adopting the Harare Declaration in 1991 and reinforced in 1995 by the Millbrook Plan of Action, are pledged to uphold in their respective countries.

32. One of the practical outcomes of the workshops has been the publication by the Secretariat of a guidebook in response to the request by participants for a manual to be prepared and made widely available to encourage public officials to act within the law when carrying out their official duties. The manual has been published and is circulated to Law Ministers as paper LMM(96)16. It is also being circulated to the participants at all the workshops that have been held and generally to governments and will be used as training material at future workshops.

HUMAN RIGHTS

Human Rights Unit

33. At the Mauritius Meeting, Ministers were briefed on the Secretariat's work in the promotion of human rights. The Human Rights Unit which spearheads this work had only just then been relocated from the Political Affairs Division to the Legal and Constitutional Affairs Division where it has found a natural home due to the affinity of human rights issues with legal and constitutional matters. Although the Unit has retained functional links with the Political Affairs Division, its relocation has had the beneficial effect of linking human rights programmes more closely to the structures which, in the long run, sustain democracy and promote respect for human rights, as well as lend renewed practicality to activities in this area. The Unit's mandate is to promote human rights throughout the Commonwealth and it ensures that due regard is given to this in the work of other Divisions within the Secretariat. In pursuance of this, the Secretariat has, mainly through the Human Rights Unit, undertaken promotional work in the field of human rights under the following broad areas of activity:

- * Human Rights Education, Training and Exchange of Information

- * National Institutions building Programme

- * Democracy, Human Rights and Development

Human Rights Education & Training

34. In this area, the Human Rights Unit has sought to collaborate with other relevant bodies, particularly with the United Nations, to promote awareness of human rights issues. To this end, a joint UNAFRI/COMSEC workshop for Senior Correctional Officials on the management of Prisons and Prisoners was held in Kampala, Uganda in November 1994. Another workshop, held in Malta in 1995, and organised by the Department of Multilateral Affairs of the Maltese Ministry of Foreign Affairs was sponsored by the Secretariat in conjunction with the United Nations Centre for Human Rights. The workshop, attended mainly by diplomats from Commonwealth countries, was held to commemorate the 50th anniversary of the United Nations. Similarly, a workshop for senior law enforcement officials which had both educational and capacity building objectives and which was held in Cyprus in 1995 is noted below.

35. A Commonwealth-wide survey of existing human rights teaching materials for secondary schools was conducted with a view to documenting the different approaches and concerns in member countries as well as to recommending concrete ways of strengthening human rights education through Commonwealth co-operation. The survey concluded, inter alia, that there was need for exchange of existing materials as well as scope for the production and dissemination of new teaching materials.

36. In fulfilment of its CHOGM mandate, and in response to specific needs identified by member states in the region states, the Human Rights Unit organised a well received Regional Workshop for Officials in charge of reporting under the International Human Rights Instruments in July 1995 in Zambia. Furthermore, as a way of facilitating wider dissemination of information on human rights and increasing accessibility to human rights publications, the Unit collaborated with the African Publishers Network, UNICEF and the Afro Asian Book Council to organise a one day Workshop on low cost publishing entitled "Books for Millions" at the 1995 Zimbabwe International Book Fair. The workshop helped to create a network of publishers within Commonwealth countries and also facilitated the creation of links between institutional publishers and low cost publishers in Commonwealth countries

37. The Secretariat held a major conference on Human Rights Education in September 1995, to mark the UN Decade on Human Rights Education which commenced in 1995. The main objective of the Conference was to define the framework for activities, through the identification of workable strategies in order to create an atmosphere conducive to generating momentum for activities geared to human rights education in Commonwealth countries throughout the decade. To this end, the Conference made the Oxford Declaration on Human Rights Education and established a framework and agenda for human rights education in the Commonwealth for the decade and beyond. The Conference was attended by representatives from government, educational institutions and NGOs. The Oxford Declaration and the framework and agenda are before the Meeting as annexes to paper LMM(96)15.

38. In the area of information exchange, the Human Rights Unit has continued to respond to individual requests for information and publications from member states on human rights issues. In addition, the Human Rights Unit has in the past published the Human Rights Update which contains, among other things, information received from member states on human rights issues but this has not been published during the last year or so as a result of inadequate staff resources. However, it is proposed to resume publication soon as a result of improvement in the staffing situation.

39. A video film on Street Children was produced, with the aid of the Unit, to raise awareness of the rights of these children and to focus attention on their plight with a view to encouraging action by both governments and international agencies to alleviate the plight of such children.

National Institution building Programme

40. In the area of institutional building, the Secretariat has facilitated the provision of technical assistance to several member countries who have sought assistance in strengthening or setting up of national institutions.

41. The Regional workshop for officials in charge of Reporting already referred to above and which was held in 1995 Zambia was aimed, among other things, at helping to strengthen national capacities for reporting under the various international and Regional Human Rights Instruments.

42. Similarly, as part of its capacity building work, the workshops in Cyprus, Uganda and Malta all

considered draft training materials which had been commissioned by the Unit several years earlier to assist member states to undertake their own specialised training for their public officials.

Development, Human Rights and Democracy

43. Heads of Government at their Cyprus Meeting had affirmed the importance of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights at Vienna in June 1993. They also stressed that democracy, development and respect for human rights and fundamental freedoms were interdependent and mutually reinforcing. The Legal and Constitutional Affairs Division has collaborated with other relevant Secretariat Divisions to seek, in conjunction with member states, ways of promoting Development, Human Rights and Democracy in an integrated manner. An initial workshop covering the Southern Africa region was hosted by Namibia in July 1994. A follow-up Commonwealth-wide workshop was hosted by Sri Lanka in June 1995. It is next planned to identify examples of Commonwealth best practices in promoting an integrated approach and to develop training programmes for capacity building based on these.

CORRECTIONAL ADMINISTRATORS AND THE TREATMENT OF PRISONERS

44. At their Harare meeting in 1992, Commonwealth Correctional Administrators had considered and agreed that, subject to the prior views and comments of the relevant authorities of member states, an illustrative draft of proposed guidelines for the treatment of prisoners commissioned by the Division be submitted to Law Ministers for their consideration and guidance. At Mauritius, after considering the revised illustrative draft incorporating the views received from states, Ministers mandated the Conference of Commonwealth Correctional Administrators, in the light of the practical realities of the economic and social situation in Commonwealth countries, to review the illustrative draft in close consultation with the UN and to report back to it at a future Meeting.

45. In the event, due to difficulties being experienced by the hosts of the meeting of Correctional Administrators which had been planned for 1995, a meeting is yet to take place and it has therefore not been possible to report any further progress on the illustrative draft of the proposed guidelines. However, efforts continue to be made to secure an alternative host for the meeting. The Division will keep the situation under review and

will report any developments through Senior Officials.

PROTECTION OF THE MATERIAL CULTURAL HERITAGE

46. At their 1995 meeting in Malta Senior Officials, consistent with their general mandate to keep under regular review all Commonwealth Schemes for Mutual Assistance in the administration of justice, considered a model draft Bill produced by the Attorney General's Department, Australia and designed to facilitate implementation of the Commonwealth Scheme for the Protection of the Material Cultural Heritage (the Mauritius Scheme). As there was insufficient time at the meeting to consider the model draft Bill fully, Senior Officials agreed to study the draft more fully on their return home and to communicate their views to the Division which was requested to prepare a revised model draft Bill in the light of the views it had received for its further consideration. Pursuant to this, the Division has produced a revised model draft Bill and this is being placed before Senior Officials for their consideration at a meeting to be held in Kuala Lumpur on 14 April before the commencement of the Ministerial Meeting.

LEGISLATIVE DRAFTING ASSISTANCE

Legislative Drafting Training

47. The CFTC funded programme for the training of legislative drafters has now been institutionalised as an integral part of the Faculty of Law of the University of the West Indies in Barbados. This suggests that adequate facilities now exist to meet current demands for the kind of training offered at the University level. However, the Division remains of the view that the need for alternative training facilities in this important skill for any governments involved in developmental activities is as, if not more, pressing now as ever, if the new demands of an ever changing democratic environment are to be met. The continued viability of the courses at the University of the West Indies is still a concern of the Division which, in close consultation with the Management and Training Services Division of the Secretariat encourages governments to nominate suitable candidates for training at the University with, wherever possible, funding provided by the Secretariat. For its part, the University has shown a continued commitment to the courses and development by the creation of a Chair of legislative drafting.

48. An average of sixteen students attend each course and a substantial number of them continue to

be sponsored by the Secretariat. Some are admitted for the Advanced Diploma in Legislative Drafting but the majority proceed to the Masters Degree in law with specialisation in Legislative Drafting. Significantly, women continue to enrol in large numbers and in some years substantially outnumber the men. In the 1994/95 year, for example, women accounted for ten out of the intake of sixteen students.

49. A longstanding problem that has remained unsolved and which merits serious attention by governments is the issue of the retention of trained legislative drafters. In an evaluation carried out in 1995 of technical assistance provided to the Caribbean region by the CFTC in the area of legislative drafting, including the assistance provided to the University of the West Indies in connection with the legislative drafting courses, the evaluators drew attention to a number of shortcomings from which it was apparent some lessons could be learned. Among these are:

- the need to ensure that persons nominated for the course are genuinely interested in legislative drafting, and that they are likely to continue to work in the drafting departments of their governments.
- the need for governments to consider improving conditions of service for legislative drafters with a view to encouraging them to pursue legislative drafting as a career in preference to other posts in the legal and judicial services.

50. Similar observations have been made by the CFTC funded Director of the legislative drafting courses at the University of the West Indies. In his report on the 1994/95 Diploma and Masters Degree courses, he suggested that governments should ensure that the persons they nominate for the course are genuinely interested in a legislative drafting career and that they are assigned to legislative drafting duties on their return home. He reported instances of recent trainees writing to him to say that, since their return, they "have not drafted one legislative sentence" having been deployed in non-legislative drafting duties immediately on their return, in spite of the shortage of trained drafters in the legislative drafting department. It is therefore not surprising that often the recent trainee becomes frustrated and abandons the idea of pursuing a career in legislative drafting. He further suggests that persons nominated for the course could be required by their governments to enter into a bond to serve for a specified number of years after their training, the possibility being that by the time the officer has

completed the period of the bond the inclination to leave for private practice to which they are traditionally lost would have considerably waned. He also believes that the terms and conditions of service of legislative drafters is crucial to the question of their retention in government service.

51. We, for our part, from years of experience with the legislative drafting courses, echo these observations and, without underestimating the difficulties governments face when dealing with the review of conditions of service of their public services, would recommend to Ministers that urgent steps need to be taken to deal with the specific problem of the retention of legislative drafters.

Distance Training in Legislative Drafting

52. Ministers are also aware of the initiative taken by the Commonwealth Secretariat and the Commonwealth of Learning (COL) to develop a programme for the training of legislative drafters using distance learning techniques. Progress in bringing this project to fruition has been somewhat affected by technical problems in the completion and printing of the course modules. However, these problems have now been satisfactorily resolved and the Secretariat and COL are pleased to report that enrolment for the pilot year of the programme has been in progress since December 1995. Special funding arrangements will apply during the first year of operation of the programme as a result of which the joint sponsors decided to limit the number of the first intake of trainees to only 50. During this first year of operation, trainees would be enrolled without any charge to the nominating governments.

53. To date, 30 students have been enrolled by RIPA International in London who have been contracted as the Central Delivery Agency (CDA) for administering the programme. Training is scheduled to commence on 11 March 1996 with an initial intake of the 30 students who have selected from 13 different jurisdictions. This does not include trainees from the Caribbean and South Pacific regions. An additional 20 trainees, ten each from each of these two regions are expected to commence their training later in the year when Regional Delivery Agencies (RDAs) in the process of being established at the University of the West Indies in Barbados and at the Port Vila campus of the University of the South Pacific are expected to be in place to provide the necessary support services for co-ordinating and monitoring the work of the trainees in those two regions respectively. Details, extracted from the Course Text, Part 1 of the seven volume set of study materials, of the programme of work to be covered by each student during the year

long study period and a note of how it is envisaged the programme will operate during the pilot year and in subsequent years are set out as **Appendix I** to this review.

INTERNATIONAL CRIME AND MUTUAL LEGAL CO-OPERATION

Commercial Crime Unit

54. The Unit's prime task is to assist members combat major crime by enhancing national capacity to enact and administer laws relating to mutual assistance in criminal matters, extradition, transfer of prisoners, proceeds of crime and money laundering. The Unit has concentrated, since the 1993 Meeting of Law Ministers, on providing the information and tools needed by those investigating and prosecuting crimes with an international element.

PROVISION OF INFORMATION

55. Recognising the value of sharing experience in the development and administration of laws designed to assist countries combat both domestic and international crime, the Unit has significantly increased the resources available to it to assist countries in locating and retrieving relevant material. 1995 saw the development of a data base of national laws on issues falling within the Unit's mandate. Now reflecting almost 400 pieces of legislation the data base enables the Unit to locate provisions dealing with the subjects of banking, corruption, drug trafficking, evidence, extradition, money laundering, mutual assistance in criminal matters, mutual assistance between business regulatory agencies, organised crime, proceeds of crime, securities (and related matters) and the transfer of prisoners. A second data base of multilateral and bilateral treaties and memoranda of understanding is in the process of being compiled.

56. For the assistance provided by member countries in making available copies of relevant laws the Unit wishes to record its gratitude. The co-operation we have received will enable us to respond far more quickly and efficiently to requests from members for precedent material.

57. Production of the periodic newsletter "Commonwealth Commercial Crimewatch" which details legislative and case developments relating to proceeds of crime, money laundering, criminal justice issues and evidence - including reports of cases relating to drug trafficking - remains on the Unit's work agenda.

MUTUAL LEGAL ASSISTANCE

58. At their 1993 meeting Ministers encouraged the Secretariat to promote a meeting of central authorities responsible for co-ordinating the provision of mutual legal assistance. Acting upon this advice the Commercial Crime Unit convened the Oxford Conference on Mutual Legal Assistance which was co-sponsored by the United Nations International Drug Control Programme (UNDCP) and the United Nations Inter-regional Crime and Justice Research Institute. The Conference was held in September 1994 and was attended by 146 officials representing 50 Commonwealth and non-Commonwealth countries and six international organisations. The aim of securing the attendance of representatives of all major legal systems in the world was achieved as was the important goal of strengthening professional links between central authorities. The report of, and recommendations by, the Conference are before Ministers at this meeting [LMM(96)13].

59. Recognising the need of practitioners to have ready access to as many national laws relating to the provision of assistance in the investigation and prosecution of crime as possible, the Unit, in 1995, issued the first parts of a loose leaf service entitled "Mutual Assistance in Criminal Matters - Guide to National Practice and Procedure". The response to this publication has been encouraging and the Unit expects to be able to issue, at quarterly intervals, new materials to ensure the currency of the service.

60. At the request of the Pacific Islands Law Officers Meeting, the Unit undertook work which it is expected will lead to the modernisation and simplification of the extradition laws of member countries of the Pacific Forum. The exercise has been, we believe, of mutual benefit to both the Secretariat and the South Pacific region in that it has raised for consideration a number of questions relevant to the adequacy of national laws to cope with modern pressures for extradition laws which meet the needs of societies concerned to co-operate in the suppression of crime. Some of the issues arising from this review are included in paper LMM(96)14 which is provided for the information of Ministers.

61. The production of the periodic newsletter "Commonwealth Legal Assistance News (CLAN)" which details legislative developments and cases decided by national courts on issues such as extradition, mutual assistance in criminal matters and transfer of prisoners remains a priority activity for the Unit.

MONEY LAUNDERING

62. Money laundering was first widely recognised as a threat to legal and economic systems in the middle 1980's. Since that time the UNDC, the OECD (through the Financial Action Task Force), the Council of Europe, Interpol, the Organisation of American States and the Commonwealth have been working to combat it. The Commonwealth Secretariat's first work in this area was undertaken by the Commercial Crime Unit in 1991.

63. In 1993, Heads of Government identified money laundering as a serious threat to financial systems worldwide and agreed that the Commonwealth should support enhanced international co-operation in combating this financial crime. They commended the 40 recommendations drawn up by the Financial Action Task Force (FATF) (the international body founded for this purpose in 1989) and urged steps for their early implementation. Law Ministers considered the issue at their meeting in Mauritius in 1993 and concluded that the issue had to be addressed as a matter of urgency and would require co-ordination with the work of Commonwealth Finance Ministers. They expressed their resolve, individually and collectively, to put in place comprehensive provisions to address the legal issues covered by the 40 Recommendations of the FATF and agreed to participate in a process of self-evaluation of progress towards implementation of the 40 Recommendations.

In response to the call by Ministers for urgent action, the Unit has devoted significant time and effort to this subject.

64. A particular emphasis has been work to strengthen working relationships with other relevant international organisations which have similar goals.

In particular the Commercial Crime Unit has co-operated with the FATF, the UNDCP, the Caribbean Financial Action Task Force, the Council of Europe and Interpol in joint ventures. At the January 1996 meeting of the Financial Action Task Force all international organisations working on this issue agreed a format for the analysis of national laws and the ultimate production of a global compendium of materials related to combating money laundering. The material, when prepared will be added to the Secretariat's own publication entitled "Money Laundering - A guide to National Laws" which is designed to assist government legal practitioners and law enforcement agencies seeking to obtain information and assistance from other countries.

65. In 1994 and 1995 the Unit organised and conducted, with the FATF, two Money Laundering Symposia for the Asia Region (which includes nine

Commonwealth jurisdictions). These Symposia (held in Kuala Lumpur and Tokyo) have, we believe, significantly increased awareness of the subject in the region, with the 1995 Symposium resulting in the formation of a Regional Steering Group mandated to advance implementation of the 40 Recommendations throughout Asia.

66. With the invaluable assistance of the British Foreign and Commonwealth Office, the Unit conducted workshops in the Caribbean and the Pacific on the subject of money laundering. Designed to bring together representatives of both legal and financial sectors, the workshops were held in Port of Spain in May 1994 and Port Vila in July 1995.

67. Perhaps the most technical work in this area is the drafting of a model law to combat money laundering. The model was considered by both Senior Officials of Law Ministries and Senior Officials of Finance Ministries at meetings 1995. In light of comments made at those meeting the original draft was refined and revised and is before Ministers at this meeting for consideration [LMM(96)18]. The model law is designed as a guide to member countries which have not yet enacted laws to combat money laundering.

68. In undertaking work to help countries combat money laundering the Unit has co-operated with the Secretariat's Economic Affairs Division - the Division with responsibility for working with Commonwealth Finance Ministers. Commonwealth Finance Ministers considered the subject of money laundering at their 1994 and 1995 meetings.

DRUG TRAFFICKING

69. Commonwealth Heads of Government continue to stress the need for member countries to address the important issues of drug trafficking and drug abuse. They have urged Governments that were not a party to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances to adhere to the Convention and enact the necessary domestic legislation as soon as possible, and invited Law Ministers to give priority attention to legislative programmes which would ensure that their countries were in a position to meet the threat posed domestically and render legal assistance to other countries in respect of any drug trafficking offences.

70. The Unit has not undertaken any work related solely to drug trafficking. It is our view that all of the work undertaken by the Unit is intrinsically necessary to the enhancement of national capacity to

combat drug trafficking. Various articles of the 1988 Convention require states parties to take action to facilitate international co-operation against drug trafficking, to combat the laundering of the proceeds of drug trafficking, to facilitate the confiscation of the proceeds of drug trafficking as well as to be able to extradite for the offences listed in the Convention.

The work of the Unit is designed to assist member countries to achieve these goals as part of the wider effort which is necessary to defeat commercial crime generally.

Other Legal Assistance

71. There are other ways in which the Division provides assistance, particularly to small states, including dependent territories, in pursuance of the Secretariat's special mandate to assist small states to meet their special needs. Most significant of this is the technical assistance provided under CFTC auspices by way of short term or long term assignment of field experts. The identification and placement of the experts to work on specific projects, usually in developing countries, is generally done in consultation with the Legal and Constitutional Affairs Division. The nature of assistance provided in this manner is described in greater detail below.

TECHNICAL ASSISTANCE IN THE LEGAL FIELD

Economic and Legal Advisory Services Division

72. The Economic and Legal Advisory Services Division (ELAS) formerly known as the Technical Assistance Group (TAG) is the in-house consulting unit of the Commonwealth Secretariat. ELAS responds to requests from governments in areas of activity which have been identified by Commonwealth governments as developmental priorities. ELAS staff comprises specialists in economics, commercial and international law, and computer systems. In cases requiring highly specialised services ELAS augments its services with the support of external technical consultants. ELAS lawyers work closely with the Division's economists to provide an integrated advisory service covering the legal aspects of the projects undertaken by ELAS, including the review and revision of legislation, preparation of new legislation, agreements and contractual documents and dealing with legal issues relating to execution and implementation of the project activity concerned.

73. Over the period under review ELAS has continued to receive requests for its services in its traditional programme activities of terrestrial and

marine resources development and debt management.

At the same time as countries are moving towards more market oriented economics, increasing requests are being received for assistance in other areas of economic management such as those relating to access to funds for private investment, development of domestic capital markets, privatisation and the promotion of the role of the private sector. ELAS has also assisted in the strengthening of democracies and assistance with elections.

74. In assisting Governments to create a conducive climate for investment, ELAS has assisted the Government of Zanzibar in developing policies and a legal and institutional framework for foreign investment, advised the Government of Guyana on trade-related intellectual property rights and assisted it in appraising the current state of its intellectual property law in the light of its obligations under the TRIPS Agreement under WTO arrangements. ELAS assisted the Government of Kiribati in reviewing a draft investment management agreement.

With respect to the development of capital markets, ELAS has provided assistance to the Governments of Mauritius, Tanzania, and Uganda in establishing or strengthening their regulatory frameworks for securities trading and stock exchanges. ELAS has also advised the Governments of Ghana and Mauritius on a regulatory framework for non-bank financial institutions and the Governments of Ghana and Tanzania on collective investment schemes.

75. Assistance with privatisation has been extended to Barbados and Guyana. Requests in relation to private sector development have increased and advice has been given to Ghana, Namibia and Sierra Leone on commercial and financial law matters and to Uganda on hydropower development. ELAS is carrying out a diagnostic survey of legislation affecting private sector development in Ghana with a view to recommending measures for the removal of legal impediments to private sector development.

76. ELAS continues to provide specialist legal and economic policy advice and assistance in the establishment and maintenance of a legal and economic framework conducive to foreign investment in the various natural resources sectors, principally mining, petroleum and fishing. Over the period under review, it has undertaken numerous projects throughout the Commonwealth, as a result of which risk capital has been attracted to several countries.

77. ELAS has been particularly active in Namibia, which signed five petroleum exploration agreements negotiated in the first licensing round, with ELAS's assistance. The Government is now receiving

ELAS's assistance with the second round of negotiations. ELAS also assisted Namibia with the Government's negotiation of a major diamond mining agreement. ELAS continues to assist other countries such as Grenada, India, Malta, Seychelles, Swaziland and Tonga in the petroleum sector. This assistance includes the review of model contracts and preparation of new contracts, the promotion of the hydrocarbon sector and participation in negotiations with multinational companies. In the mining sector, in addition to Namibia, Botswana, India, Lesotho, Pakistan, Sierra Leone, Solomon Islands, Sri Lanka, Uganda and Zimbabwe have received ELAS's legal, economic or policy advice in respect of a range of minerals, including gold, diamonds, platinum, nickel and heavy minerals. In the context of natural resources development, it is to be noted that ELAS's advice includes the consideration of environmental issues as they relate to petroleum and mining activities and the inclusion of suitable provisions in agreements and legislation.

78. Commonwealth states, particularly small island states, recognise the importance of maximising their maritime areas to benefit from the sovereign rights accorded to them over the resources they contain. The Government of Jamaica and the Organisation of Eastern Caribbean States (OECS), on behalf of its membership, have received assistance in respect of various stages of preparation for maritime boundary negotiations.

79. In the area of fisheries, ELAS has rendered assistance to Brunei Darussalam, where a new legislative scheme was drafted.

80. In the field of democratisation, ELAS has also been involved in the Secretariat's support to Commonwealth Observer Groups to elections and also offers technical assistance with election laws and organisation. Observer Groups to Malawi, Namibia, Tanzania and South Africa have received this support and the Government of Malawi, Mozambique, Sierra Leone, South Africa, Tanzania and Zambia have received assistance with preparations for multi-party elections.

The General Technical Assistance Services Division

81. The principal vehicle through which such assistance is provided to governments is the General Technical Assistance Services Division (GTASD) which, together with other Secretariat Divisions administers funds provided by the CFTC. Requests for assistance are made to the Deputy Secretary General (Development Co-operation) through the requesting government's local point of contact

(usually the Finance or Planning Ministry). The point of contact accords relative priorities to the various requests channelled through it, and because of the usually heavy demand on the scarce resources of the CFTC, those accorded higher priority rankings have a greater chance of receiving a favourable consideration.

82. The technical assistance provided by the GTASD is not intended, of course, to go on indefinitely and a long-term expert is generally only provided for two years in the first instance. In some cases, extensions have been sought successfully where these have been accorded very high priority and where a key work programme remains to be completed. However, the CFTC cannot provide a particular service indefinitely and encouragement and support are given for a local counterpart to be trained to take over from the expert.

83. Reference has already been made to the assistance provided by the CFTC in the training of legislative drafters. Here, it is appropriate to make special mention of the contribution made over the years by the CFTC to the development of many Commonwealth countries by providing trained and experienced legislative drafters to fill important posts in their legislative drafting establishments. This assistance has always been much appreciated particularly by small states who often lack both human and material resources to promote and sustain their development.

84. In the general legal field, in addition to legislative drafting, experts have, in recent times, been provided in such areas as election management; law teaching; environmental law and maritime boundaries delimitation. A list of CFTC field experts who were in post in legal related assignments at the end of the first quarter of 1996 is set out in **Appendix II**.

85. Occasionally also, as and when requested, the Division assists governments, outside CFTC technical assistance arrangements, in recruiting professional staff into their legal establishments or in finding in-service training placements for the professional staff of Justice Ministries or the Attorney General's Chambers.

The Management and Training Services Division

86. The Management and Training Services Division (MTSD) of the Commonwealth Secretariat derives its funding from the CFTC and has a mandate to work closely with member countries to:

- provide advisory services to enhance managerial capacity in government, public and private sector enterprises and NGOs; and
- provide skills enhancement through training in priority areas to achieve sustainable development and to assist in capacity building of national and regional institutions.

87. In considering requests for assistance, priority is given to study or training projects which will materially contribute to a country's economic and social development and to building up its infrastructure. The Legal and Constitutional Affairs Division works closely with MTSD in assessing requests for training in the legal field such as the Diploma and Masters degree in legislative drafting courses at the University of the West Indies, Barbados. The Division has also worked closely with MTSD in mounting a series of administrative law workshops in support of good, honest and accountable government.

Women and Youth Affairs Division

88. The Women and Youth Affairs Division (WYAD) has consistently worked to promote the recognition and protection of women's rights as an integral part of human rights, at the national, regional and global levels. Specific steps have been initiated by them to provide technical assistance and facilitate the sharing of experiences between Commonwealth countries and different regions of the Commonwealth on strategies to address women's human rights.

89. The activities initiated by WYAD have included a judicial colloquium held at Victoria Falls, Zimbabwe in 1994, in collaboration with the Legal and Constitutional Affairs Division and the Commonwealth Magistrates and Judges Association (CMJA). Senior judges met to consider international and regional human rights norms and mechanisms relating to women's rights and to assess the implications of such norms for litigation and decision-making at the national level. The judges participating in the colloquium issued the Victoria Falls Declaration on the Promotion of the Human Rights of Women. They concluded that the implementation of the Declaration would be facilitated by developing a handbook for Commonwealth judges and lawyers and which would contain, among other things, a compilation of jurisprudence of international and national decision-making bodies relevant to women's human rights. A copy of the Victoria Falls Declaration is annexed **Appendix III**.

90. In 1995 WYAD, in collaboration with CMJA organised a second colloquium in Beijing which provided a wider forum for the discussion of the Victoria Falls Declaration and further colloquia are planned for the Asia-Pacific region in 1996 and for the Caribbean region in 1997. A copy of a News Release issued at the end of the Beijing colloquium is annexed **Appendix IV**.

91. A further initiative aims at developing curriculum materials and case law to be used in higher institutions for trainers in legal studies and policy-makers who require sensitization to women's human rights for the formulation and implementation of policies. The curriculum and case law materials will be so designed as to address some of the issues identified in the Victoria Falls Declaration.

INTERNATIONAL CRIMINAL COURT

92. The international debate on the proposed establishment of an International Criminal Court has been monitored by the Commercial Crime Unit because of the significance of this proposal to many member countries - in particular those Caribbean countries who first mooted such a body almost a decade ago. The matters in issue regarding the establishment of the court were canvassed in a paper submitted to Senior Officials at their meeting in Malta and were discussed. The relevance of this initiative to the administration of international criminal justice will, of course, depend on the final outcome of the debate on the jurisdiction of such a court, but it is expected that issues of transnational criminality will remain central to the proposition and the Division will continue its work of monitoring relevant developments in this area. Ministers will have before them a paper **LMM(96)21** on the present state of the developments in the subject.

INTEGRITY IN PUBLIC LIFE

93. Over recent years much of the world community has addressed itself to the issue of honest government and combating corruption. The Secretariat is following these developments and in particular the work of bodies such as the OECD (through CIME), the Council of Europe and Transparency International, a NGO based in Berlin.

The damage which can be done by the soliciting, making and acceptance of illicit payments, whether at national or international level, is immense. To enable the Commonwealth to play its part in international efforts to maintain integrity, particularly in the public sector, the Division intends to continue to treat it as an issue of primary concern in its efforts to promote honest and accountable government. Although resources are limited, the

Division believes that its current activities can be broadened in scope to ensure that honesty and integrity in government and public life are given adequate attention in all aspects of its work. Two complementary papers respectively by the Secretariat and Transparency International dealing with this Agenda item are before the Meeting and are numbered **LMM(96)17** and **LMM(96)5**.

OTHER LEGAL ACTIVITIES

Internal Secretariat work

94. In addition to their Commonwealth-wide responsibilities, the Division performs a wide range of duties in carrying out its mandate as the in-house legal adviser to the Secretary General and the Secretariat, including the CFTC which has contractual and other obligations arising from its international operations. These and the Secretariat's other needs take up a considerable proportion of the time of the professional staff of the Division. This has particularly been so during the last three years following the restructuring of the Secretariat.

95. By way of illustration, recently a number of matters, arising in large measure from the restructuring of the Secretariat, tied down several members of the professional staff for some considerable time. These related, among others, to arbitration proceedings instituted against the Secretariat by an aggrieved member of staff; the establishment of a Commonwealth Secretariat Arbitral Tribunal and the privatisation of the Commonwealth Consultative Group on Technology Management (CCGTM) which has now been renamed Commonwealth Partnership for Technology Management (CPTM). Examples of other matters which illustrate the range of issues the Division is called upon to deal with are the establishment of appropriate guidelines for the release of and public access to Shared Commonwealth Records in anticipation of the 30th anniversary the establishment of the Commonwealth Secretariat and the establishment of the Iwokrama Centre for Rain Forest Conservation and Development. Professional staff have also been involved in missions connected with the election monitoring activities of the Secretariat.

Commonwealth Legal Advisory Service

96. The co-operative working relations which the Division has had over the years with the Commonwealth Legal Advisory Service (CLAS) in providing legal services to member governments have been mutually beneficial. This has ensured that our combined slender resources are most effectively

utilised in a complementary manner without duplication of effort. We understand however that the British Institute of International and Comparative Law (BIICL) under whose auspices CLAS operates is in the process of reviewing the operational and financial arrangements for the Service which may have implications for the continuation of the Service.

Should CLAS cease to operate, it would be a loss to the beneficiaries of the service, particularly small states. This is especially so as there is no guarantee that such services could then be provided by the Legal and Constitutional Affairs Division whose resources are already overstretched. A note prepared by the Director of the BIICL which gives details of the nature of the work undertaken by CLAS is annexed as **Appendix V**.

International Legal Activities

97. Our activities at the international law level continue to be selective. This ensures that we concentrate on matters and in areas in which the Secretariat has a comparative advantage and in which we can achieve maximum impact.

98. We maintain personal contact with other international bodies, some on a regular basis on account of their work in areas of mutual interest and concern to the Secretariat while contact with others is on an ad hoc and need to contact basis for specific purposes. Among the former are the Hague Conference on Private International Law; the International Commission of Jurists; the UN Centre for Human Rights; the International Maritime Organisation; the World Intellectual Property Organisation; UNCITRAL who have prepared one of the papers before Ministers on transborder insolvency and one of whose representatives is here with us as a resource person; Transparency International; the Financial Action Task Force; Forum Secretariat and Interpol, while among the latter are the African Asian Legal Consultative Committee; CARICOM and UNIDROIT. The Division has also recently initiated contacts with United Nations High Commissioner for Refugees; the UN Sixth Committee and the International Committee of the Red Cross.

Relations with other Non-governmental Organisations

99. The Division could not achieve the degree of effectiveness that it has been able to achieve without the network of professional contacts that it has built up and without the co-operation of other organisations active in areas of mutual interest. For this reason the contact that the Division maintains is strongest with such professional organisations as the

Commonwealth Lawyers Association, the Commonwealth Magistrates and Judges Association and the Commonwealth Legal Education Association.

The Commonwealth Lawyers Association

100. Our working relationships with the Commonwealth Lawyers Association (CLA) is both organic and functional and has remained so from the period before its formal inauguration in 1986 to the present time. The Legal Division, as it then was, not only played a significant role in its transformation from its original status, largely as a one-person Legal Bureau, to its present status of a Commonwealth-wide network of professional lawyers, and continues to do so. The Division plays an active role in the affairs of the Association and senior staff of the Division sit ex officio on the Council which meets once every year at the offices of the Law Society of England and Wales in London who provide its Secretariat.

101. Arguably perhaps, the highlight of the Commonwealth's legal calendar is the triennial Commonwealth Law Conference which is held under the auspices of the CLA in association with a national Law Society or Bar Association as the case may be who act as host of the Conference. Recent Conferences which have confirmed the appeal of the three yearly gathering as a premier international convention and an incomparable occasion for renewing professional skills and contacts, have been held in Jamaica, Cyprus and the next two Conferences will be held in Canada (Vancouver 25-29 August 1996) and Malaysia in 1999.

102. Traditionally, several other special interest meetings in which the Division has an interest are held on the wings of the Law Conference. Among these are the meetings of Commonwealth Chief Justices; Commonwealth Law Reform Agencies; Commonwealth Association of Legislative Counsel and the Commonwealth Legal Education Association.

The Commonwealth Legal Education Association

103. The Division's contact with and support for the Commonwealth Legal Education Association (CLEA) has continued. The Association was restructured in 1993 when the Presidency was taken over from Professor Yash Ghai by Professor N R M Menon of the School of Law in Bangalore while Dr Jill Cottrell became Secretary. The Director of the Division, as a matter of practice, continues to serve as Honorary Secretary/Treasurer. Representatives

from each region of the Commonwealth serve on the Executive.

104. Among the Association's objectives are:

- to foster and promote high standards of legal education and research in all Commonwealth countries
- to facilitate the exchange of legal materials among law schools
- to promote programmes of continuing legal education
- to publish a regular newsletter or journal

105. Pursuant to its objectives, the Association pursues an active programme of activities. For example, it has already commenced in India a research project on Social Economic and Cultural Rights proposed in 1993 although the project awaits further funding. The Association has introduced a system of National and Regional Chapters, the first of which, in India, has succeeded in expanding the Association's membership and participation from the sub-Continent. The 1995 Annual General Meeting of the Association was held, to coincide with the meeting of the Executive and the Commonwealth Legal Education Association's Conference on "Social Integration and Human Rights" from 15-17 December 1995, in Durban at the Faculties of Law of the Universities of Natal and Westville. A South African chapter is in the process of being formed. The Association established, for Commonwealth Law Students, an Essay Competition to which £1,000 has been donated.

106. The meeting also resolved to commence a study on "The Needs, Problems and Opportunities in Legal Education in Commonwealth Law Schools", especially in developing States. It will also undertake an examination of the potential for developing States applying new communications techniques to Legal Education.

107. As has become the tradition, the CLEA will again organise the Commonwealth Student Moot competition at the 1996 Commonwealth Law Conference in Vancouver.

108. Mention has already been made of the co-operation between three Commonwealth Legal Associations - the CLEA, the CLA and the Commonwealth magistrates and Judges Association (CMJA) - in support of the Commonwealth Law Book Programme which operates in the UK in conjunction with Book Aid International.

109. During 1996 the Secretaryship of CLEA will be taken over by Mr. John Hatchard, under the continued Presidency of Professor Menon.

The Commonwealth Magistrates and Judges Association

110. The Commonwealth Magistrates and Judges Association (CMJA) was formed in 1970. Most Commonwealth countries and dependencies are represented in the membership which is open to national associations of magistrates, judges and any other judicial bodies. Associate membership is open to any individual who is a past or present member of any level of the judiciary or has connections with the courts within the Commonwealth.

111. The aims and objectives of the Association are: to advance the administration of the law by promoting the independence of the judiciary; to advance education in the law; the administration of justice, the treatment of offenders and the prevention of crime within the Commonwealth; and to disseminate information and literature on all matters of interest concerning the legal process within the various countries comprising the Commonwealth.

112. The CMJA publishes the Commonwealth Judicial Journal and a Newsletter twice a year. It also organises study tours, judicial education seminars and triennial conferences which include intensive education programmes.

113. At the 1994 triennial conference at Victoria Falls, Zimbabwe, the General Assembly approved the Victoria Falls Proclamation and wished it to be communicated to Law Ministers. The text of the Proclamation is at **Appendix VI**.

114. In 1994, the CMJA established the Commonwealth Judicial Education Institute (CJEI) as its judicial education arm. The purpose of the Institute, among other things, is to provide support and linkage among existing Commonwealth Judicial Education bodies and to deliver judicial education programmes, at the invitation of the Chief Justice, in those countries where no judicial education body exists. The Institute is located at the Dalhousie Law School, Halifax, Nova Scotia, Canada.

Interights

115. Mention has already been made of the work the Division does in collaboration with Interights to promote values which correspond, and are consistent, with the fundamental values of the Commonwealth. Interights is the International Centre for the Legal Protection of Human Rights. It was established in

1982 to provide leadership in the development of legal protection for human rights and freedoms through the effective use of international and comparative human rights law. It assists judges, lawyers, practitioners, non-governmental organisations and victims with the practical application of human rights law in the national, regional and international courts and tribunals.

116. Interights, with some contribution of funds by the Secretariat, is in the process of establishing a database of judicial decisions which invoke the human rights provisions of national Constitutions (and related provision such as independence of the judiciary) or refer to human rights legislation or comparable international instruments or standards. The creation of the database was suggested at the judicial colloquium held in Abuja, Nigeria in 1991 as a further practical step in communicating information about intentional and comparative human rights law to judges, lawyers and non-governmental organisations.

The Commonwealth Human Rights Initiative

117. *The Division also follows with keen interest the activities of the Commonwealth Human Rights Initiative funded by a consortium of five Commonwealth non-governmental organisations, including both the CLA and CLEA, and whose main aim is to make the enjoyment of human rights more significant and a common experience for all the nations and peoples of the Commonwealth.*

FUTURE ACTIVITIES

118. As a result of the improvement in its staffing resources the Division is gearing itself for an intensive programme of consolidation and taking initiatives in new areas of work which have so far not been possible.

119. Subject to the availability of resources, it is proposed to revive work which had been commenced the previous year on a legislative drafting computerisation project but which had aborted due to difficulties relating to the copyright licensing arrangements. This will enable laws to be drafted directly onto personal computers as part of a longer term process of making laws available in constantly updated form to courts, lawyers and the public and in a more general way to other Commonwealth countries. It is expected that this development will be assisted by the work of the **Commonwealth Legal Computerisation Group (CLCG)** which Ministers established at their Meeting in Mauritius. At their meeting in Malta in 1995, Senior Officials discussed the *modus operandi* of the CLCG and

agreed that it would be administered in accordance with the Terms of Reference which are set out in **Appendix VII** for the information of Ministers.

120. Similarly, Senior Officials adopted Terms of Reference to govern the operation of the **Commonwealth Arbitration Assistance Service** which Ministers had also agreed to establish at Mauritius. These are set out in **Appendix VIII**.

121. The implementation of international conventions, including environmental conventions, have in the recent past featured on the agenda of both Ministerial and Senior Officials Meetings. The growing concern about global environmental issues and the measures adopted by the international community in response to these issues reflect their growing importance as a factor in the shaping of national policy. However, while the environment is now an important item on the political agenda of many countries, the implications of implementing international conventions governing environmental issues in terms of legislation and capacity are not fully appreciated.

122. For Small Island States especially, this presents a special challenge. Often, the obligations of membership of a convention are onerous. On the one hand, the benefits or advantages may be attractive for states but on the other hand the resource implications of complying with membership obligations could prove extremely burdensome. In the past, the Division has facilitated accession to relevant conventions by member states through the provision of "accession kits" supplemented by the provision, upon request, of expert legal advice.

123. The Division is planning new and joint activities with other divisions within the Secretariat and other outside bodies in the field of environment law which would assist member countries, particularly small states, to enhance their capacities in dealing with environmental issues in a manner that would be consistent with their sustainable development.

124. Similarly, the Division is ready to embark on assisting members, again especially small states, to grapple with the complexities associated with membership of the World Trade Organisation and many of the Agreements to which members will become parties.

125. In addition, in the area of the administration of criminal justice, a significant majority of Commonwealth countries are faced with the task of balancing the need to combat serious crime with the equally compelling need to ensure that fundamental

freedoms are protected. The courts in Commonwealth countries are now regularly faced with the task of deciding whether governmental powers used to investigate, prosecute and punish crime are being exercised in ways which are consistent with obligations imposed by national constitutions and international instruments. The Commonwealth is uniquely placed to task a group of eminent Commonwealth experts with finding levels of conduct which satisfy both needs. It is therefore proposed, with the approval and support of Law Ministers, that such a group be formed and asked to report to the Secretary General and through him to Commonwealth Heads of Government, on the relationship between criminal justice systems and fundamental freedoms and on the appropriate Commonwealth standards for the 21st century. Ministers have before them paper LMM(96)20 which raises the issues involved.

STAFFING

126. It is appropriate to record that the longstanding staffing concerns of the Division appear to have now been recognised. Following the restructuring of the Secretariat in 1993 from which the Division appears to have benefited it has, however, only recently been permitted to recruit staff to fill all the posts to the new establishment level. This should go a long way towards facilitating a more effective delivery of services.

127. The range and depth of the work the Division is expected, and called upon, to carry out has grown and has often extended its resources. Nevertheless, the Division's commitment to its mandate of serving the needs of Commonwealth governments in the legal field to the best of its ability remains undiminished. This commitment is assisted, to a considerable extent, by the Division's good fortune of being able to rely on the generosity of professional colleagues around the Commonwealth in virtually every member country - in Law Ministries, the Chambers of Attorneys-General, from the Judiciary, Parliamentary Counsels' Offices and in Universities. An extract from the Secretariat's Work Programme covering the areas for which the Division is responsible appears as **Appendix IX**.

128. The present strength of the Legal and Constitutional Affairs Division at the professional level now comprises the Director (Zimbabwe), four Assistant Directors (Britain, Australia, Uganda, Western Samoa), Legal Editor (Sri Lanka), Chief Mutual Legal Assistance Officer (Britain), Senior Programme Officer (India), Assistant Legal Editor (Ghana) and Programme Officer (New Zealand). One outstanding post at the level of Senior

Programme Officer for the Human Rights Unit has recently been filled and the officer is due shortly to assume office.

APPRECIATION

129. Over the years, the Division has received valuable assistance from a network of helpers who offer their services willingly and gratis. While we recognise the risk in mentioning individual names for special praise, some of these deserve special mention. It would be grossly inadequate not to record our special debt of gratitude to three of our longstanding supporters and consultants - the Hon Mr Justice Michael Kirby, former President of the Court of Appeal of New South Wales recently elevated to the High Court of Australia who has assiduously supplied us with judgments and articles; Professor David McClean and Dr William Gilmore of the Universities of Sheffield and Edinburgh respectively both of whom have played a crucial role in developing and extending the frontiers of intra-Commonwealth mutual legal assistance. A fourth, Professor John L Edwards of the University of Toronto, author of "Law Officers of the Crown" and who was prevented by sudden illness from being present as a consultant at the Mauritius Meeting, sadly passed away not long after that Meeting.

130. Equally, it would be inappropriate and incomplete to conclude this review without recording our profound gratitude to Law Ministers, Attorneys-General and collectively their Senior Officials who are our direct points of contact with governments and in every sense our *raison d'être*. Without their guidance and unflinching support the Division might find no secure basis on which to anchor its endeavours. In particular, we would mention the help given, beyond the call of duty, by the Attorney-General's Department, Australia in many areas of the Division's work but more especially with regard to the preparation of the Commonwealth Law Bulletin and in respect of which we also pay warm tribute to our CLB correspondents as well as to the Law Reform Agencies around the Commonwealth who keep us well supplied with information on legal developments throughout the Commonwealth. Without the support of all of these, the Division could not hope to achieve with any degree of confidence the level of success that it has in carrying out its mandate. For all this and to everyone, the Division is profoundly grateful.

March 1996

LEGISLATIVE DRAFTING APPENDIX I

Commonwealth Distance Training Course in Legislative Drafting

"Welcome to the Commonwealth Legislative Drafting distance training programme."

Who is this Programme for?

The programme is directed to those individuals at the start of their career as a legislative drafter in a Commonwealth jurisdiction.

It has been developed assuming that a prospective trainee is:

- legally qualified and has had at least a short period of experience in some form of legal practice;
- used to working with legal texts written in English and to writing legal documents in English;
- working in a common law jurisdiction, or at least one that generally follows the common law approach and traditions in relation to the preparation of legislation;
- a public officer and has recently been, or is likely to be, assigned to legislative drafting, but in either case has little experience of the work.

This programme has been designed to help you to understand, acquire and develop the knowledge and skills you need to perform the role of legislative drafter to the best of your ability.


Developing the role of the Legislative Drafter

The work of a legislative drafter is responsible, demanding and complex. We trust that you will discover these materials to be both stimulating and rewarding to work through, and that you will find them of great assistance to you in your continuing development as an accomplished and effective drafter. The following pages explain why the Course was developed, how it is organised, and how you may work through it and monitor your own progress as you proceed.

Preparing to start

This introduction to the programme describes how to use your study materials, but there is a general introduction from the author of these materials on audio cassette, which you may like to hear before you start. Play it now or after you have read through this introduction.

Welcome to the course!

 Play the audio cassette labelled Tape One; Side A; Track One, to hear Professor Keith Patchett introduce this course. 

Why has this Course been developed?

This Course offers a new approach to learning the skills and techniques of legislative drafting. In the past, many trainee drafters have had no choice but to pick these up on the job, in some cases without the supervision or guidance of senior officers. In a few countries, working with experienced officers on actual drafting tasks has been a successful method of learning, largely because of the quality and continuity of supervision and the length of time that is made available.

But in many Commonwealth countries, such facilities are not available. Increasingly, they have looked to formal courses to provide trainees with a systematic and structured training programme on the basics of sound drafting. Such courses are well suited to preparing the ground for the responsibilities that drafting entails.

This Course aims to take this progress a step further.

Many new drafters are unable to take part in training courses, which are usually available only overseas, have a limited number of places and are expensive. The Commonwealth Secretariat and the Commonwealth of Learning have initiated this Distance Training Course to enable trainees to learn and to practise the basics of legislative drafting in independent, individual study in their own jurisdiction.

What does the Course aim to achieve?

This Course is designed to enable you as a 'trainee' to learn and develop drafting skills - for the most part without external tuition. However, trainees will be required at specific intervals throughout the Course, to submit a total of eight drafting projects for external review and advice from an experienced drafter. This will provide you with direct feedback and should enable you to learn from your efforts (and mistakes) and to help assess your own progress.

The Course should not be seen as a substitute for experience; it cannot make you into a seasoned drafter. As in most kinds of legal practice, skills, techniques, know-how and general facility in the work develop by practising them in an actual working environment. This Course is intended to lay the foundations upon which new drafters can build their subsequent experience more securely. It aims to provide a thorough introduction to the basics of sound drafting practice, enabling a trainee to undertake drafting duties with greater confidence and be able to assume significant responsibilities sooner. It provides the beginnings for becoming a good drafter. But at its end, there will still be much to learn, especially from those already established in the field.

A Training Programme and a Reference Work

The modules presented here are assembled in the form of a part distance training format, but they have a dual function. When you have completed the Course, these modules may simply be resequenced to form a unique reference work, containing information from your own jurisdiction that you will be asked to collect as part of the programme activities.

What does the programme consist of?

This six-module Course is supplied in two parts and contained in seven binders, as follows:

- 1 **Course Text (1)** - start your course of study here...
 - 2 **Course Text (2)** - second part of Course (may be supplied separately)
 - 3 **Exercise Book** - contains exercises referred to in the *Course Text* binders
 - 4 **Exercise (Answers) Book** - answers for the exercises (self checking)
 - 5 **Drafting Projects Book** - contains projects referred to in the *Course Text* binders
 - 6 **Drafting Projects (Answers) Book** - suggested answers (some assessed externally)
 - 7 **Materials Book** - a collection of materials, which you can add to
- + Audio Cassettes (3) and 'Primer' reference text

Please check that you have a full set of materials and notify your supplier of any problems.

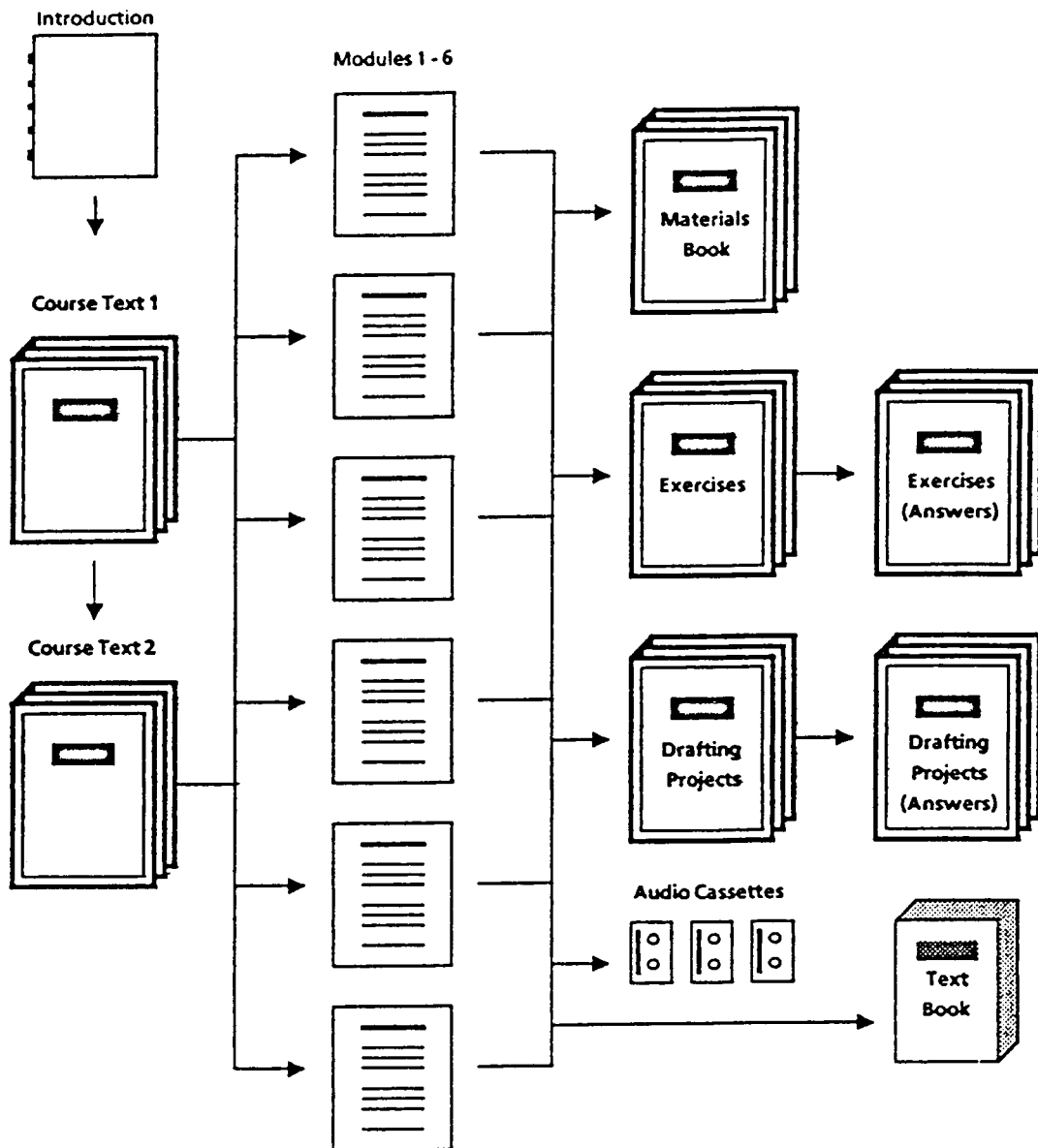
How do the parts fit together?

The Course components and their relationship to each other is shown on the following page:

Legislative Drafting - Component Parts

The Legislative Drafting distance learning programme consists of six modules.

As shown in this diagram, the full set of Course materials can be stored in seven binders. In addition there are three audio cassettes and a grammar guide.



Order of Study

We have set out the Modules in this Course in the order which they might appear in a text on drafting. They begin with matters we think that you need to understand to get the most out of the subsequent materials (Module 1A - *Back to basics*). After this general introduction, we deal with the system of legislative drafting and your responsibilities as a Legislative Counsel and how they may be fulfilled (Module 1B - *Getting going*). Related to this are the constraints imposed on legislative drafters by practices arising from the way legislation is interpreted and in particular from your Interpretation statute and by the Constitution, notably the Fundamental Freedoms provisions (Module 2 - *Working within limits*). These Modules contain a good deal of descriptive matter, though they ask you to find out about practice and procedure in your system. They are not principally concerned with composing legislative provisions.

We deal with the composition of statutory rules in the following Modules. We start with the basic task of how to write legislative sentences to create particular legal rules (legislative syntax) and the pitfalls that you should avoid (Module 3 - *Making the right expression*). As with any technical skill, there are better or worse ways of carrying out this activity. So we consider how you can develop an effective style and sound writing practices (Module 4A - *Putting on the style*).

Legislation is more than a set of random legislative sentences. The proposer's requirements must be converted into a complete instrument that is effectively organised and structured in accordance with the practice that is conventional in your jurisdiction. In Module 4B - *Getting organised*, we look at the tasks of designing and structuring legislative instruments. In Module 5 (*Topping and Tailing*), we look in detail at technical features of legislation that are typically covered in preliminary and final provisions.

The last Module (Module 6 - *Particular cases*) covers particular types of legislative provisions that are typical in Commonwealth legislation (amendments and repeals, penal provisions, delegated powers to legislate and subsidiary legislation).

The order we have used may be a logical way to organise the material, but we believe that you will not find it the most effective way to study it. From our experience, we think that you will want to start writing legislative sentences as soon as possible. So we recommend that you consider working with Module 3, on legislative expression, immediately you have completed the introduction in Module 1A, and before you turn to Modules 1B and 2. But if you are interested in the information in those Modules or think that it may be helpful, read them through fairly quickly, leaving the detailed work on them for later.

We ask you to undertake a series of Drafting Projects. To begin the first of those too, you need to have worked with the Modules on legislative expression. These Projects are designed to develop your experience in a systematic way. The later ones assume that you have acquired the basics with which the earlier ones are concerned. If you are to absorb the lessons they teach, you should undertake them at regular intervals throughout the Course, but only after you have completed the particular parts of the Course to which they are linked. We try to reinforce the knowledge you gain from those parts by the work on the Projects. But we consider that work on particular parts will be made easier if you have completed certain Projects first.

The following chart suggests an order in which the Modules may be studied and the most appropriate points at which to undertake the Drafting Projects. As we have just suggested, do not hesitate to adopt a different order or to have a preliminary look at a later Module if you consider that will make your study easier. But our advice is:

- follow the numerical order of the Drafting Projects; we have put them in that order for good reasons. You may make your study more difficult if you do not complete them in the order we suggest;
- take on a Drafting Project only after you have *completed* your study of the parts of the Course which precede it on this Chart;
- move to full study of the next Module only after you have completed the Drafting Projects that precede it. You will find the task of completing the Projects becomes increasingly awesome if you stock-pile them.

Part 1

1A: Back to basics	1. What's it all about?	→ Project 1
	2. What is legislation?	
	3. Why do we draft as we do?	
	4. How important is grammar?	
3: Making the right expression	1. How do we begin to compose legislative sentences?	→ Project 2
	2. How should we express legislative sentences?	→ Project 3 → Project 4
2: Working within limits	1. How do we work with the rules of interpretation?	→ Project 5
	2. How do we work under the Interpretation Act?	
3: Making the right expression	3. How do we punctuate legislation?	→ Project 6
	4. What can go wrong in legislative expression?	
1B: Getting going	1. What are the stages in the preparation of legislation?	→ Project 7 → Project 8 → Project 9
	2. What do we do with instructions?	
4A: Putting on the style	1. How can we develop an effective legislative style?	→ Project 10 → Project 11
End of Part 1		→ Project 12

Part 2

2: Working within limits	3. How do we work under the Constitution?	→ →	Project 13 Project 14
	4. How do we work with Fundamental Freedoms provisions?		
4B: Getting organised	1. How should we structure legislation?	→ →	Project 15 Project 16
	2. How might we design a legislative plan?		
5A: Topping	1. What do we include in preliminary provisions?	→	Project 17
	2. How do we write definitions?		
	3. When should we use application provisions?		
5B: and tailing	1. What do we include in final provisions?	→	Project 18
	2. How should we repeal legislation?		
	3. When do we need retroactive and retrospective legislation?		
End of Module 5		→	Project 19
6: Particular cases	1. How should we amend legislation?	→	Project 20
	2. How do we draft penal provisions?	→	Project 21
	3. How do we delegate powers to legislate?	→	Project 22
	4. How do we draft subsidiary legislation?	→	Project 23
	End of part 2		Project 24

Submission of Drafting Projects for moderation and assessment

The 24 Drafting Projects which you are asked to complete during the Course are central to the programme. They provide an opportunity for you to put into practice what you are learning and for us to provide you with constructive guidance on your work and, at regular intervals, an assessment of your progress. For those purposes, we require you to submit some of your work on the Drafting Projects to us, although we have designed them, in the main, to enable you to self-assess your own work.

In particular, all participants are asked to submit work on 8 designated Projects. Each of these will be evaluated and an assessment made of your progress. You will receive a report of the assessment, and guidance whenever that appears to be needed or helpful. A record will be kept of each assessment. The eight reports will be influential in the decision as to the award of the final certificate when you complete the programme satisfactorily.

Whether you are expected to submit your work on *others* of the Drafting Projects depends upon the extent to which local arrangements for moderating the Course have proved possible. In some countries, you will be able (and expected) to submit work to local moderators on both the designated Projects and most of the others. In other places, for want of local moderators, you must carry out your own assessment from the materials provided, *except* on the 8 designated projects. Those eight must be despatched to an external Agency and dealt with by correspondence or fax.

Elsewhere in the Programme materials you are given details of how the scheme applies to you, and the information about procedures for submitting your work. But in every case when you submit work, you will receive written comments upon it, including constructive advice. At the same time we shall send you a Suggested Answer for the Project in question, with a detailed commentary. You can learn a great deal from these materials and from the criticisms and evaluation. Make time to study them. They are potentially far more important and valuable to your future than the assessment.

A number of the Projects are divided into Parts. The *first* Part is typically designed to give you help in working out the first draft for the Project. That draft you are expected to evaluate for yourself, by referring to a Suggested Answer which we provide in the Course materials. You are *not* to submit that work for evaluation. When we ask you to submit work in these cases, it is on the *last* of the Parts only.

On the next page, we set out the scheme for submission. This indicates the Projects on which *everyone* must submit work and those which are to be submitted only if you have access to a local moderator. In both cases, we indicate those Parts of the Projects on which your work is to be submitted. In some cases, the *entire* project is to be assessed by you, and none of it submitted. (These are marked as "None").

The scheme highlights the following Projects: Nos. 4, 6, 11, 12, 16, 19, 21, 24. These are the eight Projects designated for assessment which *everyone* must submit.

**ALWAYS CHECK THE FOLLOWING SCHEME
TO FIND OUT THE PART(S) OF EACH PROJECT
ON WHICH YOU ARE TO SUBMIT WORK.**

Drafting Projects	Work to be submitted
Drafting Project 1	Parts 2 and 3 together.
Drafting Project 2	Section 1, Part 2 and Section 2, Part 2 together.
Drafting Project 3	Part 2.
<i>Drafting Project 4</i>	<i>Part 2.</i>
Drafting Project 5	None.
<i>Drafting Project 6</i>	<i>Part 2.</i>
Drafting Project 7	All (<i>single part Project</i>).
Drafting Project 8	Sections A, B and C together.
Drafting Project 9	None.
Drafting Project 10	Sections A, B and C together.
<i>Drafting Project 11</i>	<i>Part 2.</i>
<i>Drafting Project 12</i>	<i>Part 2.</i>
Drafting Project 13	Part 2.
Drafting Project 14	None.
Drafting Project 15	None.
<i>Drafting Project 16</i>	<i>Part 2.</i>
Drafting Project 17	None.
Drafting Project 18	None.
<i>Drafting Project 19</i>	<i>All (single part Project).</i>
Drafting Project 20	Part 2.
<i>Drafting Project 21</i>	<i>Part 2.</i>
Drafting Project 22	Parts 3 and 4.
Drafting Project 23	All (<i>single part Project</i>).
<i>Drafting Project 24</i>	<i>All (single part Project).</i>

What is on the Audio Cassettes?

This programme is supported by three audio cassettes, which are referred to by tape number, side and track, at various intervals during the Course. Most of these commentaries are to be used for review with the suggested answers provided for the Drafting Projects. The full contents are as follows:

TAPE ONE

Side A	- Track 1:	Welcome to the Course	19'49"
	- Track 2:	Introduction to the Drafting Projects	17'58"
Side B	- Track 1:	Drafting Project 1	21'13"

TAPE TWO

Side A	- Track 1:	Drafting Project 6	23'28"
Side B	- Track 1:	Module 1B, Section 2 (Analysing Instructions)	14'43"
	- Track 2:	Drafting Project 12	25'23"

TAPE THREE

Side A	- Track 1:	Drafting Project 14	28'13"
Side B	- Track 1:	Drafting Project 17 (part 1)	17'22"
	- Track 2:	Drafting Project 17 (part 2)	11'57"
	- Track 3:	Drafting Project 18	12'08"

Note: When you have finished listening to a track stop the tape, and only continue 'playing' on to the next track (which you will find 10 seconds later) when you are ready to listen to it. This will save time searching for individual tracks later.

How should you study this material?

At the beginning of each Part and of each Section, you will find a Preview page. This indicates:

- the Objectives that you should be aiming for in your study in that Part or Section;
- the matters under study and the principal questions that are dealt with;
- any specific advice on how you may study that particular Part or Section.

You should always start the work by reading the relevant Preview. You will find that suggestions are made there about the order in which Sections may be tackled. But there is also a clear statement when it is recommended that specified features should be completed before others are attempted.

You may wish to experiment with different approaches to the materials, in order to suit your own requirements. For example, you could read quickly through the next section for study before settling to the Activities and Exercises that are set in the one you have just read. Alternatively, you may want to tackle them as you meet them.

You should, however, try to plan your work to complete a Section or a part of a Section during a study session. The modules offers convenient break-points, which you should establish before you start a session. By setting yourself a suitable break-point, you set a goal for the session, as well as provide a convenient point to stop.

It is vital that you remember that the Course is designed for individual and independent study. You must, therefore:

- work on your own;
- plan your own working sessions;
- complete the work according to your own timetable.

It is intended that you set your own pace to meet your own learning needs.

Planning your study

Work on this programme will require sustained study. During study sessions, you should aim to work for periods of around an hour at a time, with a short break before you start again. The actual length of the study session should be governed by the nature of the study on which you are currently engaged. As mentioned earlier, you should aim to finish a study session at a natural break-point in the text, which you should establish before you start the session.

Distance training is based on the assumption that trainees will organise their study in the way that best meets their circumstances.

At the end of this Introduction, we have provided blank timetables, at least one of which we suggest you fill in as you complete each stage of your work. Use whichever of the timetables best suits the way in which you plan your work. Filling in a timetable as you proceed will allow you to monitor your progress.

How does the programme work?

The Course puts considerable emphasis upon *doing* tasks that confirm and extend understanding of the subject and that will contribute to legislative writing capabilities. This feature is found throughout the Modules. The sequence of materials is designed so that you gradually reinforce and build upon what you learn in one part by your studies in later parts. This should be borne in mind when you are judging your progress.

In studying this Course, you will be expected to do the following:

- to work through the study materials in the Course Text binder (Parts 1 and 2).

These take you through the study topics, drawing out the legal considerations that are important to the drafter and emphasising the drafting implications of the particular matter under study. You will be asked, from time to time, to consider other materials and legislative precedents in support of the text. These are contained in the first section of the Materials Book.

The text also contains numerous illustrations of the points under consideration. These are set out in Example Boxes:

Example Box 1

25. A citizen of Utopia employed in the service of the Republic who, when acting on purporting to act in the course of that employment outside Utopia, does an act which would constitute an offence if done within Utopia, is guilty of that offence.

You will note that this Course uses a distinctive font for quoted examples of legislative text.

- to undertake specified Activities.

These enable you to follow up points in the source materials, in particular by finding out local practice on the matter, or by collecting local statutory precedents that illustrate that practice. These should be kept in the folders in the last part of the Materials Book. The activities are set throughout the Module with space for you to respond or to make notes, in the following way:

Activity Box 1

If your Interpretation Act has an equivalent definition of “person”, confirm its contents by copying it in the space provided.

- to undertake specific Exercises.

The exercises are indicated throughout the Course Texts, to provide an opportunity for you to test whether you have thoroughly understood the matter under consideration.

Exercises are highlighted as shown below:

**COMPLETE EXERCISE BOX 7 AND THEN COMPARE
YOUR ANSWER WITH ANSWER BOX 7**

You will find the exercises located under the appropriate module and section headings in the Exercise binder. For example:

Exercise Box 3

Redraft the sentence in Example Box 12, as directly and concisely as possible.

Once you have completed the exercise, you are expected to assess your own answers, and so will be directed to compare the answer which you write in the space provided in the Exercise Box with that shown in the corresponding Answer Box, in the Answers binder.

An Answer Box takes the following form:

Answer Box 7

The definition term “abut” is a verb; the definition uses a different part of speech (a participle). The correct form is:

“adjoin” includes abut on or share a common border with.

- to undertake drafting projects.

These are more substantial drafting exercises which you will be asked to do at the end of a Section or Part of the Module. They provide an opportunity for you to apply the knowledge and skills that you should have acquired at that stage.

You will be directed to these as appropriate, in the yellow *Review* pages which are located at the end of each section. The projects are numbered in sequence, may consist of more than one part, and are located in the Drafting Projects Book.

There is an oral introduction to working on these on an audio cassette (Tape One; Side A; Track Two) which you should listen to before you undertake the first drafting project.

At the completion of each project, you will be asked to compare your work with the relevant Suggested Answer, in the Drafting Projects (Answers) Book. In addition to the draft, there are Notes on the principal drafting points which we expect that you will have dealt with.

For some projects, the written notes are supplemented by spoken comments on the audio cassettes. You will be directed to listen to these at the appropriate time..

Eight of the Drafting Projects will be assessed externally and you will need to send them for review. There is an overview table which shows the position of these projects (and which ones will be assessed externally).

How long will the work take?

The speed at which you complete the Course depends upon many factors, apart from any problems occasioned by the Course content, for example:

- your familiarity with the subject-matter;
- your personal working speed;
- the environment in which you are working;
- the length of each study session;
- your commitment and concentration.

It is likely that your rate of progress will vary considerably during the course of the programme. You will find it helpful to keep track of your own progress by filling in a record of how much you have done and by what time.

Depending on the time you can set aside for study, the Course may take several weeks or several months to complete. We suggest you complete a timetable such as the example provided in this Introduction, begin by setting yourself targets to achieve and plan to set aside a regular amount of time in order to do so. Review your progress from time to time and amend your targets if necessary.

How do you monitor your progress?

You will want to know, as you work through the Course, whether you are making satisfactory progress. There are two principal ways in which you can do this:

- **the drafting projects**

These are set at the end of the Parts and are there to enable you to put into practice the main features of what you have been learning. You should be able to assess your progress by:

- how readily you were able to deal with the issues raised, and in particular the extent to which you had to refer back to the Course material for guidance;
- comparing your draft with the Suggested Draft.

The Notes that go with the Suggested Draft and the commentaries on the audio cassette are intended to draw your attention to the matters that are likely to have presented difficulties. If you have resolved those on the lines suggested, then you can feel that you have made sound progress.

- **Review pages**

At the end of each Section, you will find a Review of what was contained in that Section, of the objectives when studying it and a repeat of the questions that you will have just dealt with. The Review suggests that you remind yourself of the work you have done, including any Project Draft, to find out whether there are any matters on which you still feel unsure. It is then suggested that you re-work the parts of the Course that touch upon those matters, before you go to any later part of the Course. This is a necessary device in distance training programmes.

In assessing your progress, you must be wholly honest with yourself. The Course is founded on the principle of building blocks. If you are not confident about any segment, you may find that this holds you back at a later stage. At the same time, you must expect to find that many of the finer details only stay with you with practice, which, on the full Course, will be provided in the course of working on subsequent Modules.

How should you begin your study?

If you have not already done so, listen to the first track of the audio cassette. This contains a spoken welcome to the Course. Some points dealt with in this Introduction are mentioned in it, but it aims to put the Course in its wider context of the demanding, but vitally important, work of legislative drafting. After you have listened to the cassette and read this Introduction, you should turn to the Course Book, and start work on the Course, by reading the first Preview pages.

**START WORK ON PART 1 COURSE TEXT
BY READING THE PREVIEW TO THE FIRST MODULE AND SECTION**

Let us know what you think

As you work through these materials we would like to learn from your experience also, and so we invite you to provide feedback and comments on the programme as you progress. Using this information we aim to ensure that the material meets your needs now and for others in the future.

LEGAL TECHNICAL ASSISTANCE ASSIGNMENTS AND PROJECTS PERFORMED FOR COMMONWEALTH COUNTRIES UNDER THE COMMONWEALTH FUND FOR TECHNICAL CO-OPERATION (CFTC)

Notes

- (1) A number of the projects listed below have been completed but many are still in operation, or under consideration or awaiting recruitment and includes other assistance provided the Management and Training Services (formerly Fellowships and Training) Programme of the CFTC.
- (2) The reference to ELASD means that the project was undertaken by the Economic and Legal Advisory Services Division (formerly the Technical Assistance Group (in association with other countries, where appropriate).

COUNTRY/REGION/ORGANISATION ASSISTED, DESCRIPTION AND DURATION OF PROJECT

Africa Region

- Project co-ordinator, Trade and Investment Laws of the Preferential Trade Area. March 1991 - 3 years.

University of the South Pacific

- Lecturer in law. August 1994 - 2 years.

Organisation of the Eastern Caribbean States

- Programme co-ordinator, Maritime Boundary delimitation. May 1995 - 2 years.

University of the West Indies

- Director, Legislative Drafting Programme. October 1989 - September 1996.

Commonwealth General

- Distance training of legislative drafters. February 1994 - 1 year.

Bahamas

- MA degree in Maritime Law. October 1993 - 1 year.

Bangladesh

- LLM degree in legislative drafting. October 1993 - 1 year.

Bermuda

- Assistance with securities legislation. September 1993 - continuing (ELASD).

Gambia

- Justice of Appeal, Court of Appeal. November 1993 - 2 years.
- MA degree in Maritime law. October 1993 - 1 year.

Kenya

- Chief Justice of Kenya. April 1993 - 2 years.
- Senior Principal Parliamentary Counsel. October 1995 - 2 years.

Lesotho

- LLM degree in legislative drafting. October 1993 - 1 year.
- Legal draftsman. August 1995 - 2 years.

Malawi

- Administrative law workshop. 1 week.

Maldives

- MA degree in Maritime law. October 1993 - 1 year.

Malta

- Director, International Maritime Law Institute. September 1992 - 2 years.

Namibia

- Legal draftsman. April 1991 - June 1996.
- LLB degree. October 1993 - 1 year.
- LLB degree. April 1991 - 40 months.

Nauru

- Secretary for Justice. June 1991 - June 1996.

Nigeria

- LLM degree in legislative drafting. October 1993 - 1 year.

Papua New Guinea

- LLM degree in legislative drafting. October 1993 - 1 year.
- Legal Expert (Marine law). March 1991 - September 1996.

St. Kitts & Nevis

- Law Revision Commissioner. (Under contract)

St. Vincent & the Grenadines

- Legal draftsman. July 1990 - 4 years.

Seychelles

- Environmental lawyer. January 1993 - 2 years.

Sierra Leone

- Legislative drafting expert. September 1993 - 3 months.
- Legal Expert, Interim National Electoral Commission. June 1995 - 1 year.

Tanzania

- LLM degree in Maritime law. October 1993 - 1 year.

Zambia

- LLM degree in legislative drafting. October 1993 - 1 year.

Zimbabwe

- LLM degree in legislative drafting. October 1993 - 1 year.

**VICTORIA FALLS DECLARATION OF PRINCIPLES FOR THE PROMOTION
OF THE HUMAN RIGHTS OF WOMEN**

**Africa Regional Judicial Colloquium on the Domestic Application
of International Legal Instruments that Promote Gender Equality**

19-20 August 1994, Victoria Falls, Zimbabwe

Introduction

Senior Judges from Commonwealth African countries met at a Regional Judicial Colloquium on 19-20 August 1994, at Victoria Falls in Zimbabwe, to examine the domestic application of international and regional human rights norms as they specifically relate to women. The Colloquium, which was the first such high-level meeting of judges devoted to the human rights of women, was organised and convened by the Women's and Youth Affairs Division of the Commonwealth Secretariat in collaboration with the government of Zimbabwe. Participants comprised of both female and male judges drawn from the following countries: Botswana, The Gambia, Ghana, Kenya, Lesotho, Malawi, Nigeria, Sierra Leone, South Africa, Tanzania, Uganda, Zambia and Zimbabwe. The Colloquium was attended by representatives from the Ministry Responsible for Women's Affairs and the Ministry of Legal and Parliamentary Affairs in Zimbabwe, as well as by the African Commission on Human and People's Rights, the United Nations Division for the Advancement of Women and the Association of Women, Law and Development in Africa. The Chief Justice of Zimbabwe, the Hon A Gubbay, opened the Colloquium. The keynote address was delivered by the Hon Madam Justice Beverley McLachlin, of the Supreme Court of Canada, with further addresses delivered by the Hon Justice Bhagwati, former Chief Justice of India, Professor Albie Sachs of the University of Cape Town and the Hon Madam Justice Sandra Oxner, President of the Commonwealth Magistrates' and Judges' Association (CMJA). Discussions resulted in the formulation and endorsement by the participants of the Victoria Falls Declaration of Principles for the Promotion of the Human Rights of Women, as follows:

1. The participants reaffirmed the principles stated in Bangalore, amplified in Harare, affirmed in Banjul, confirmed in Abuja, reaffirmed at Balliol, Oxford and reinforced at Bloemfontein. These principles reflect the universality of human rights - inherent in men and women - and the vital duties of an independent judiciary in interpreting and applying national constitutions and laws in the light of those principles. These general principles are applicable in all countries, but the means by which they become applicable may differ.
2. The participants noted that all too often universal human rights are wrongly perceived as confined to civil and political rights and not extending to economic and social rights, which may be of more importance to women. They stressed that civil and political rights and economic and social rights are integral and complementary parts of one coherent system of global human rights.

3. The participants were aware that universal human rights, are usually interpreted as applying to regulate the public sphere. Violations of human rights in the private sphere, including the family - the site of much of women's experience of violations - are usually perceived to be outside the reach of human rights. The participants noted that although the State does not usually directly violate women's rights in the private sphere, it often supports or condones an exploitative family structure through various laws and rules of behaviour which legitimate the authority of male members over the lives of female members of the family and, in any event, often it fails to act to protect women from private violations or tolerates or, indeed, encourages, a structure wherein private violations occur all too frequently.
4. The participants recognised that many of the existing international and regional human rights standards were formulated within a primarily male perspective and with insufficient gender sensitivity and sometimes fail to provide protection for the gender specific interests of women. The participants emphasised the urgent need for the formulation of further specific rights for women, particularly in the economic and social field. The participants stressed the vital need for women to be centrally involved in decision-making at all levels.
5. The participants recognised that discrimination against women can be direct or indirect. They noted that indirect discrimination requires particular scrutiny by the judiciary. The participants, further, emphasised the need to ensure not only formal, but also substantive equality for women and, for that purpose, affirmative action may be adopted if necessary.
6. The participants noted that although international human rights are inherent in all human kind, very often such rights are perceived to be owned, only or largely, by men. The participants emphasised, as did the 1993 United Nations World Conference on Human Rights, that the human rights of women are as valuable as the human rights of men.
7. The participants recognised that international human rights instruments, both generally and particularly with reference to women, and their developing jurisprudence enshrine values and principles long recognised as essential to the happiness of humankind. These international instruments have inspired many of the constitutional guarantees of fundamental rights and freedoms within and beyond the Commonwealth. These constitutional guarantees should be interpreted with the generosity appropriate to charters of freedom. Particularly, the known discrimination guarantee should be construed purposively and with a special measure of generosity.
8. The participants agreed that it is essential to promote a culture of respect for internationally and regionally stated human rights norms and particularly those affecting women. Such norms should be applied in the domestic courts of all nations and given full effect. They ought not to be considered as alien to domestic law in national courts.

9. All Commonwealth governments should be encouraged to ratify the Convention on the Elimination of All Forms of Discrimination Against Women before the Fourth United Nations World Conference on Women to be held in Beijing in 1995. Those governments which have ratified the Convention with reservations, should examine the content of those reservations, with a view to their withdrawal.
10. All Commonwealth governments should ensure that domestic laws are enacted or adjusted to conform with the international and regional human rights standards.
11. The judicial officers in Commonwealth jurisdictions should be guided by the Convention on the Elimination of All Forms of Discrimination Against Women when interpreting and applying the provisions of the national constitutions and laws, including the common law and customary law, when making decisions.
12. The participants agreed with the views expressed in the Vienna Declaration and Programme of Action encouraging the speedy preparation of an optional protocol to enable individual petition under the Convention on the Elimination of All Forms of Discrimination Against Women.
13. All Commonwealth governments should subscribe to the principles contained in the Declaration on Violence Against Women, adopted by the UN General Assembly in December 1993. The participants agreed with the Declaration's classification of violence against women as a form of discrimination and violation of human rights.
14. All Commonwealth governments should offer appropriate assistance to the United Nations special rapporteur on violence against women.
15. There is a particular need to ensure that judges, lawyers, litigants and others are made aware of applicable human rights norms as stated in international and regional instruments and national constitutions and laws. It is crucially important for them to be aware of the provisions of those instruments which particularly pertain to women.
16. The participants recognised and recommended that gender sensitised new initiatives in legal education, provision of material for libraries, programmes of continuing judicial discussion and professional training to lawyers and other interest groups in the protection of the human rights of women and better dissemination of information about developments in this field to judges and lawyers should be undertaken for effective implementation of these principles.
17. The participants emphasised the need to translate the international human rights instruments and the African Charter of Human and Peoples' Rights into local languages, in a form accessible to the people and urged the governments to undertake or support that task.

18. The participants were of the view that the governments should mount extensive awareness campaigns through diverse means to disseminate and impart human rights education and encourage and support efforts by non-governmental organisations in this context.
19. The participants acknowledged the important contribution of non-governmental organisations in the dissemination of information about women's human rights and making women aware of those rights. The participants called upon the governments to acknowledge and support the work of non-governmental organisations in the promotion of the human rights of women.
20. The participants emphasised the need to enable non-governmental organisations to provide *amicus curae* briefs and other legal advice, assistance and representation to women in cases involving human rights issues. The participants also stressed the need to provide free legal aid and advice to women at state cost for enforcement of their human rights.
21. Public interest litigation and other means of access to justice to litigants, especially women, who wish to complain of violations of their rights should be developed. Non-governmental organisations involved in women's issues should also be permitted to bring violations of human rights of women before the courts for redress.
22. Judges and lawyers have a duty to familiarise themselves with the growing international jurisprudence of human rights and particularly with the expanding material on the protection and promotion of the human rights of women.
23. Closer links and co-operation across national frontiers by the judiciary on the interpretation and application of human rights law should be encouraged.
24. Law schools should be encouraged to develop courses in human rights, which must include a module on the human rights of women.



95/37

13 September 1995

Colloquium Promoting the Human Rights of Women through Domestic Application on International Human Rights Standards

7 September 1995, NGO Forum, Huairou, China

Successful court challenges to discriminatory nationality and immigration laws were among the highlights of discussion at a Colloquium organised by the Commonwealth Magistrates' and Judges' Association and facilitated by the Commonwealth Secretariat on the promotion of the human rights of women through the domestic implementation of international human rights standards. The meeting, led by four senior women judges from around the Commonwealth, was held at Huairou, China, on 7 September 1995, as part of the NGO Forum at the Fourth World Conference on Women.

Participants, who were joined by the Commonwealth Secretary-General, HE Chief Emeka Anyaoku, discussed a number of cases in which women had been successful in attacking discrimination at the national level by appealing to international standards. Sir Humphrey Maud, Deputy Secretary-General (Economic and Social Affairs) of the Commonwealth Secretariat, underlined the commitment of the Secretariat to mainstreaming gender in all the activities of the Secretariat, particularly in legal and human rights affairs. He recalled that the Secretariat had long been involved in the promotion of the human rights of women by focusing on the Convention on the Elimination of All Forms of Discrimination Against Women.

Speakers drew attention to the Victoria Falls Declaration for the Promotion of the Human Rights of Women adopted by senior Commonwealth judges in August 1994. Participants affirmed this Declaration and made specific suggestions for its implementation. They recommended that:

- * human rights activists, NGOs and other organisations alert women and men to the content and application of international and regional human norms;
- * human rights activists, NGOs and other organisations encourage the institution of legal proceedings in cases where rights guaranteed under those treaties are violated;

- * NGOs and, in particular, lawyers' groups be encouraged to form national, regional and international networks with a view to the advancement of women's human rights;
- * the legal profession be encouraged to be aware of human rights instruments and their application and draw on them in their submissions to court wherever they may be relevant.

The report of the Victoria Falls Colloquium and the results of the Beijing meeting will be presented to the coming meeting of Heads of Governments of the Commonwealth in Auckland in November 1995. The Commonwealth Secretariat plans to hold another colloquium on advancing women's human rights through the use of international standards in the Asia-Pacific region in 1996.

ACTIVITIES OF THE COMMONWEALTH LEGAL ADVISORY SERVICE

A Note by Mr J P Gardner, Director of the British Institute of International and Comparative Law

1. MAIN AREAS OF WORK UNDERTAKEN BY CLAS

- a. Advice and assistance on particular legal problems
- b. Production of comparative surveys of particular areas of Commonwealth law
- c. Critical advice on draft legislation
- d. Preparation of bibliographies on particular legal subjects
- e. Obtaining and supply of particular legal books and documents on request
- f. Placement with it of legal officers from the Commonwealth
- g. Advice with regard to recruitment of legal personnel

1.1 The current emphasis of work is on item (a), the provision of legal advice on particular problems at the specific request of Commonwealth governments, and on items (b) and (f). Other activities are limited, in part due to insufficiency of resources and because demand is split within the Commonwealth.

1.2 This note analyses this work and the four other areas of work, identifies its principal features and CLAS's suitability to undertake this work.

1.3 The second part of the note reviews the division of responsibility between CLAS and the Legal and Constitutional Affairs Division of the Commonwealth Secretariat .

2. PRINCIPAL FEATURES OF CLAS'S MAIN ACTIVITIES

2.1 From its inception, CLAS has operated as a demand-led agency. Its task is to respond to actual requests for assistance from Commonwealth states. Its work reflects the expressed needs of Attorneys General and their staff from whom the majority of requests for assistance come.

2.2 The subject matter of the requests varies widely but the nature of the requests and the purpose for which CLAS's assistance is requested is constant: requests concern legislative or procedural reform proposals which are under consideration or in draft. CLAS is asked to provide specialist advice and comparative research drawing on solutions which have been tried and adopted in comparable jurisdictions and information about practical issues or obstacles to the implementation of reforms.

2.3 The work required of the Service is therefore specifically based upon the needs of the requesting Department. It requires, first, analysis of the request and the preparation of terms of reference for the research; secondly, comparative research on legislative or procedural or administrative solutions adopted or considered elsewhere in the Commonwealth; and, thirdly, a review of the policy and practical constraints which have affected the implementation or operation of similar reforms in practice.

2.4 This work involves, first, research with access to Commonwealth legal materials and, secondly, where appropriate, consultation with other Commonwealth jurisdictions on their recent practice and experience. Importantly, the variety of substantive issues raised means that it is necessary to ensure a sufficient pool of research experience and a network of specialists whose advice can be sought in answering the issues raised by the requesting state.

2.5 The British Institute of International and Comparative Law provides this service through CLAS in the following way. Requests are submitted first to the Legal Secretary to the Service who analyses them and carries out an initial review. Those which require research in areas where CLAS has already advised may be answered by developing work already undertaken in preparing abstracts of past advice. The division is intended to identify those which will require more extensive research and those of a more routine character.

2.6 The Legal Secretary, under the supervision of the Director, has the support first of the research staff of the Institute (seven lawyers, all with postgraduate degrees or professional experience, or both). This ensures that a wide range of legal issues, especially those in the area of good government and procedural issues, can be responded to rapidly and with authority.

2.7 In addition, each request for advice is reported to the Commonwealth Sub-Committee of the Institute's Advisory Board who are able to identify issues of particular importance and give guidance. The Committee is chaired by the Rt. Hon. Lord Browne-Wilkinson and consists of eminent specialists from the Bench, private practice, public service and the universities with a detailed knowledge of the Commonwealth. The Committee is able to make suggestions both as to the approach to particular issues and to identify others whose expertise may be drawn on in answering requests. In addition the Institute is well placed to identify specialists for specific assistance from its membership and from its range of academic and practising contacts.

2.8 The research involved in answering requests involves consulting Commonwealth legislative texts and practice. The Institute has its own small working library of comparative material, but its offices are in the same building as the Institute of Advanced Legal Studies which houses the principal research library in law of the University of London. In particular, the Library includes the Commonwealth Law Library of the Foreign and Commonwealth Office which is the largest and most complete holding of Commonwealth statutory materials (approximately 3000 publications).



APPENDIX VI

THE VICTORIA FALLS PROCLAMATION 1994

"FOR AN INDEPENDENT JUDICIARY THROUGH JUDICIAL EDUCATION"

WE, JUDGES AND MAGISTRATES from free and independent jurisdictions of the Commonwealth, **Conscious** of the necessity of reaffirming the vital rôle of an independent judiciary in realising the Commonwealth vision of a just and progressive society, and of the value of judicial education in securing and strengthening such a judiciary;
Meeting at Victoria Falls, Zimbabwe, in the General Assembly of the Commonwealth Magistrates' and Judges' Association;

DO SOLEMNLY DECLARE AND PROCLAIM as follows :

Article I

The Rule of Law, which is the essential foundation of a just and responsive system of government, requires settled and just laws, fairly administered without fear or favour, for its observance and advancement.

Such laws must offer protection to individual citizens and their rights, and especially to the rights of those who belong to minorities or are otherwise disadvantaged, as well as opportunities for personal and national social and economic development.

Article II

The Rule of Law can only be observed if there is a strong and independent judiciary which is sufficiently equipped and prepared to apply such laws.

Although it is highly desirable that the independence of the judiciary, as one of the arms of government, should be formally protected by constitutional guarantees, the best protection rests in the support of government and people on the one hand, and in the competence and confidence of judges and magistrates in the performance of their offices on the other.

Article III

Provision of formal and informal instruction for judges and magistrates in the performance of their duties, in their responsibilities as independent adjudicators, and in the laws and procedures which they are required to apply is an essential element in a modern and fair legal system.



Article IV

The independence of a judiciary is greatly strengthened by the mutual support which its members, and the practising legal profession, can offer in the pursuance of these ideals. Such support is especially valuable and effective at the inter-Commonwealth level between different jurisdictions.

And, for the practical implementation of the principles and purposes here declared, **WE DO FURTHER RESOLVE** that :

1. This Proclamation and its content shall be formally communicated to :

The Commonwealth Secretariat; and through the Secretariat to the Commonwealth Heads of Government, and to the heads of the judiciaries in each Commonwealth country or territory;

Commonwealth public and private bodies and associations concerned with the law and its administration;

Other national and international bodies concerned with the Rule of Law.

2. The Commonwealth Magistrates' and Judges' Association has, through its Council, established as an integral part of its activity and as a principal instrument for the realisation of its rôle in regard to judicial education in the Commonwealth **The Commonwealth Judicial Education Institute**. Under the authority of the Council of the Association the Institute is charged with the task of securing the furtherance of the principles and purposes stated in this Proclamation through such action as the Commonwealth Magistrates' and Judges' Association shall consider appropriate, and especially by promoting the independence of the judiciary in Commonwealth countries through the provision of appropriate judicial education at all levels.

Without prejudice to the generality of its primary task, the Institute will :

- i) collect and disseminate information and materials on judicial education and training in Commonwealth countries and best practice therein;
- ii) promote and support the establishment of national and regional centres and provide for mutual assistance from Commonwealth countries to each other in the field of judicial education by the arrangement of exchange visits, the offer and conduct of courses, and the like;
- iii) advise, where so requested, on current provision for judicial education in particular Commonwealth countries.

This General Assembly hereby commends and expresses its warmest support for this initiative.

Declared at Victoria Falls, Zimbabwe, this 26 day of August 1994

**THE COMMONWEALTH LEGAL
COMPUTERISATION GROUP (CLCG)****TERMS OF REFERENCE**

**Prepared by the Attorney General's Chambers,
Singapore in consultation with the
Commonwealth Secretariat**

Recognising the potential for computers to energise the legal systems of countries (particularly where statute books had become a morass of amendments and intricate cross-references) and the need to make widely available the experience and expertise already required, Law Ministers had at their Meeting held on 15 to 19 November 1993 in Grand Baie, Mauritius resolved that there be established a panel of experts as a Commonwealth Legal Computerisation Group (CLCG).

Upon the mandate of Law Ministers, Senior Officials had, at the Meeting held from 29 May to 1 June 1995 at Malta, agreed that the CLCG will be administered in accordance with the following **Terms of Reference** :

1. OBJECTIVES OF CLCG

1.1 The objective of establishing the CLCG is to provide technical advice and guidance to individual member Governments on maximising the use of computer technology in the legal field, particularly in legislation, law revision and legal research and in so doing :

to harness and optimise the use of existing resources, expertise and facilities within the Commonwealth for this purpose.

2. STRUCTURE AND ADMINISTRATION

2.1 The facility is a loose arrangement for voluntary assistance and sharing by the panel of experts and for the coordination and handling of information and associated aspects relating thereto. The assistance will be administered by the Commonwealth Secretariat from its headquarters in London.

2.2 As the facility is essentially an information service which could be initiated by and within the current mandates of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat,

it is envisaged that its administration will not require any extra staff or substantial funding.

**3. COMMONWEALTH LEGAL
COMPUTERISATION GROUP**

3.1 There shall be a Commonwealth Legal Computerisation Group of not more than 10 members which will give technical advice and guidance and share their experience and expertise free of charge to individual Commonwealth governments.

3.2 Members of the Group shall be experts in the field of Computerisation. Membership of the Group shall be determined, if possible, in the first instance on a volunteer basis. Failing this members of the Group shall be elected from persons nominated by member states. Each member state shall be allowed to nominate up to two persons who may serve as alternates as necessary.

3.3 The term of members of the Group shall be 2 years but members may be re-nominated or re-elected.

3.4 Each Commonwealth government shall be responsible for the expenses of the participation of their nominee.

4. FUNCTIONS

The members of the Group shall constitute a standing Committee and shall perform the following functions:

4.1 Oversee pan-Commonwealth developments in the field of computerisation with a view both to securing maximum efficiency and to ensuring that dissimilarities which could eventually lead to disruption in exchanges of legal information are avoided.

4.2 Foster the orderly development of regional co-operation in these areas (including with relevant non-Commonwealth countries).

4.3 Inter alia assist in developing approaches to legal computerisation particularly suitable for small jurisdiction.

4.4 Advise individual governments ad hoc when requested.

4.5 Foster such transfers of technology between Commonwealth countries as may be appropriate.

4.6 Assist in developing any publication programmes that may become desirable.

4.7 Assist in advising on any necessary amendments to relevant legislation to accommodate technical developments (eg evidence, data protection, computer crime).

5. REQUESTS FOR ASSISTANCE

5.1 Commonwealth users wishing to seek assistance from the Group may make requests through:

The Director
Legal & Constitutional Affairs Division
Malborough House
Pall Mall
London SW1Y 5HX
United Kingdom

Tel: 0171-747 6410
Fax: 0171-747 6406

5.2 The Secretariat will channel requests for assistance to appropriate members of the Group for assistance. The member requested will without charge and subject to resource limitations offer technical advice and guidance on the request.

5.3 Members of the Group may also recommend software or hardware vendors if a commercial arrangement is necessary.

5.4 Any visit to the requesting country by a member of the Group or a Consultant recommended by a member of the Group, to provide the necessary assistance may be undertaken by mutual bilateral agreement subject to the requesting party bearing the travelling, accommodation and other expenses involved, unless other funding arrangements have been made.

5.5 Members of the Group may on request conduct demonstrations of their respective computer systems to representatives of the requesting country. The travelling, accommodation and other expenses of the visiting representatives will be borne by the requesting country unless other funding arrangements have been made.

5.6 The Committee shall be serviced by the Commonwealth Secretariat and shall report periodically both to Law Ministers and Senior

Officials through the Commonwealth Secretary General.

6. COSTS

6.1 Initial start up costs may not be substantial but would necessarily be incurred for -

- (i) collation of information to form basic database on service and expertise available;
- (ii) maintaining a database of frequently asked questions and demonstration softwares;
- (iii) dissemination of information on the service.

6.2 The reasonable costs incurred by the Commonwealth Secretariat and any member of the Group in connection with the requested assistance unless other funding arrangements have been made shall be borne by the requesting party. However, the mere provision of uncomplicated advice and documents should normally not attract any costs.

7. DURATION OF OPERATION

7.1 The Group will operate for a trial period of 5 years. Thereafter Law Ministers may decide to continue or discontinue the service pending on whether the service meets the needs of member states.

THE COMMONWEALTH ARBITRATION ASSISTANCE SERVICE (CAAS)

TERMS OF REFERENCE

Recognising the efficacy of arbitration in the resolution of international commercial disputes and the importance of international arbitration centres within the Commonwealth, Law Ministers had at their Meeting held from 15 to 19 November 1993 in Grand Baie, Mauritius resolved that there be established a Commonwealth Arbitration Assistance Service (CAAS), the form and structure thereof shall be settled by Senior Officials at their Meeting in Malta in 1995.

Upon the mandate of Law Ministers, Senior Officials had, at the Meeting held from 29 May to 1 June 1995 in Malta, agreed that the CAAS will be administered in accordance with the Terms of Reference as herein appearing

1. OBJECTIVES OF CAAS

1.1 CAAS is a service to provide assistance to Commonwealth users to facilitate an effective and cost-efficient system of dispute resolution for commercial disputes utilising existing Commonwealth resources, expertise and facilities. It is to complement, not compete, with existing Commonwealth national or regional arbitration centres.

1.2 The objectives of CAAS shall be:

- To assist, encourage, promote and facilitate the resolution of international commercial disputes by arbitration, conciliation and other methods of alternative dispute resolution within the Commonwealth.
- To harness and optimise the use of existing resources, expertise and facilities within the Commonwealth for this purpose.

2. STRUCTURE AND ADMINISTRATION

2.1 The facility is a service arrangement, not intended to be a functional arbitration centre, for the co-ordination and handling of information and associated aspects relating to arbitration and for the rendering of assistance to Commonwealth countries and interests in all these matters. The Service will

be administered by the Commonwealth Secretariat from its headquarters in London.

2.2 As the facility is essentially an information service which could be initiated by and within the current mandates of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat it is envisaged that its administration will not require any extra staff or substantial funding.

3. ADVISORY COMMITTEE

3.1 There shall be an Advisory Committee which will advise and assist the operation of the facility.

3.2 Members of the Committee shall be persons nominated by Member Jurisdictions.

3.3 The term of the Advisory Committee shall be 1 year but members may be re-nominated or re-elected.

3.4 Each member or nominee shall be responsible for the expenses of their own participation.

4. FUNCTIONS

4.1 CAAS will undertake the following functions:

- (a) Serve as repository for arbitration rules, relevant legislations and judicial or arbitral decisions in the Commonwealth.
- (b) Facilitate the harmonisation of arbitration laws and the adoption by Member Jurisdictions of international conventions or model laws on arbitration.
- (c) Provide information on the arbitration centres, mediation and other forms of alternative dispute resolution or schemes available in the Commonwealth and elsewhere, and the types of services which those centres could offer.
- (d) Provide information concerning the types of disputes which could be resolved through arbitration centres, and the modalities for their resolution.

- (e) Provide information on the courses or programmes available for the training of arbitrators, conciliators, mediators and other ADR professionals.
- (f) Compile in consultation with governments and arbitration centres, lists of appropriate Commonwealth persons competent and qualified to serve as arbitrators, conciliators, mediators, tribunal members or willing to serve in any specialist capacity.
- (g) To provide such other related assistance as may be requested by Commonwealth users.

5. REQUESTS FOR ASSISTANCE

5.1 Commonwealth users wishing to seek assistance under the CAAS may make requests through:

The Director
Legal & Constitutional Affairs Division
Commonwealth Secretariat
Marlborough House, Pall Mall
London SW1Y 5HX
United Kingdom

Tel: 0171 747 6410
Fax: 0171 747 6406

6. COSTS AND FUNDING

6.1 Initial start up costs may not be substantial but would necessarily be incurred for:

- (i) the collation of information to form a basic database on arbitration legislations, rules, judicial or arbitral decisions;
- (ii) the setting-up of a database including computer hardware, software and database costs;
- (iii) the dissemination of information on the service.

6.2 Initial funding shall be by way of voluntary contributions from Member Jurisdictions.

6.3 Costs incurred by the Commonwealth Secretariat in connection with the requested assistance shall be borne by the requesting party. The Commonwealth Secretariat may charge such administrative fees as it deems appropriate.

7. DURATION OF OPERATION

7.1 The CAAS will be implemented for a trial period of 5 years. Thereafter Law Ministers may decide to continue or discontinue the service.

Sub-Programme Activity Framework							
Sub-Programme Code/Title: B8.2 Human Rights			Executing Divisions: HRU, LCAD				
Division of Lead Director: LCAD							
Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.2 (a)	Human rights education and training	To promote greater awareness of human rights concerns among public officials, judges, teachers, other target groups Encourage wider accession and effective implementation of international human rights instruments	Continuing activity July 1994 - June 1997	Production of appropriate human rights teaching and training tools Short-term training courses for key officials, including specialised training on treaty obligations, and human rights teaching modules for other target groups Information sharing on human rights issues including human	Specialised human rights training manuals Training workshops Technical co-operation projects on human rights for secondary schools and for special groups Access to human rights information through print and electronic media including circulation of newsletter Database on human rights	Wider human rights awareness among public officials, judges, teachers, etc expressed through greater account being taken of human rights principles and standards in their respective areas of concern Adoption of human rights teaching by the participating educational institutions	Numbers of key officials trained Incorporation of human rights education in targeted schools Increase in human rights awareness among targeted groups Feedback on use of database Demand for newsletter Increase in accessions and evidence of

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.2 (a) ...				rights jurisprudence Link up with information networks Staff time Travel, including participation at relevant international/ regional meetings Consultants Subscriptions		More effective implementation of international instruments	improved report- ing under inter- national human rights instruments

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.2 (b)	Institution- building	To strengthen national and regional institutions for human rights	Continuing activity July 1994 - June 1997	Experts commissioned on request from member states Training of officers responsible for reporting obligations under regional human rights instruments Staff time Travel, including participation at relevant international/ regional meetings Consultants including field experts	Technical co-operation projects on national human rights institution- building Manual for reporting officers under regional instruments Surveys on the functioning of national/regional institutions A number of trained officers for reporting under regional instruments	Setting up and strengthening of national human rights institutions in member countries on request Improved reporting by Commonwealth member states under regional instruments	Establishment of national human rights institutions in requesting member states Feedback on better reporting from member states under regional instruments

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.2 (c)	Human rights, democracy and development	To promote integration of human rights concerns in development strategies/projects in line with the UN Declaration on the Right to Development	Continuing activity July 1994 - June 1997	Collaboration with other agencies (e.g. UNDP) working in this field Sensitising Secretariat staff Staff time Travel Consultants	Technical co-operation projects to promote development strategies sensitive to human rights concerns A guidebook on project development to devise ways for taking account of human rights concerns in the Secretariat's socio-economic development programmes	Greater awareness of the linkages between human rights and development among decision- makers, target groups Greater awareness of human rights issues among Secretariat staff	Greater account taken of human rights concerns in development strategies and projects in Commonwealth member states Greater account taken of human rights concerns in the Secretariat's socio-economic development programmes

Sub-Programme Activity Framework							
Sub-Programme Code/Title: B8.3 Assistance on Constitutional Matters				Executing Divisions: LCAD, ELASD, GTASD			
Division of Lead Director: LCAD							
Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.3 (a)	Assistance on constitutional matters	To meet the needs of Commonwealth governments, on request, in the review and strengthening of their constitutions and constitutional instruments in accordance with Commonwealth practice and national circumstances	1994/5-1996/7	Consultants Attachment of local personnel Staff time	Completed tasks in constitutional reform Trained personnel including constitutional lawyers Contribution to government reviews of their constitutions	Constitutional revision Resolution of specific constitutional issues Constitutional change reflecting Commonwealth values	Constitutions strengthened/amended Implementation of change by legislation General public acceptance of change

Sub-Programme Activity Framework

Sub-Programme Code/Title: B8.4 Assistance on Administrative, Judicial and Legal Matters

Division of Lead Director: I.CAD

Executing Divisions: I.CAD, GTASD, MTSD, ELASD

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (a)	Strengthening national administrative, judicial and legal systems at all levels through effective information sharing	Advance constitutional government and the rule of law by assisting governments in the improvement of the quality of their legal and judicial systems in ways consistent with common practice	1994/95- 1996/97	Staff time Consultants Printing and distribution of publications commissioned studies and background papers Judicial colloquia Workshops on administrative law and other relevant areas	Commonwealth Law Bulletin Information required by governments Organised supplies and exchanges of legal publications Agreed strategies for more open justice Agreed guidelines for more open government	Improved government legal resources of practical utility Transparent judicial systems Open and democratic government	Assessment of Commonwealth use of the information service including quantification of requests for the service from users Evaluation of impact Fewer public complaints of maladministration

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (a) ...		<p>Promoting Commonwealth links for legal information and experience sharing by fostering co-operation between law reform agencies, ombudsmen, legislative drafting establishments, bar associations and law societies</p>		<p><u>Input</u> Staff time <u>Activities</u> Meetings Assisting with the organisation of relevant Commonwealth professional meetings including triennial Law Conferences at which such co-operation can be strengthened</p>	<p>Enhanced net-working and information sharing throughout the Commonwealth between relevant official agencies and legal institutions</p>	<p>Raised professional standards in Commonwealth countries Formation of new professional bodies to deal with emerging legal issues</p>	<p>Use of networks Attendance at meetings (user pays) Membership of professional bodies More effective legal enforcement mechanisms</p>
		<p>Assisting in the development of national legal databases to ensure compatibility and access to other Commonwealth systems</p>	<p>1994/95 - 1996/97</p>	<p><u>Input</u> Staff time <u>Activities</u> Servicing of Group</p>	<p>Operational Procedures for Commonwealth Legal Computerisation Group Meeting of Group</p>	<p>Sharing of developed legal information retrieval systems</p>	<p>Maximum use of existing software Active bilateral assistance programme</p>

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (b)	Economic, commercial and other serious international crime including money laundering	To strengthen and further develop levels and areas of mutual legal assistance in criminal matters among Commonwealth jurisdictions and between Commonwealth jurisdictions and other countries	1994/95- 1996/97	Staff time Consultants Printing Scholarships Global Conference of Mutual Assistance Central Authorities Advice on implementation of Schemes Drafting assistance for laws and treaties Workshop on operation of Central authorities	Published con- ference papers or published recommendations/ agreed procedures for central authorities Published collection of relevant legal advice Drafted laws and treaties Trained staff in member countries	Access to technical papers or improved international co- operation Increased participation in Schemes New laws and treaties in force Functional national central authorities	Evaluation by participants/ repeat attendance: Government/ global acceptance of recommendations Implementation of procedures Effective co- operation between member countries Effective national control of international crime: effective bilateral assistance regimes Improved networks: fast response time to requests for assistance

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (b) ...		To strengthen and develop levels of co-operation, between Commonwealth countries and international agencies to combat serious international crime	1994/95 - 1996/97	Consultants Staff time Meetings Liaison work	Direct contact between national agencies and appropriate international bodies Supply of information and assistance Completed investigations and shared intelligence Secondment of staff from members for training in Commercial Crime Unit	Greater degree of inter-agency co-operation: working contacts established More effective investigations Members gain required assistance and information Trained staff	Members approach appropriate agency direct for assistance Number of requests received Number of successfully completed requests Assessment of seconded staff
		To facilitate the setting up of frameworks for co-operation among business regulatory agencies	1994/95 - 1996/97	Staff time Consultants Meetings	Model laws Model MOUs advice Documentation	National laws passed Bilateral relations established Working contacts with business regulatory agencies	Wide network of appropriate laws & arrangements Measurable improvement in co-operation between national agencies

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (c) ...				Provision of advice Conducting of surveys Compilation of analyses of participation Meetings			

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (d)	Improvement in effective delivery of government legal services, especially of small jurisdictions	To assist in developing frameworks for the delivery of quality legal services necessary for the effective transaction of government business, with particular reference to the special needs of small jurisdictions and to foster co-operation, especially at regional level among such jurisdictions	1994/95 - 1996/97	Staff time Commissioned studies Provision of field experts Ad hoc use of consultants	High priority legal posts filled Legal advice rendered Effectively serviced and resourced Commonwealth Arbitration Assistance Service (CAAS) Studies on organisation of effective government legal services	Framework for increased co-operation and assistance between Commonwealth Arbitration Centres Possible agreement between Commonwealth Arbitration Centres for assistance in respect of international arbitration Strengthened organisational and delivery arrangements for government legal services Improved capacity of law officers in small Commonwealth jurisdictions	Assessment of the use and value of service provided Assessment of utility of studies Effectiveness of experts

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (c)	Accession to international conventions	To provide governments, on request, with advice, technical assistance on succession and accession to relevant international conventions and the reporting obligations under them as well as the designing and provision of working manuals	1994/95- 1996/97	Staff time Consultants External technical expertise Production of accession kits Provision of advice on law of treaties Workshop on reporting under multilateral conventions	Accession kits General public international law advice Guides to treaty negotiation Trained reporters	Improved Commonwealth usage and participation in international legal system Better compliance by Commonwealth countries	Accession to most relevant conventions by more Commonwealth countries Assessment of members reporting standards

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (f)	Assistance with legislative drafting	To strengthen legislative drafting practices through training and the provision of technical assistance in fields relevant to Programme B8 areas	1994/95- 1996/97	Staff time Developing distance learning programme for training of legislative drafters in all aspects including human rights and gender issues Field experts	Increase in number of trained legislative drafters Increase in number of legislative drafting posts filled Laws revised and bills drafted Increased use of on- the-job training opportunities	Development and improvement of on-the-job training facilities Strengthened legislative drafting capabilities in Commonwealth jurisdictions	Completion and full implement- ation of distance training programme Evaluation of programme by law officers Number and quality of trained drafters completing courses Evaluation of work of drafters International recognition of distance training qualification

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (g)	Assistance to small states to overcome legal problems	Co-operation and exchanges of information between small states To increase self- reliance in small jurisdictions	1994/95- 1996/97	Staff time Consultants Papers for meetings Attendance at PILOM and other relevant international meetings Meetings Provision of advice	On request, assistance provided to fora dealing with small states issues Holding of meeting of Law Officers of Small Jurisdictions	Particular problems of small states addressed Strengthened co- operation More effective arrangements for the functioning of law offices serving small states Meeting report	Assessment by governments of practical utility and cost- effectiveness

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (h)	Servicing of meetings of Ministers, senior officials and ad hoc committees	To ensure that meetings of Law Ministers, their senior officials and special interest groups established by Ministers are productive and cost-effective	1994/95 - 1996/97	Staff time Consultants Meetings Preparation of papers Establishing and maintaining necessary channels of communication	Decisions of meetings Enhancement of schemes for co-operation Bilateral and multilateral assistance schemes	Enhanced Commonwealth co-operation Increased bilateral assistance between members Technical co-operation	Willingness of member governments to support meetings and to undertake responsibilities as ad hoc members Level of technical advancement achieved

Code (1)	Area of Activity (2)	Immediate Objectives (3)	Time Frame (begins/ends) (4)	Inputs/ Activities (5)	Outputs (6)	Outcomes (7)	Performance Indicators (8)
B8.4 (i)	Provision of Secretariat-wide legal services and advice	To provide the Secretariat (on a regular and timely basis) with quality legal advisory services necessary for the proper administration of their businesses	1994/95- 1996/97	Staff time Provision of legal advice Representation of legal interests in appropriate cases	Legal advice on a wide range of day- to-day activities including personnel and general service contracts and business structures Drafting of documents of legal nature Vetting documents for legal propriety	Resolution or pre- emption of service related issues of real or potential conflict Establishment of precedents for dealing with future problems Clearer appreciation of contractual obligations	Fewer or absence of service related conflicts or complaints Enhanced or greater effectiveness in delivery of services Regular renewal of conflict-free contractual relationships