

## THE PROMOTION AND DEVELOPMENT OF INTERNATIONAL CO-OPERATION TO COMBAT COMMERCIAL AND ECONOMIC CRIME

Memorandum by the Government of Singapore

Singapore, as a commercial, trading and financial centre gives full support to the need to regulate economic and commercial crime. The justification for such regulation is compendiously explained by Dr. Rider in paragraphs 6 to 13 of his memorandum and do not call for further elaboration or justification.

Ministers at the last meeting in Winnipeg, in any event, have already recognised the urgency of the problem and the pressing need for recommendations to be made to facilitate and develop international cooperation both in the investigation and prosecution of white collar crime. Dr. Rider in his memorandum has, in Singapore's view, produced recommendations which are feasible and practical as a first step to attain this objective and they have the distinct advantages that they would not call for legislative intervention and would not be costly to implement. Singapore for its part, accordingly strongly favours the adoption of Dr. Rider's recommendation to create a facility for liaison and cooperation within the Legal Division of the Commonwealth Secretariat to deal with white collar crime. This would entail the appointment of a Commonwealth Fraud Liaison Officer (CFLO) whose duties would include liaising with such international agencies as ICPO/Interpol and the discharge of certain other functions that Dr. Rider has enumerated and which are summarised in paragraph 6 of the introduction to the memorandum. To cement closer ties of cooperation with ICPO/Interpol and the Commonwealth Secretariat, we consider it would be useful and instructive for the Commonwealth Secretariat to send observers to relevant ICPO/Interpol meetings and to take other measures of cooperation as Dr. Rider refers to in his Supplementary Paper, Appendix VI. Singapore would be prepared to second police officers for short periods to the General Secretariat of ICPO/Interpol.

Dr. Rider has highlighted the difficulties impeding law enforcement and international cooperation. The difficulties are real and formidable whether they concern the drafting of appropriate laws to deal with economic and commercial crime, for example, the law of criminal conspiracy where an offence is committed in one Commonwealth jurisdiction which has effects in another Commonwealth jurisdiction or the detection and investigation of such crimes or the extradition problems that face a requesting country.

We will confine ourselves to making some general observations on certain points made by Dr. Rider on the evidential aspects of these difficulties. Singapore sees the advantage of including in our law provisions that would enable evidence to be communicated to other Commonwealth police forces to assist them in investigating crimes committed in another Common-

wealth country whether criminal proceedings have already been initiated in that country or are merely in contemplation. We would also consider incorporating in our Evidence Act provisions that would enable statements taken in a Commonwealth country by a police officer to be admitted in court proceedings in Singapore, if, for example, this were part of a Commonwealth Scheme or as a result of bilateral agreement. In this regard it may be mentioned that most Commonwealth jurisdictions in their extradition laws have provided for the reception of testimony given on oath or affirmation in a document or the admissibility of certain documents if such documents are duly authenticated (see for example, section 42 of the Singapore Extradition Act). Again most Commonwealth countries would have provisions that correspond to the UK Evidence on Commission Act, 1885.

Although Dr. Rider has indicated that the proposal by certain UK Department of Trade inspectors that a failure to comply with a demand for information during an inspection into the affairs of a company or into the beneficial ownership of securities should be an extraditable offence, is a controversial one, Singapore's experience in this respect would indicate the desirability of giving such a proposal serious consideration.

On the subject of trial and punishment we would certainly like to hear more about the proposals to devise a new criminal procedure that is better suited to the trial of persons accused of the more complex cases of white collar crime. The implications of allowing a defendant to opt for trial by a Judge sitting with lay magistrates or perhaps even better with assessors such as qualified accountants, do merit further study and we look forward to views of other member nations on the subject. The assessor procedure is used in certain Commonwealth countries but only when dealing with capital cases. It is therefore not an entirely novel proposal. We also would welcome consideration of the introduction of pre-trial procedures which would involve the elimination of vast quantities of non-controversial documents for the trial court to peruse in such cases.

The other major recommendation of Dr. Rider is that a Commonwealth Panel of Experts (CPE) be set up. Members of the Panel would be nominated by Commonwealth Governments and appointed by the Commonwealth Secretary-General. The CFLO (Commonwealth Fraud Liaison Officer) would be a member and act as Secretary to the Panel. We consider this to be a sound proposal that deserves serious consideration and give it our support. Dr. Rider has spelt out the main functions of such a Panel which would include providing expert advice and assist-

ance, the conduct of international inspectors and the discussion and dissemination of information. In the context of international inspectors, Dr. Rider has referred to instances where Singapore has cooperated with other Commonwealth jurisdictions in the rendering of assistance to resolve matters of common concern. He proposes that where two or more Commonwealth jurisdictions are involved in a common or closely related investigation into corporate fraud, it would be a simple expedient to simultaneously appoint the same individual(s) as inspectors to conduct the investigation. Inspectors could, he suggests, be appointed from the CPE. This we feel is a recommendation that is full of practical utility and worth. Its adoption would not be wholly novel as far as Singapore is concerned for I may mention that we already have a provision in our Companies Act (section 210)—which does not appear to exist in any other Commonwealth Companies Act other than Malaysia—dealing with inspections of companies that permits this procedure to be followed. We have, however, not made use of it to date. Evidence taken by a common inspector under oath in one Common-

wealth country could be made admissible in the other Commonwealth country.

The attractions of setting up such a panel as the CPE are obvious and compelling and have been expounded in Dr. Rider's memorandum. We refer in particular to such matters as the impartiality of and availability of expertise in, the appointment of a CPE inspector, the saving of substantial investigation costs and the dissemination of relevant information on matters of common interest to Commonwealth countries.

Finally, we would wish to record my Government's appreciation to Dr. Rider for the excellent work he has done in making such practical, yet imaginative, proposals as a means of tackling the complex problems involved in fighting commercial and economic crime. Although these proposals are, as he points out, not a panacea to all the difficulties involved, they would, if adopted by Ministers, act as a launching pad, as it were, in the battle against organised international corporate crime.