



Commonwealth Heads of Government Meeting

Kampala, Uganda, 23-25 November 2007

Pre-CHOGM Foreign Ministers
Provisional Agenda Item 2(iv)

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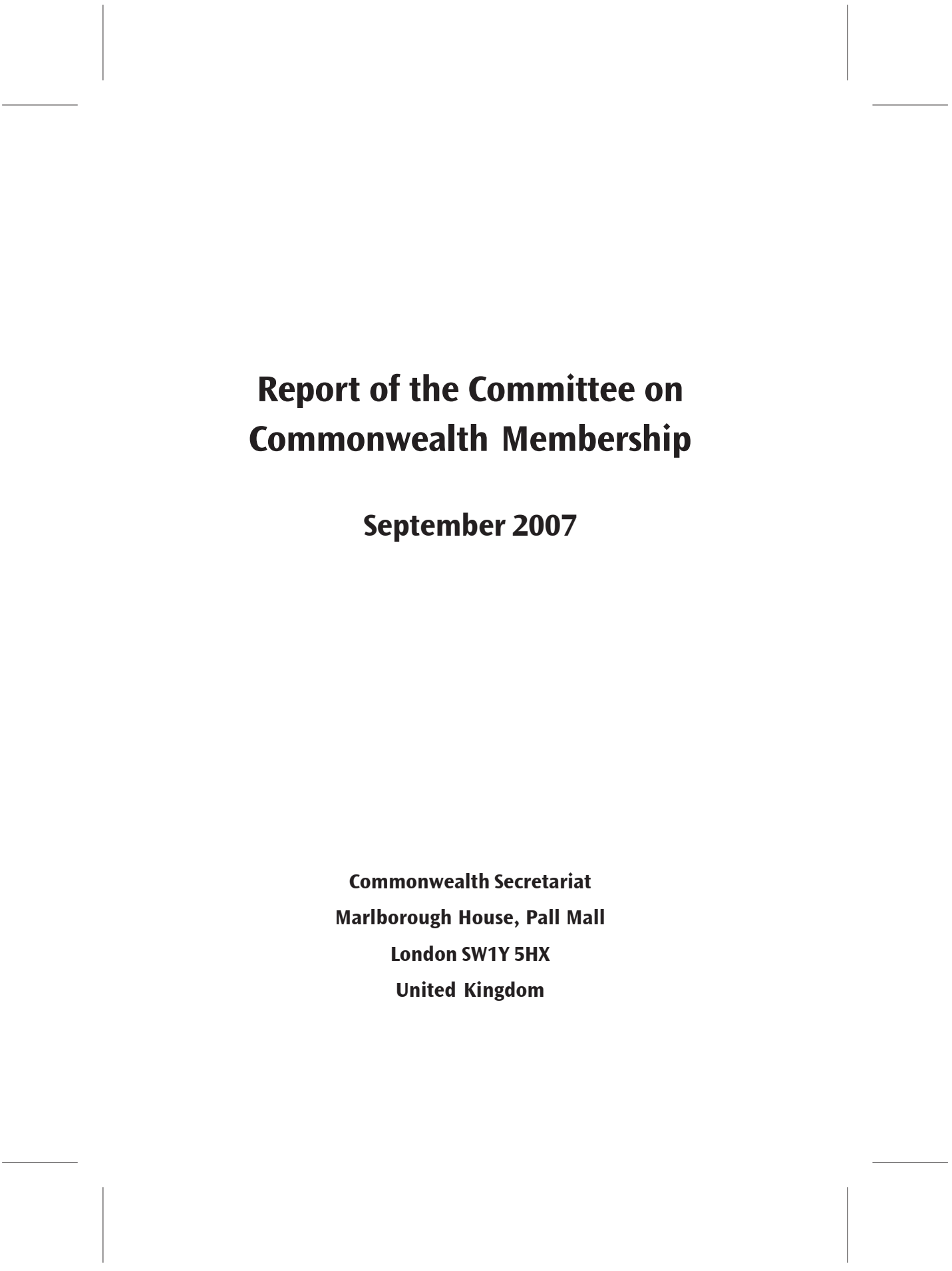
CHOGM Provisional Agenda Item 4

HGM(07)5

Membership of the Commonwealth: Report of the Committee on Commonwealth Membership

Commonwealth Secretariat
Marlborough House
London SW1Y 5HX

24 October 2007



Report of the Committee on Commonwealth Membership

September 2007

**Commonwealth Secretariat
Marlborough House, Pall Mall
London SW1Y 5HX
United Kingdom**

Dear Secretary-General,

In accordance with the wishes of Commonwealth Heads of Government at their meeting in Malta, in November 2005, you appointed us to consider various issues related to the criteria for Commonwealth Membership. As Chairman of the Committee, I write on behalf of all members to report on the outcome of our meetings.

The Committee believes that adherence to the Commonwealth's fundamental principles and values must remain the core criteria for any new members. It is these values that define the modern Commonwealth and bind its members together. While it is important to open the door to new members, it should be done cautiously and there should be no compromise on the fundamental values.

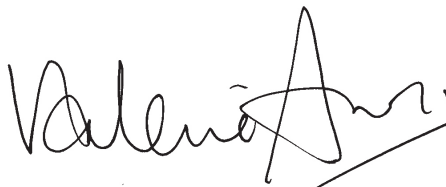
In our discussions, we benefited greatly from the historical perspective on membership provided by the Consultant to the Committee, Prof David McIntyre, who also put together the Report based on views expressed by members.

We trust that our Report, which we have all signed in our personal capacities, will assist Heads of Government in their further consideration of the issue of Commonwealth membership.

We are also grateful to you for the confidence reposed in us to undertake this task.

A handwritten signature in black ink, appearing to read 'P. J. Patterson', with a long, sweeping horizontal line extending to the right.

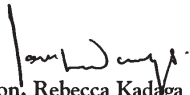
Most Hon. Percival James Patterson, ON, PC, QC



Rt. Hon. Baroness Valerie Amos



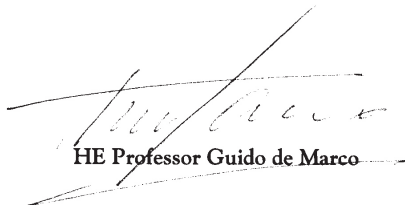
Ambassador Cheryl Carolus



Rt. Hon. Rebecca Kadaga MP



Ms. Olivia MacAngus



HE Professor Guido de Marco



Hon. Yashwant Sinha MP



Judge Tuiloma Neroni Slade

Members of the Committee on Commonwealth Membership

Most Honourable Percival James Patterson (Jamaica) – Chair: Former Prime Minister of Jamaica (1992–March 2006). Previously served as Minister in a number of portfolios, including as Deputy Prime Minister and Minister of Foreign Affairs and Foreign Trade (1978-80), and Deputy Prime Minister and Minister of Development Planning and Production (1989-90).

H E Professor Guido de Marco (Malta): Former President of Malta (1999–2004) and currently Chairman of the Commonwealth Foundation. Previously Deputy Prime Minister and Minister of Foreign Affairs (1990-1996) and (1998-1999).

Ms Rebecca Kadaga (Uganda): Deputy Speaker of Parliament since 2001. Formerly State Minister of Foreign Affairs for Regional Cooperation (1996 – 1998), Minister of State Communications (1999) and Minister of Parliamentary Affairs (1999 – 2001).

Baroness Valerie Amos (UK): Former Leader of the House of Lords and President of the Council (October 2003–June 2007). Former International Development Secretary (May–October 2003) and Parliamentary Under-Secretary of State at the Foreign & Commonwealth Office (2001-May 2003).

Ms Cheryl Carolus (South Africa): Chief Executive Officer of South African Tourism, and Board member of the International Crisis Group. Former Acting Secretary General of the ANC, and former South African High Commissioner to the UK (1998-2001).

Mr Yashwant Sinha (India): Former Finance Minister of India (1998–2002) and Minister of External Affairs (2002–2004). Before entering politics in 1984, Mr Sinha was a member of the Indian Administrative Service.

Mr Tuiloma Neroni Slade (Samoa): Former Judge of the International Criminal Court in the Hague (2003-2006); Ambassador/Permanent Representative of Samoa to the UN and USA, as well as High Commissioner to Canada (1993-2003). Justice Slade was also Attorney-General of Samoa (1976-1982).

Ms Olivia MacAngus (Canada): Senior consultant and lobbyist on federal government relations issues with Hill & Knowlton in Canada. She has previously worked with issues related to Canadian heritage, and been actively involved in politics throughout her business and law studies.

Executive Summary

In the light of interest in membership of the Commonwealth expressed by some non-member states, Heads of Government at the Malta CHOGM in 2005 considered a paper on the status of applications for membership. They mandated the Secretary-General to convene a Working Committee, at the appropriate political level, to consider issues relating to membership of the Commonwealth and to report its findings to the next CHOGM.

The Secretary-General accordingly constituted an eight-member high level Committee under the Chairmanship of the Most Hon. P.J. Patterson, former Prime Minister of Jamaica, which met in December 2006 and May 2007. During its deliberations, the Committee was briefed on the views expressed by member Governments and considered several written submissions in this regard from individuals and organizations. Most of the views indicated a general support for a cautious increase in membership based on clear and consistent criteria.

The Committee came to the view that, provided an aspirant member was a sovereign state, had a historic constitutional link with an existing member or a group of its members and adhered to the Commonwealth's fundamental principles, values and norms, a modest expansion in membership would be in the interest of the Commonwealth's strategic engagement with the wider world.

Emphasising the need for these fundamental principles and values to be the core criteria for new members, the Committee proposed the following basic conditions to be met by an applicant country:

- (a) An applicant country should, as a general rule, have had an historic constitutional association with an existing Commonwealth member, or a substantial relationship with the Commonwealth or a particular group of its members;

(b) An applicant country should accept and comply with Commonwealth fundamental values, principles, and priorities as set out in the 1971 Declaration of Commonwealth Principles and developed in subsequent Declarations;

(c) Among the criteria an applicant country must meet would be a demonstrable commitment to democracy and democratic processes, including free and fair elections and representative legislatures; the rule of law and independence of the judiciary; good governance, including a well-trained public service and transparent public accounts; protection of human rights, freedom of expression, and equality of opportunity;

(d) An applicant country should accept Commonwealth norms and conventions, such as the use of the English language, as the medium of inter-Commonwealth relations and acknowledgment of the Queen as Head of the Commonwealth;

(e) New members should be encouraged to join the Commonwealth Foundation, and to foster participatory democracy through regular civil society consultations.

(f) The Committee also felt it was time to put in place a transparent and consistent membership application process. It, however, emphasized that such a procedure should not be unduly formal. Accordingly, the Committee recommended a four-step process comprising: (i) an informal assessment undertaken by the Secretary-General following an expression of interest by a possible applicant state; (ii) consultation by him/her with member governments; (iii) an invitation to the interested country to make a formal application; and (iv) a formal application presenting evidence of the functioning of democratic processes and popular support in that country for joining the Commonwealth. A decision could then be made by member Governments on the application.

(g) The Committee also considered issues relating to the status of Overseas Territories and a suggestion that they could be “Associate

Members”. It came out firmly in favour of retaining only one category of Commonwealth membership, that of a sovereign state as a full member. It also recommended the development of consistent practices in the representation of Overseas Territories at Commonwealth meetings in consultation with their administering power.

(h) The Committee recommended that members who default on their budgetary contribution, currently referred to as “Special Members”, be re-designated “Members in Arrears”.

(i) The Committee also noted the financial implications of an increase in membership. It recommended that the contribution of new members should be seen as additional funding to Commonwealth’s financial resources, keeping the contribution of current members unchanged.

(j) The Committee supported the Secretary-General’s practice of extending Special Guest status to the Executive Heads of intergovernmental and regional organizations that extend a similar invitation to the Commonwealth at their meetings. It felt the ‘Special Guest’ status was more appropriate than developing a new ‘Observer’ status for the Commonwealth. The Committee also encouraged the Secretary-General to develop and deepen strategic partnerships with international and regional organizations in order to augment the Commonwealth’s resources and to promote its values and principles for the benefit of its members and the wider international community.

Contents

1. Reasons for the Committee	1
2. Historical Background	3
3. The Committee's Deliberations:	11
(1) The historic criteria	13
(2) Fundamental principles and values	14
(3) Norms and conventions	18
(4) Resources	19
(5) Other matters	20
(6) Membership procedures	23
4. Summary of Recommendations:	26
(1) Core criteria for membership	26
(2) Funding	27
(3) Overseas territories	27
(4) Special guests	27
(5) Strategic partnerships	28
(6) Process of application	28
(7) Change of status	29
(8) Members in arrears	29
Appendix I	31
Appendix II	33



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1. REASONS FOR THE COMMITTEE

At the Malta CHOGM in 2005, Heads of Government mandated the Secretary-General to convene a Working Committee, at the appropriate political level, to consider issues relating to membership of the Commonwealth and links with other organizations. The Secretary-General had reported continued approaches from several states and non-sovereign territories, and from interested organizations that seek to establish or enhance formal links with the Commonwealth.

This matter had not been reviewed since the Inter-Governmental Group on Commonwealth Membership (IGGCM) appointed at Auckland in 1995 at the time of the acceptance of Mozambique's application, when there were approaches from the Palestinian Authority, Rwanda, and Yemen. The IGGCM, made up of the London High Commissioners from countries that had hosted CHOGMs and chaired by the New Zealand High Commissioner, recommended to the Edinburgh CHOGM in 1997 that the case of Palestine should be deferred until the attainment of statehood, and that the applications from Rwanda and Yemen should be kept under review in the context of membership criteria recommended by the Group.

The 'attributes of membership' set out by the IGGCM originated in a Secretariat memorandum on membership prepared for the High Level Appraisal Group (HLAG) of ten Heads of Government that reported on 'The Commonwealth in the 1990s and Beyond' in 1991. Referred to as the 'Harare criteria', they became the basis for considering applications for membership in conjunction with the principles and values set out, at the same time, in the Harare Commonwealth Declaration. After reviewing them in 1996-97, the IGCCM recommended that members should be independent states that had shared a constitutional association with an existing Commonwealth member; complied with the Commonwealth's

values, principles, and priorities as set down in the Harare Commonwealth Declaration; used the English language as the medium of Commonwealth relations; acknowledged the role of the British monarch as a symbol of the free association and as such Head of the Commonwealth; accepted the Commonwealth style of informality, intimacy and consensus; and contributed financially to Commonwealth programmes.

Heads of Government at the 1997 CHOGM 'received and endorsed' the IGGCM report after informal discussions at the St. Andrew's Retreat, but their Communiqué was couched in more general terms: 'an applicant country should, as a rule, have had a constitutional association with an existing Commonwealth member; that it should comply with Commonwealth values, principles and priorities as set out in the Harare Declaration; and that it should accept Commonwealth norms and conventions'.

Since 1997 the matter of new membership has largely remained in abeyance although Rwanda, Yemen, and the Palestinian Authority have all re-stated their interest and there have also been informal approaches by other states and non-sovereign territories.

2. HISTORICAL BACKGROUND

The Committee had regard to the fact that the Commonwealth evolved out of an historical context. It acknowledged that ‘we cannot withdraw the Commonwealth from the historical context in which it was born. We are not tied down by it, but we must respect it’.

Viewed in this context, the Commonwealth may be recognized as the world’s oldest political association of sovereign states. Its origins are traceable to 1869–1870 when representatives from self-governing colonies met unofficially to demand consultative arrangements. The first Colonial Conference was convened in 1887 at the time of Queen Victoria’s Golden Jubilee. The decision was made in 1907 to hold regular meetings confined to Prime Ministers. Membership of these meetings was accorded to those countries that had attained ‘responsible government’ on the British parliamentary model.

The name ‘Commonwealth’ came to be applied to an association unique in its modes of operation and in the width and depth of its voluntary, unofficial, and non-political networks. ‘Commonwealth’ originally meant nation-state and ‘Commonwealth of Nations’, as used from the mid-19th Century, signified a family of self-governing, i.e. politically independent, countries. The term ‘British Commonwealth of Nations’ was used formally from 1921 to 1948 and was subsequently abbreviated to ‘the Commonwealth’.

The regular conferences began as intimate gatherings of six member countries—Britain, Canada, Australia, New Zealand, Newfoundland, and South Africa. New members were soon added and definitions of their status were demanded. India, although not yet self-governing, was invited to send representatives from 1917. Southern Ireland, as the Irish Free State, was added in 1922. South Africa’s demand for a declaration of its

independence and an Irish compilation of ‘anomalies and anachronisms’ in its legal status were addressed by the formula agreed in 1926, which defined the ‘position and mutual relation’ of the members as autonomous, equal in status, owing common allegiance to the Crown, and freely associated.

These principles were embodied in the preamble to the Statute of Westminster (1931), which also declared that the Crown was the symbol of the free association of the members. Equality and voluntary association between independent states thus became fundamental principles of the association.

New members were increasingly added after the Second World War, beginning with Asian nations—India and Pakistan in 1947 and Ceylon (Sri Lanka) in 1948. When India, the largest member, adopted a republican constitution, it sought to remain in the Commonwealth and this was agreed by the existing members. The Declaration of London (1949) provided that, in place of the sole remaining formal bond of common allegiance to the Crown, the Republic of India accepted The King as the symbol of the free association of the independent member nations and as such the Head of the Commonwealth. Malaya became a member in 1957 as the first national monarchy in the Commonwealth.

Expansion came next from Africa. When Sudan and the Gold Coast demanded independence, there was resistance to their becoming Commonwealth members, especially from South Africa, and there was talk of a ‘mezzanine status’ and a two-tier Commonwealth. Sudan, geographically the largest African territory, became an independent republic outside the Commonwealth in 1956. Advice that if the Gold Coast was denied full membership, the rest of Africa would eschew the Commonwealth, led to Ghana’s full membership in 1957. Nigeria, the most populous African state, followed in 1960.

In the same year, the 'wind of change' induced an acceleration of the pace of change as France, Belgium and Italy created new states in Africa and the United Nations General Assembly called for the end of colonial status. There were twelve African Commonwealth members by the end of the 1960s, a decade that saw three other major landmarks.

First, Cyprus became independent in 1960, but there was resistance to the idea of full membership for a population of only half-a-million in a state guaranteed by Greece, Turkey, and Britain. It was realised that there were many more small states in the wings and that if Cyprus became a full member it could be the precedent for over thirty more potential members. The Prime Ministers appointed a committee of senior officials to review the matter. Their recommendation was that to deny full membership of the Commonwealth to a country that qualified to be a member of the United Nations would be 'a frustration of much that the Commonwealth stands for'. Cyprus joined in 1961 and was followed in 1962 by Jamaica and Trinidad, and, later, by nine other Caribbean countries. In subsequent years, small states would comprise the majority of the members.

Secondly, on the same day that Cyprus was welcomed to the 1961 Prime Ministers' Meetings, Dr. Verwoerd withdrew South Africa's application to emulate India and stay in as a republic. On the eve of the meetings, Julius Nyerere had published a statement that soon-to-be-independent Tanganyika might eschew a Commonwealth that included the *apartheid* regime. Led by the Canadian Prime Minister, the leaders condemned the South African policy of *apartheid*. The Republic of South Africa remained out of the Commonwealth for thirty-three years.

The third landmark was the creation in 1965 of the Commonwealth Secretariat, which was suggested by the leaders of new member-countries, Ghana, Uganda, and Trinidad, and was dubbed by Milton Obote as the Commonwealth's 'declaration of independence' from Whitehall. The Secretary-General was made responsible to the heads of government

collectively and took over responsibility for organizing the Commonwealth conferences.

The next round of new members came from the Pacific. Western Samoa (independent since 1962), Fiji and Tonga (independent in 1970) attended the Singapore Heads of Government Meeting (the first to be styled CHOGM) in 1971. In Singapore, member countries also adopted the Declaration of Commonwealth Principles.

The first thirty years of the Secretariat's life was dominated by the political problems of Southern African—the illegal regime in Rhodesia/Zimbabwe, South Africa's occupation of South West Africa in defiance of UN resolutions, and, above all, *apartheid* in the Republic of South Africa.

The resolution of these issues, assisted by considerable unified effort from the Commonwealth, resulted in further enlargements of the membership. Zimbabwe became a member after elections under Commonwealth monitoring in 1980. Namibia became the fiftieth member in 1990, bringing the Commonwealth to the same size as the first UN General Assembly. South Africa returned after thirty-three years in 1994, following its first multi-racial polls and the election of President Mandela.

In a notable new development, Cameroon (only a part of which had once been under British rule) joined and attended the Auckland CHOGM in 1995. The former German colony of Kamerun had been divided into British and French Mandates, later UN Trust Territories. By referenda in 1961 the British Trust Territory of Northern Cameroons voted to join Nigeria. Southern Cameroons chose to join the Republic of Cameroun where it constituted two Anglophone north-western provinces that accounted for about one-fifth of the total population, the remainder being largely Francophone. Cameroon had applied to the 1993 Limassol CHOGM, partly as an endeavour to placate secessionist movements in the Anglophone provinces and also to project the country more widely in the international community.

Heads of Government decided that Cameroon could be invited to the 1995 CHOGM provided that democratic reforms then underway met the criteria of the Harare Commonwealth Declaration. A Commonwealth mission headed by Dr Kamal Hossain of Bangladesh, Chairman of the Commonwealth Human Rights Initiative, reported positively in July 1995. The President of Cameroon was welcomed at the Auckland CHOGM, where it was also decided to accept Mozambique into membership—the first member that had never had a constitutional link with a Commonwealth member.

Surrounded by member countries, Mozambique had come to be known as a ‘cousin’ state of the Commonwealth. Its rail routes and ports were vital to the trade of the land-locked Commonwealth members. Independent Mozambique from 1975 had been a vital ally in Zimbabwe’s freedom struggle. It sent observers to CHOGMs from 1987, the year when the Commonwealth Special Fund for Mozambique was created to furnish technical assistance. In 1995 President Mandela proposed that it should be admitted ‘as an exceptional case’, and Mozambique was accepted as the fifty-third member. At the same time, Heads of Government requested the Secretary-General to establish the IGGCM to advise on criteria for assessing future applications for membership.

The 1997 Edinburgh CHOGM established a new and wider pattern of consultations. The Queen as Head of the Commonwealth addressed the conference for the first time. The first Commonwealth Business Forum met beforehand and created the Commonwealth Business Council. The first Commonwealth Centre for civil society presentations (precursor of later Commonwealth People’s Forums) met, as did the first Commonwealth Youth Forum. This tri-sector pattern of consultations between government, civil society, and business continues to evolve in the 21st Century.

In 1997, Heads of Government also received and endorsed the IGGCM report, which is the starting point for the discussions of CCM.

The above survey of the growth in membership suggests five conclusions relevant to the discussions of the CCM:

1. Growth of membership has been continuous and this has changed the character of the association. From a nucleus of five nations, which had the character of an unwritten military alliance in the era of the two world wars, the addition of the Asian, African, Caribbean, and Pacific nations marked the transition to a unique multilateral association with a predominance of small states and an emphasis on development and poverty eradication.

2. There were always anomalies. India, the largest member, attended the conferences long before it became independent. Newfoundland, the pioneer small state, attended Commonwealth Conferences but stayed out of the League of Nations. The premiers of Southern Rhodesia and Burma were invited as observers before their countries' independence. An association with a majority of republics has a monarch as symbolic Head.

3. There was always resistance to new members but eventual acceptance. Some leaders in the early days strenuously opposed the idea of republics in the Commonwealth. There was opposition to Ghana, to Cyprus and the small states, and to Mozambique. But, after due consideration, positive decisions were made in each case and led to the continuing growth and strengthening of the organisation.

4. There have been many comings and goings but countries that left have generally returned. Newfoundland gave up self-government in 1933 and became a Canadian province in 1949. The Republic of Ireland left in 1949. South Africa was out for thirty-three years, Pakistan for seventeen, and Fiji for ten. Nigeria's membership was suspended from 1995 to 1999. Pakistan was suspended-from-Commonwealth-councils between 1999 and 2004 following a military coup, as was Fiji in 2000–2001 and, again, in

2006, and Sierra Leone in 1997.¹ Zimbabwe quit the Commonwealth in December 2003 after being suspended from councils in March 2002.

There were also countries with historic constitutional links, which, after gaining their independence from Britain, never joined the Commonwealth—Burma (Myanmar), and, in the Red Sea/Middle East region, Egypt and Sudan, Palestine and Jordan, Iraq and the Gulf States, Aden (South Yemen) and British Somaliland (which became part of Somalia).

5. The Commonwealth is an association of peoples as well as states.

While the contemporary tri-sector pattern of business, civil society, and youth forums dates only from the 1997 CHOGM, non-governmental organizations are of very long standing. The press, parliamentary, and universities associations pre-dated the First World War, and there were Unofficial Commonwealth Relations Conferences held at five yearly intervals between 1933 and 1959, following on from the Imperial Conferences and Prime Ministers' Meetings. In these consultations, politicians, professionals, academics, military officers, and businessmen debated Commonwealth and international affairs, and women began to participate as delegates before they did in the political Commonwealth.

Since the creation of the Commonwealth Foundation in 1966, some thirty new professional associations have been founded. With the widening of the Foundation's mandate in 1980, new organizations devoted to care and welfare have been added and the Foundation has published ground-breaking guidelines for non-governmental organization good practice. After the creation of the Commonwealth Business Council, it has organized

¹ Following the overthrow of the elected government of Tejjan Kabbah by a military council in 1997, CMAG suspended the 'illegal regime' in Sierra Leone from the Councils of the Commonwealth. However, the Kabbah Government continued to be recognized by the Commonwealth even while their leader was in exile. President Kabbah's return to Freetown in March 1998 brought an end to this anomalous situation.

well-supported Business Forums, encouraged public/private partnerships, and fostered training in corporate governance.

Regular civil society consultations on a regional basis are made before CHOGMs, which are now preceded by a week of activities that include a People's Forum organised by the Foundation, Youth Forum, Human Rights Forum, Business Forum, and inter-faith dialogues. The richness and diversity of the tri-sector contributions make for a very significant part of the Commonwealth's uniqueness and contemporary attractiveness.

3. THE COMMITTEE'S DELIBERATIONS

The Committee established by the Malta CHOGM met at Marlborough House on 6–7 December 2006 and 14 May 2007 under the chairmanship of the Most Hon. P. J. Patterson, former Prime Minister of Jamaica. Members had before them (1) Briefing Notes from the Secretariat, (2) a Compilation of Views from individuals, organizations, and governments, and (3) a Background Summary of the growth in Commonwealth membership.

After introductions by the Secretary-General and Chairman, discussions began with several presentations. Professor W. David McIntyre, consultant to the committee, gave a survey of landmarks in the expansion of the Commonwealth and showed how successive expansions in the membership had developed the character of the association.

The Secretariat provided an oral briefing on views expressed informally at CHOGM in Malta and in informal discussions with Foreign Ministers in New York in September 2006, as well as in ongoing contacts with member states. This indicated that there was support for a cautious increase in membership provided the criteria were clear and consistent. There had also been several expressions of interest in membership over the preceding year.

The Secretariat briefings also indicated some of the financial and resource implications of admitting new members, which gave rise to two concerns. Firstly, with the current capped budget, the admission of new members would place an extra burden on existing limited resources. Secondly, the current ranking of member country contributions, based on a scale determined nearly two decades ago, does not reflect differential rates of economic growth that have occurred since. This is currently a matter of debate within the organization and would have an impact on the contributions to be made by any new member.

The Chairman expressed gratitude to the individuals and organizations (listed in Appendix I) that had responded to the Secretary-General's invitation to make submissions to the Committee. In general their responses were positive about admitting a modest number of new members provided they met clearly-stated criteria. The respondents cherished the uniqueness of the Commonwealth, especially recognition of the equality of members, the informality and flexibility of meetings, the tradition of agreement by consensus, and the practice of dialogue in order to seek understanding. The Heads of Government Retreats were singled out for particular praise. There were also recommendations that CHOGMs should revert to three full days in duration. Nearly all respondents stressed that the accession of new members would imply the need for increased revenues and that there should be a re-examination of the basis of members' contributions to the budget.

The Chairman reminded the Committee that they should view their mandate in the light of the global situation. They were not there to re-define the Commonwealth, but had to be aware of what its historical role had been.

It was emphasised in the briefings that growth in membership in the past had occurred as a response to changing national and global circumstances—most notably the rapid ending of colonial status in the third quarter of the last century. The Committee agreed that the historic criteria for membership, and the statement of this in the 1997 Communiqué, had continuing validity, but that present world trends may fuel the pressure for further growth. 'Growing globalization and strengthening of regional integrative organisations' were cited in this context by former Secretary-General Chief Emeka Anyaoku in a submission. The Committee noted that the Commonwealth has always been anxious to engage with the wider world and a modest widening of the membership could be seen as part of that engagement.

From the outset Committee members were unanimous in the conviction that any extension of the membership should not take place unless **four** conditions were satisfied:

- (1) membership of the Commonwealth is only for independent sovereign states that can carry out the responsibilities of membership;
- (2) there is no compromise on the Commonwealth's fundamental values;
- (3) well-established norms and conventions of Commonwealth relations are respected and maintained; and
- (4) new members contribute actively to Commonwealth resources, which need to grow in line with the membership.

1. The historic criteria

While there was no inclination to abandon the current criterion of an historic constitutional association with an existing member, it was realised that there were geographical, historical, economic, and social relationships which have become equally relevant. It was felt that the constitutional relationship should be retained 'as a general rule', but that did not mean it was an absolutely essential rule.

The case of Mozambique was discussed. The only Commonwealth member that lacks the historic constitutional relationship, Mozambique had been recommended for membership as an exceptional case. The Committee felt that, after more than a decade of membership, Mozambique should cease to be regarded as an exceptional case. There could in the future also be other new members, which may not have had an historic constitutional relationship with an existing member. In this context, it was felt that regional relationships with Commonwealth members should be recognized as especially relevant.

The Committee agreed that an applicant country should, as a general rule, have had an historic constitutional association with an existing Commonwealth member, or a substantial relationship with the Commonwealth generally, or a particular group of its members, for example, in a common regional organization.

2. Fundamental Principles and Values

It was recognized by the Committee that the Commonwealth has no written charter as such. Yet shared standards articulated in CHOGM declarations as Commonwealth values and principles provide, in effect, such a charter. These have evolved over a long period and countries that transgress those standards are today subject to varying degrees of prescribed response measures, with CHOGM and the Commonwealth Ministerial Action Group (CMAG) having a special role as guardians of those standards.

Consultation is the lifeblood of the Commonwealth and this has been facilitated for a century by the regular meetings of heads of government. These consultations stem from voluntary relations between sovereign states on the basis of equality and free association.

The Committee reviewed in detail the various Commonwealth declarations relating to fundamental principles and values. The first Declaration of Commonwealth Principles was adopted at the Singapore CHOGM in 1971. The minutes of the CHOGM record that in tabling the draft declaration, which he had prepared in conjunction with President Nyerere of Tanzania, President Kaunda of Zambia called it ‘neither a Charter nor a code of conduct but guidelines for the solution of Commonwealth and international problems.’ Members declared their commitment to certain ‘core beliefs’ of the Commonwealth, as expressed in the declaration, namely international peace and order; global economic development; the rule of international law; equal rights for all regardless of race, colour, creed or political belief; democratic self-determination and non-racialism; an end to gross inequity, and commitment to practice international co-operation in pursuit of these goals.

When these principles were re-affirmed after twenty years, in a review, by the HLAG, chaired by Prime Minister Mahathir of Malaysia, which had to consider the problems and challenges presented by the ending of the

Cold War and the approach of a new millennium, the resulting Harare Commonwealth Declaration of 1991 enunciated fundamental political values that include democracy and democratic processes, the rule of law and independence of the judiciary, good governance, fundamental human rights, and equality of opportunity.

To fulfil more effectively these commitments, the Millbrook Action Programme adopted in 1995 provided ways for advancing Commonwealth fundamental values, promoting sustainable development, and facilitating consensus building. Heads of Government accepted that violations of Commonwealth principles would be met by expressions of collective disapproval, including exclusion of the government concerned from Commonwealth councils, suspension of participation in Commonwealth technical assistance programmes, and suspension from the Commonwealth association. CMAG, comprising Foreign Ministers from eight countries, and, since 2002, the Foreign Minister representing the Chair in Office, became the mechanism for implementation. At the same time, a range of measures were provided for the Secretary-General to employ at his discretion in responding to infringements of Commonwealth principles. These included the use of his good offices, the deputing of eminent persons, and assistance to encourage the restoration of democracy within a reasonable time frame.

The Coolum Declaration in 2002 spelt out in greater detail these fundamental political values. Heads of Government expressed themselves at this time as standing united in sharing the following principles and values: 'our commitment to democracy, the rule of law, good governance, freedom of expression and the protection of human rights; our respect for diversity and human dignity; our celebration of the pluralistic nature of our societies and the tolerance it promotes; and our implacable opposition to all forms of discrimination, whether rooted in gender, race, colour, creed or political belief; our determination to work to relieve poverty; to promote people-centred and sustainable development, and thus

progressively to remove the wide disparities in living standards among us and overcome the special challenges facing our small states and less developed country members; and our collective striving after international peace and security, the rule of international law and the elimination of people smuggling and the scourge of terrorism.’

In a significant development at Coolum, Heads of Government added freedom of expression to the list of fundamental political values.

At the Abuja CHOGM in 2003, they welcomed the report by an Expert Group on Development and Democracy, chaired by Dr. Manmohan Singh, now Prime Minister of India. In the Aso Rock Commonwealth Declaration, which drew on recommendations of this report, Heads of Government accepted that building democracy was a constantly evolving process and must be uncomplicated and take into account national circumstances. The aim was to make democracy work better for pro-poor development.

Among the objectives Heads of Government sought to promote were: participatory democracy characterised by free and fair elections and representative legislatures; an independent judiciary; a well-trained public service; a transparent and accountable public accounts system; machinery to protect human rights; the right to information; active participation of civil society, including women and youth; substantially increased and more effective financial resources; adherence to the internationally agreed targets of 0.7 per cent of Gross National Product for development assistance; financing and realisation of the Millennium Development Goals; and increased democracy at the global level, including enhanced participation and transparency in international institutions.

More recently, in the Malta Communiqué in 2005, Heads of Government reaffirmed their commitment to the Commonwealth’s fundamental political values of ‘tolerance, respect, international peace and security, democracy, good governance, human rights, gender equality, rule of law, the independence of the judiciary, freedom of expression, and a political

culture that promotes transparency, accountability and economic development.’

Heads of Government also expressed their full support for the good offices role of the Secretary-General in ‘conflict prevention and resolution, and post-conflict reconstruction and development’, and their continuing support for the Secretariat’s endeavours in ‘strengthening democratic institutions, processes, and culture’. They endorsed the ‘Latimer House Guidelines’ on the principles of accountability of and relationship between the executive, legislature, and judiciary as an integral part of the Commonwealth’s fundamental political values. They also welcomed the Aberdeen Agenda of the Commonwealth Local Government Forum in 2005, on principles for good practice in local government.

Members of the Committee regarded these expressions, over a period of more than thirty years, as the evolution of an impressive and consistent corpus of principles and values; as one member put it—‘a rich experience’. Emphasis was also placed by members of the Committee on the uniqueness, compared with other international organizations, of the CMAG mechanism for placing various levels of sanction on errant states. The Committee was firm in the view that new members must be able and willing to adhere to these Commonwealth values.

They thereby agreed to recommend that an applicant country accepts and complies with Commonwealth fundamental values, principles, and priorities as set out in the 1971 Declaration of Commonwealth Principles and contained in other subsequent declarations. (See Appendix II for a list of key declarations and documents on Commonwealth fundamental values).

Among the criteria an applicant country must meet, would be a demonstrable commitment to democracy and democratic processes, including free and fair elections and representative legislatures; the rule of law and independence of the judiciary; good governance, including a

well-trained public service and transparent public accounts; protection of human rights, freedom of expression, and equality of opportunity.

3. Norms and Conventions

Members of the Committee made particular reference to the intimacy, informality, flexibility, frankness, and good spirit manifested in Commonwealth consultations at all levels. CHOGMs were seen as different from other international meetings. The Retreats of Heads of Government have proved to be of particular value and are now the dominant feature of CHOGM. Use of the English language in Commonwealth relations plays a significant part in this ethos. The absence of the need for translators was highlighted as facilitating the informal and effective nature of the Retreats in which leaders meet without officials.

An essential part of the Commonwealth's style of operation, is decision-making by consensus. The Commonwealth was described by one Committee member as 'a safe space', where Commonwealth leaders speak as equals. It was cherished for its flexible, evolutionary, aspirational, and inclusive character.

Members of the Committee acknowledge the continuing relevance and importance of Queen Elizabeth II as the symbol of the free association of members and as such Head of the Commonwealth. Her presence at CHOGM was clearly valued by leaders, and the accompanying state visit is a highlight for the host country.

The civil society and corporate sectors are seen as increasingly important and it was felt that new members should be committed to strong civil society and business associations to promote linkages between governments, civil society, and business, thus contributing to the promising evolution of the tri-sector Commonwealth.

In the submissions invited from civil society organizations, there was emphasis on developments in recent years to strengthen the

Commonwealth as an 'association of peoples as well as governments'. Civil society organizations play a notable role in championing human rights and good government. Numerous pan-Commonwealth associations are prominent in fostering high standards in the main professions. The Commonwealth Foundation, which assisted in the creation of most of the professional associations, also supports a wide range of care and welfare and cultural organizations. It organises the People's Forums which have a prominent role in the 'CHOGM week'. Heads of Government also receive the reports of the People's Forum, the Business Forum and Youth Forum and take account of civil society views in the finalization of their Communiqué.

It was agreed, therefore, that the Committee would recommend that an applicant country should accept Commonwealth norms and conventions, such as the use of the English language, as the medium of inter-Commonwealth relations and acknowledgment of the Queen as Head of the Commonwealth.

New members should be encouraged to join the Commonwealth Foundation, and to promote vigorous civil society and business organizations within their countries, and to foster participatory democracy through regular civil society consultations.

4. Resources

In light of the Commonwealth's slender financial base compared with other organizations, members of the Committee felt strongly that new members cannot be accommodated within the current capped budget. An applicant country should be able to demonstrate that it will actively participate in Commonwealth consultations and programmes and contribute both financially and in other ways to enhance co-operation. **In this context the Committee recommends that the assessed contribution of a new member should augment the existing budget of**

the Secretariat, thus keeping the contributions of other members unchanged.

There are many ways of supporting the Commonwealth's resources including voluntary contributions to the Commonwealth Foundation, the Commonwealth of Learning, and the Secretariat's main technical assistance mechanism—the Commonwealth Fund for Technical Co-operation (CFTC).

The assessed contributions to the Secretariat budget were last reviewed in 1989, thus the relative ranking of contributions is seventeen years old. In light of varying rates of economic growth, current contributions do not reflect recent relativities of GDP.

Inequalities of recent growth rates resulting in anomalies in the relative contribution rates of member countries were not part of the Committee's terms of reference, but are of relevance to the whole question of the Commonwealth's funding. Any expansion of membership will clearly have an impact on the Secretariat's budget and its ability to deliver services to members. **Therefore, the committee recommends to the Heads of Government that they may wish to consider conducting periodic reviews of the formula for assessing the contributions to the Secretariat budget in order to keep them up to date with current trends.**

5. Other Matters

In addition to the essential conditions set out above, the Committee also paid attention to three other procedural matters: (a) Overseas Territories, (b) Special Guests, and (c) Strategic Partnerships.

(a) Overseas Territories

The Committee reviewed the status of the remaining Overseas Territories and Crown Dependencies. These territories always have the option of

achieving full sovereignty and applying for Commonwealth membership. In the case of most member countries, Commonwealth membership was approved before independence was achieved and the respective Heads of Government were welcomed at the next CHOGM. For a few very small states—Western Samoa, Tonga, and Maldives—applications for Commonwealth membership came after independence. In cases where dependent territories wish to achieve independence and apply for Commonwealth membership, the Committee endorses the procedure whereby such applicants need not await the next CHOGM to receive a decision.

The Committee also considered the question of using the term ‘Associate Member’ for aspirant countries and dependent territories within the Commonwealth. It however felt that this idea was fraught with difficulties as it would create another rung of membership. They reaffirmed their conviction that the Commonwealth was fundamentally an association of sovereign member states who were equal in all respects. In these circumstances, there could only be one type of membership.

The Committee also reviewed the existing practice of including dependent territories in various Commonwealth conferences. Participation in ministerial meetings and civil society and business forums follow different patterns for different dependencies according to arrangements with the administering power. **The Committee recommends that Heads of Government endorse the current practice of Overseas Territories hosting and/or attending Commonwealth functional meetings, as well as contributing to and benefiting from the activities of the CFTC where relevant.**

It further recommends that, so far as is possible, there should be consistent practices developed in the representation of Overseas Territories at Commonwealth meetings in consultations with their administering power. Heads of Government may also wish to call upon the Secretary-General to devise ways to enhance the profile of Overseas

Territories in the Commonwealth family, especially in the civil society and business sectors.

Applications from such territories for membership of the Commonwealth when they attain sovereign independent status need not await the next CHOGM for decision by Heads of Government.

(b) Special Guests

On the question of relations with other international bodies, at the global and regional levels, there was some discussion as to the mechanisms and purposes of developing these relationships. International organizations with which the Commonwealth interacts include the United Nations, La Francophonie, and the Non-Aligned Movement, as well as such regional organizations as the African Union, the Caribbean Community, the European Union, the Organization of American States, and the Pacific Islands Forum. It was noted that the Secretary-General invites the heads of some of these organisations as Special Guests to CHOGMs. The host government in consultation with the Commonwealth Secretariat can also invite Special Guests.

The Committee considered whether the Commonwealth should exchange Observers with such organizations, but was concerned about the role Observers could take at CHOGMs now that the core business is handled in Retreats that are confined to Heads of Government. After a long discussion, a strong preference was expressed by members of the Committee in favour of retaining the flexible ‘Special Guest’ status of the Commonwealth and to use it where observer status is given on a reciprocal basis by other organizations.

The Committee therefore recommends that the Secretary-General should continue to extend Special Guest status to the Executive Heads of those intergovernmental and regional organizations which extend an Observer or similar status to the Commonwealth at their meetings. This status

should be particularly sought with those organizations where the Commonwealth has developed close relations and strategic partnerships.

(c) Strategic Partnerships

The Committee was briefed about the Secretariat's work with international and regional organizations with the objective of enhancing its global impact and reach, and utilizing its resources in ways that avoid duplication of effort. The Secretariat does this on two levels, through cooperation and coordination at the global level through its formal contacts with other organizations and on the ground on a case-by-case basis. Interaction with international and regional bodies affords the Commonwealth Secretariat opportunities to raise awareness of its work, exercise its comparative advantages, and influence non-member states.

The Secretary-General regularly participates in high level meetings between the UN Secretary-General and heads of other international and regional organizations.

The Committee recommends that the Secretary-General be encouraged to continue to develop and deepen strategic partnerships with international and regional organizations in order to augment the Commonwealth's resources and to promote its values and principles for the benefit of members and the international community generally.

6. Membership Procedures

(a) Applications by prospective members. The process whereby applications for membership were treated was considered by the Committee at length as the Secretary-General sought specific guidance in this matter. It was agreed that the process for assessing applications for membership should be transparent and consistent, but not unduly formal. There was some discussion as to whether applications should result from parliamentary resolutions or should simply be acts of the executive government. There was preference for the idea that informal approaches

from governments should precede any formal applications, but that there needed to be evidence of broad national support.

The Committee agreed to recommend a four step process:

Step 1. Informal assessment by the Secretary-General.

Following any informed expression of interest from an independent and sovereign non-member state to the Secretariat, the Secretary-General should carry out an informal assessment of the ability of the country concerned to meet the membership criteria. At the same time, the Secretary-General should informally advise member governments that such an assessment was being undertaken.

Step 2. Consultation with existing member governments.

After the informal assessment has been made and if the Secretary-General is satisfied that the applicant country is likely to meet the criteria and enjoys broad-based domestic support for the membership of the Commonwealth, the Secretary-General will inform member countries in writing about the results of the assessment and seek their comments.

Step 3. Invitation to make a formal application.

If there is no objection from the existing members to the expression of interest by a non-member country wishing to join the Commonwealth, the Secretary-General will request that country to make a formal application to the Commonwealth Secretariat for submission to Heads of Government for their consideration.

Step 4. Evidence of democratic processes and popular support.

While a joint resolution of the legislature is not a requirement for submitting a formal application for membership, after the initial consultations between the Secretariat and the applicant country have been completed successfully, such a resolution may be used as evidence of the functioning of the democratic process and popular support in that country for joining the Commonwealth.

Heads of Government would consider the application of a prospective member at the next CHOGM, and, if they reach consensus about accepting the application, that country would then join the Commonwealth and be invited to attend subsequent meetings.

(b) Changes in the constitutional status of existing members.

In cases of changes in constitutional status, as when a monarchical realm becomes a republic, it was agreed that the old procedure of reapplying for membership is not necessary. **It is recommended that where an existing member changes its constitutional status, e.g. from a monarchy to a republic, it should not have to reapply for Commonwealth membership as long as it continues to accept all elements of the criteria for membership.**

(c) Members in Arrears.

As in the past, there was some discussion of the possibility of different categories of member states. There have also been suggestions that Dependent Territories might be included in a special category. The committee was firmly in favour of only one class of member, i.e. full member. It was noted that countries that default on their budget contributions are assigned a separate category, as agreed in the Abuja Guidelines of 2003, and designated “Special Members”. It was felt that this designation could be misleading and hence should be changed.

The Committee recommends that the current practice of applying the Abuja Guidelines to countries which are in accumulated arrears be continued but that the category be renamed “Members in Arrears”. Such members should continue not to be invited to attend Commonwealth Ministerial and Heads of Government Meetings, as is the current practice.

4. SUMMARY OF RECOMMENDATIONS

1. Core criteria for membership

The Committee recommends that in order to become a member of the Commonwealth:

(a) an applicant country should, as a general rule, have had an historic constitutional association with an existing Commonwealth member, or a substantial relationship with the Commonwealth generally, or a particular group of members, for example, in a common regional organization.

(b) an applicant country accepts and complies with Commonwealth fundamental values, principles, and priorities as set out in the 1971 Declaration of Commonwealth Principles and contained in other subsequent declarations;

(c) Among the criteria an applicant country must meet would be a demonstrable commitment to: democracy and democratic processes, including free and fair elections and representative legislatures; the rule of law and independence of the judiciary; good governance, including a well-trained public service and transparent public accounts; protection of human rights, freedom of expression, and equality of opportunity;

(d) an applicant country should accept Commonwealth norms and conventions, such as the use of the English language, as the medium of inter-Commonwealth relations and acknowledgment of the Queen as Head of the Commonwealth;

(e) new members should be encouraged to join the Commonwealth Foundation, and to promote vigorous civil society and business organizations within their countries, and to foster participatory democracy through regular civil society consultations.

2. Funding

The committee recommends that the assessed contribution of a new member should augment the existing budget of the Secretariat, thus keeping the contributions of other members unchanged.

In this context, the committee recommends to the Heads of Government that they may wish to consider conducting periodic reviews of the formula for assessing the contributions to the Secretariat budget in order to keep them up to date with current trends.

3. Overseas Territories

The Committee recommends that Heads of Government endorse the current practice of Overseas Territories hosting and/or attending Commonwealth functional meetings, as well as contributing to and benefiting from the activities of the CFTC where relevant.

It further recommends that, so far as possible, there should be consistent practices developed in the representation of Overseas Territories at Commonwealth meetings in consultations with their administering power. Heads of Government may also wish to call upon the Secretary-General to devise ways to enhance the profile of Overseas Territories in the Commonwealth family, especially in the civil society and business sectors.

Applications from such territories for membership of the Commonwealth when they attain sovereign independence status need not await the next CHOGM for decision by Heads of Government.

4. Special Guests

The Committee recommends that the Secretary-General should continue to extend Special Guest status to the Executive Heads of those intergovernmental and regional organizations which extend an Observer or similar status to the Commonwealth at their meetings. This status should

be particularly sought with those organizations where the Commonwealth has developed close relations and strategic partnerships.

5. Strategic Partnerships

The Committee recommends that the Secretary-General be encouraged to continue to develop and deepen strategic partnerships with international and regional organizations in order to augment Commonwealth's resources and to promote its values and principles for the benefit of its members and the international community generally.

6. Process of application

The Committee recommends a four step process for applications:

Step 1. Informal assessment by the Secretary-General.

Following any informed expression of interest from an independent and sovereign non-member state to the Secretariat, the Secretary-General should carry out an informal assessment of the ability of the country concerned to meet the membership criteria. At the same time, the Secretary-General should informally advise member governments that such an assessment was being undertaken.

Step 2. Consultation with existing member governments.

After the informal assessment has been made and if the Secretary-General is satisfied that the applicant country is likely to meet the criteria and enjoys broad-based domestic support for membership of the Commonwealth, the Secretary-General will inform member countries in writing about the results of *the* assessment and seek their comments.

Step 3. Invitation to make a formal application.

If there is no objection from existing members to the expression of interest by a non-member country wishing to join the Commonwealth, the

Secretary-General will request the country concerned to make a formal application to the Commonwealth Secretariat for submission to Heads of Government for their consideration.

Step 4. Evidence of democratic processes and popular support.

While a joint resolution of the legislature is not a requirement for submitting a formal application for the membership, after the initial consultations between the Secretariat and the applicant country have been completed successfully, such a resolution may be used as evidence of the functioning of the democratic process and popular support in that country for joining the Commonwealth.

Heads of Government would consider the application of a prospective member at the next CHOGM, and, if they reach consensus about accepting the application, that country would then join the Commonwealth and be invited to subsequent meetings.

7. Change of Status

It is recommended that where an existing member changes its constitutional status, e.g. from a monarchy to a republic, it should not have to reapply for Commonwealth membership as long as it continues to accept all elements of the criteria for membership.

8. Members in arrears

The Committee recommends that the current practice of applying the Abuja Guidelines to countries which are in accumulated arrears be continued but that the category be renamed “Members in Arrears”, as the current designation could be misleading. Such members should continue not to be invited to attend Commonwealth Ministerial and Heads of Government Meetings, as is the current practice.



Appendix I

WRITTEN SUBMISSIONS TO THE COMMITTEE

Most Hon. Portia Simpson-Miller, Prime Minister of Jamaica (4 August 2006)

S K Rao, Director General of the Administrative Staff College of India and former Director of Strategic Planning Unit, Commonwealth Secretariat (4 October 2006)

Rt Hon Lord Howell, CH, QC, Member of the House of Lords, United Kingdom (16 October 2006)

John Collinge, Chairman of the Inter-Governmental Group on the Criteria for Commonwealth Membership and former High Commissioner of New Zealand to the United Kingdom (18 October 2006)

Chief Emeka Anyaoku, former Secretary-General of the Commonwealth (23 October 2006)

Richard Bourne, Senior Fellow, Institute of Commonwealth Studies (26 Oct 2006)

Derek Ingram, Commonwealth Journalists Association (27 October 2006)

Commonwealth Magistrates and Judges Association (27 October 2006)

Commonwealth Press Union (30 October 2006)

Dr Victoria te Velde-Ashworth, Acting Head of the Commonwealth Policy Studies Unit, Institute of Commonwealth Studies (October 2006)

Commonwealth Business Council (1 November 2006)

Commonwealth Parliamentary Association (9 November 2006)

Royal Commonwealth Society (21 November 2006)

Commonwealth Human Rights Initiative (November 2006)

Senator Frank Walker, Chief Minister, States of Jersey (25 June 2007)

Appendix II

KEY DECLARATIONS AND DOCUMENTS ON COMMONWEALTH FUNDAMENTAL VALUES

The Declaration of Commonwealth Principles, Singapore, 1971

The Harare Commonwealth Declaration, Harare, 1991

The Millbrook Commonwealth Action Plan on the Harare Declaration,
1995

The Coolum Declaration - *The Commonwealth in the 21st Century:
Continuity and Renewal*, Coolum, 2002

The Aso Rock Commonwealth Declaration *on Development and
Democracy: Partnership for Peace and Prosperity*, Abuja, 2003

The Commonwealth (Latimer House) Principles on the Three Branches
of Government, endorsed by Heads at Abuja, 2003

