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Extradition – conspiracy to import drugs – requirement for double criminality – what constitutes extradition crime – consideration of conduct which occurs in more than one state - Canada/US Extradition treaty – Extradition Act 1985 s. 18 – (Canada)

The Respondents were charged in the United States of America with two counts of conspiracy to distribute and import heroin into the US. The US requested their extradition from Canada for trial in the US.

The facts alleged that V.R., a co-operating witness who worked for the US Federal Bureau of Investigation (FBI), was offered heroin for sale by one of the respondents, V.C., in New York. They then had a series of meetings and half a kilogram was bought through an intermediary, T. V.C. later offered to sell V.R. more heroin in Canada at a much lower price and explained how he could import it into the US without being detected. V.R. consequently travelled to Toronto (followed by undercover agents). In Toronto, V.R. also met R.C., alleged to be V.C.'s cousin. The deal to purchase 12 ounces of heroin for \$70,000 fell through because V.C. alleged that the police had raided the house of the person who was to provide the heroin (later identified as C.A.). Some weeks later, R.C. contacted V.R. who again travelled to Toronto for yet another purchase. Again V.R. returned to New York without purchasing any heroin. After a series of telephone conversations between V.R. and the respondents, V.R. travelled to Canada for a third time, where a sale of 435 grams of heroin at the cost of \$77,620 was effected. More supplies were promised but no more heroin was bought.

The respondents were later indicted by the Grand Jury of the Southern District of the State of New York.

The trial judge at the extradition hearing found that although there was strong evidence that the respondents engaged in the trafficking of heroin in the US and conspired to traffic in heroin in Canada, there was not enough evidence to support a prima facie case of conspiracy in the US. He therefore discharged the respondents.

The US then appealed against the order of discharge, advancing the following arguments:

The judge misinterpreted the test for committal under section 18(1) (b) of the Extradition Act in that:

“(a) He made the assessment under s.18(1)(b) on the assumption that what occurred in the United States occurred in Canada

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For further information or copies, please contact: The Editor, Criminal Law Unit, Legal & Constitutional Affairs Division (LCAD), Commonwealth Secretariat, Marlborough House, Pall Mall, London SW1Y 5HX, United Kingdom.
Tel: +44 (0)20 7747 6417/6420/6423
Fax: +44 (0)20 7839 3302
E-mail: k.prost@commonwealth.int
v.wright@commonwealth.int

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and vice versa, rather than assuming that all of the impugned conduct occurred in Canada

- (b) He narrowed his assessment under Canadian law to only the "approximate equivalent Canadian offences" to those charged in the United States rather than considering any Canadian extradition offence.
- (c) Alternatively, he based his assessment on the failure of the appellant to establish the American offences rather than determining if the conduct established a prima facie case of any Canadian extradition offence."

In effect, the judge should have assumed that all the impugned conduct took place in Canada, and then determined if the evidence established a prima facie case of an extradition crime under the laws of Canada.

The respondents in turn asked for the appeal to be dismissed or that the extradition proceedings be stayed on the ground that there had been an unreasonable delay of twenty-five months from the date of the filing of the appeal to the day it was argued. Such a delay, they argued, infringed their Constitutional rights guaranteed under section 7 of the Charter of Rights and Freedoms (principles of fundamental justice).

● **Held:** allowing the appeal;

1. The court was satisfied that the extradition judge erred in interpreting and applying the test under s.18(1)(b), and that if the proper test was applied to the evidence, a warrant of committal would issue for each of the respondents.
2. Section 18(1) establishes the test to be applied by the extradition judge in determining whether a fugitive should be committed for surrender. Section 18(1)(a) sets out the test for those fugitives who have already been convicted of an offence in the requesting state. Section 18(1)(b) provides the test for cases involving fugitives, like the respondents, who are subject to outstanding charges in the requesting jurisdiction. The test under s. 18(1)(b) embodies the "double criminality" rule that underlies the structure of the extradition process and has its origins in the principle of reciprocity. The rule is designed to protect the fundamental rights of an individual whose extradition is being sought, by ensuring that a person is not surrendered to another country for conduct not considered to be a criminal offence in the country where the fugitive

is located: *U.S.A. v Lepine* (1994), 87 C.C.C. (3d) 385 (S.C.C.) ; *U.S.A. v. McVey* (1992), 77 C.C.C. (3d) 1 (S.C.C.).

3. A number of principles govern the way a court should apply s. 18(1)(b) to the facts of a particular case, namely that:

(a) the assessment to be made under this section is conduct based. The wording of the section requires the court to assume that "the crime has been committed in Canada." This has been interpreted to mean that the court should look to the impugned conduct and make its assessment under Canadian law on the basis of that conduct: *McVey*, at p. 28; *Lepine*, at p. 391.

(b) the court should consider only the conduct that underlies the foreign charge for which extradition is being sought. The extradition judge is concerned with whether that conduct would, prima facie, constitute an extradition crime under the laws of Canada had it taken place in Canada. He is not to base the committal decision on evidence of conduct that "has nothing to do" with the conduct charged in the foreign jurisdiction: *U.S.A. v. Tavormina* (1996), 112 C.C.C. (3d) 563 (Que. C.A.), at p. 569. This means that the conduct to be considered in the s. 18(1)(b) assessment must have some connection to the foreign charge or must constitute some evidence of that charge. The extradition judge may look to the foreign indictment, but only for the purpose of determining what conduct is to be included in the assessment under s. 18(1)(b). The foreign indictment enables the extradition judge to identify the conduct with which a fugitive is charged in the requesting jurisdiction. In referring to the foreign indictment however, the court must not be concerned with whether the conduct establishes the commission of the foreign charge nor with whether the foreign court has jurisdiction to try the charge.

(c) The extradition judge should consider the impugned conduct without regard to the jurisdiction in which the conduct took place. Nothing in the Act requires the judge to consider where the acts charged took place or to consider the jurisdiction of the requesting state.

(d) The extradition judge then needs to determine whether the conduct, if it occurred in Canada, would constitute a prima facie case of an extradition crime according to the laws of Canada. An "extradition crime" means any crime that if committed in Canada would be

one of the crimes listed in the schedule to the Extradition Act or in the case of an extradition arrangement (a treaty) any crime described in such arrangement. Article 2 of the Canada-United States Extradition Treaty provides that "extradition shall be granted for any offence punishable by the laws of both parties by imprisonment for a term exceeding one year or any greater punishment." It is not necessary that the Canadian offence established by the conduct be described by the same name or that it have the same legal elements as the offence charged in the requesting state. The protection afforded by the double criminality rule is ensured if the conduct that underlies the foreign charge constitutes any extradition crime under the laws of Canada.

4. In applying section 18(1)(b), the extradition judge applied a "notional fiction" by which he would pretend that what is said to have occurred in the United States occurred in Canada and vice versa, and then found that the appellant had not made out a prima facie case of either of the two counts alleged in the indictment based on their approximate Canadian equivalents. He then held that although there was "strong evidence that V.C. trafficked in heroin in the United States, and strong evidence that all of the respondents conspired to traffic heroin in Canada, there was not sufficient evidence to support the charges alleged in the indictment. The extradition judge erred in applying this notional fiction. It runs afoul of the majority decision in *Lepine*, which requires the court to consider all of the conduct without regard to the jurisdiction in which it took place. It was well settled that an extradition judge should not be concerned either with the sufficiency of the proof of the foreign charge or with the jurisdiction of the foreign court to try the charge.

5. The extradition judge erred in restricting the assessment under s. 18(1)(b) to only the "approximate Canadian equivalent charges" to those set out in the foreign indictment. The effect of this error, combined with the error of assuming what occurred in the United States occurred in Canada and vice versa, would result in a significant departure from the basis upon which the assessment under s. 18(1) is to be made

6. If section 18(1)(b) had been properly applied to the evidence, a warrant of committal would have been issued for each of the respondents. The Court was satisfied that the evidence introduced by the appellant at the extradition hearing related

to the conduct underlying the American charges and was therefore relevant to the assessment under s. 18(1)(b) of the Act. The second step in the assessment under s. 18(1)(b) was to determine if the alleged conduct had all occurred in Canada, was there sufficient evidence of a Canadian offence to meet the test of a prima facie case. Here there was evidence, to that standard, of the offence of conspiracy to traffic in heroin and also the substantive offence of trafficking in heroin. The evidence therefore met the requirements of s.18(1)(b) and would justify a court issuing a warrant of committal for each of the respondents.

7. On the question of the delay, the Court agreed that the delay was unnecessary and the reasons for it reflected poorly on the appellant. The respondents argued that the delay had infringed their rights under s. 7 of the Charter. In *R. v. Potvin* (1993), 83 C.C.C.(3d) 97, the Supreme Court of Canada held that s. 11(b) (unreasonable delay) of the Charter did not apply to the delay involved in an appeal from conviction by an accused or to an appeal from an acquittal by the Crown. However, s. 7 might in appropriate circumstances afford a remedy for appellate delay where real prejudice could be shown. The use of s. 7 in these circumstances is an application of the court's power to remedy an abuse of process that is enshrined in s. 7 as a principle of fundamental justice. Although the total delay in the present case was approximately 25 months, the respondents in this case had not satisfied the test in *Potvin*. The respondents had taken no steps to advance the appeal by using the Criminal Appeal Rules. As well, there was no evidence to show that any real prejudice resulted from the appellate delay. The affidavit evidence put forward related to personal prejudice but contained no specific allegations of prejudice to the conduct of the appeal or to the defence of the charges should the defendants be extradited.

United States of America v. Vincenzo Commisso, Rocco Commisso, Cosimo D'Agostino and Mathew Szabo, Court of Appeal of Ontario, Case No. C28101, 22 February 2000 (Internet cite: <http://www.ontariocourts.on.ca/appeal.htm>)

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Extradition – respondent released on bail in respect of related offences for which extradition sought – whether he could be detained upon the application of requesting jurisdiction – Extradition Act, 1999 - Section 18(2) – (Canada)

C was arrested in Canada on a warrant of apprehension issued under the Extradition Act 1999, on December 3, 1999. He was released on bail by the extradition judge on January 18, 2000.

The US applied for a review of that decision relying on section 18 (2) of the Extradition Act, which provides:

- “18(2) A decision respecting judicial interim release may be reviewed by a judge of the court of appeal and that judge may
- (a) confirm the decision;
 - (b) vary the decision; or
 - (c) substitute any other decision that, in the judge’s opinion, should have been made”.

C had previously been arrested in Toronto in 1997 on charges of importing and conspiracy to import, heroin. He was granted interim release on those charges. He was then arrested again in Vancouver in December 1999 and charged with various further drug offences. The Vancouver charges related to the time period April 1998 to December 1998. Charges were also brought against him in the US for related drug offences spanning June to July 1998. The US sought C’s extradition to the US for these offences. The US offences and the Vancouver offences overlapped and arose from the same conspiracy.

The US argued that the judge failed to apply the reverse onus provision of s 515 (6) of the Criminal Code, which was applicable to the respondent in that:

1. he was charged with a serious drug offence punishable with imprisonment for life; and
2. the offence was alleged to have been committed during his release on bail in respect of another indictable offence.

☉ **Held:** dismissing the application;

1. The judge at first instance had applied the reverse onus provision as he clearly recognized that the onus was on the respondent. It was open to the judge to conclude, based on the evidence before him, that the reverse onus had been satisfied. The same onus had been applicable when the defendant sought release on both the 1997 Toronto charges and then the Vancouver

charges. In both cases he was granted release. The trials for the offences committed in Canada were soon to commence. The judge had to consider that C had been released twice on the basis of substantial sureties and, despite the potential for a lengthy term of incarceration if convicted, he had not fled.

2. It was open to the judge to hold that C had demonstrated that the extradition request by the US was not a sufficient additional factor to warrant his detention.

3. Therefore, there was a sufficient basis for the judge at first instance to have concluded that the respondent did not pose a significant flight risk and therefore his detention pending the extradition proceedings was not justified on the primary ground.

4. Given the overlap between the Vancouver and American charges and the fact that the evidence relied upon to show C’s alleged criminal network was previously available, C could also not be detained on the basis that there was reason to believe he would commit further offences and therefore the secondary ground was also inapplicable to him.

United States of America v. Kwok Yeung Chan, Court of Appeal of Ontario, Case Number M25327, 2 February 2000 (Internet cite: <http://www.ontariocourts.on.ca/appeal.htm>)

Extradition - Authority to Proceed - whether unreasonably made - Offence stated in extradition request different from that in Authority to Proceed – alleged offence time-barred - Hong Kong / US Extradition Treaty – Fugitive Offenders Ordinance – (Hong Kong)

This case concerns a request by the government of the United States to Hong Kong for the extradition of Cosby to the US. Cosby was indicted on two counts of money laundering and a third count that stated the applicant’s liability to forfeit property if convicted. The US request was accompanied by a copy of the indictment, a warrant for arrest and a number of affidavits, one of which was sworn to by a confessed accomplice.

Between September 1989 and March 1994, Cosby was president and Chairman of the Board of Directors of SoftPoint Inc., a company incorporated in the U.S.. It was alleged that he perpetrated a series of securities frauds, essentially by inflating the price of SoftPoint stocks through a series of bogus sales transactions.

R was Cosby's accomplice in the fraudulent transactions, who later pleaded guilty to charges of income tax violation and then became a state witness in the investigation of Cosby.

In September 1999, the Chief Executive of Hong Kong issued an authority to proceed against Cosby in the following terms:

"A Request for Surrender having been received from the Government of the United States of America for the surrender of Robert Henry COSBY, who was wanted in the said place for prosecution in respect of the offence of conspiracy to defraud.

I therefore order that the said person be dealt with under Part II of the Fugitive Offenders Ordinance, Cap 503, Laws of Hong Kong.

Dated this 10th day of September 1999"

Cosby then applied for a judicial review of the Chief Executive's decision to issue the authority to proceed. He argued that the decision was unlawful and unreasonable in that it was made in relation to the offence of conspiracy to defraud which was not the offence with which he had been charged in Nevada (USA). Moreover, the *actus reus* of the offence for which Cosby was wanted in the US, which is what must be considered, was the unlawful wiring of funds from Nevada to California, and therefore, his alleged involvement in the conspiracy to defraud, which the money laundering was intended to conceal, was surplus to the request for surrender. The offence of money laundering was not a relevant offence under the Fugitive Offenders Ordinance, because it was not a known offence in Hong Kong at the time that the offences alleged were committed in the US.

● **Held:** dismissing the application;

1. The Fugitive Offenders Ordinance required the Chief Executive and the Courts to be concerned with the law of the requesting jurisdiction to the extent only that it is necessary to see if the offence described by that law carried a term of 12 months imprisonment or more and sometimes to see whether the law of the requesting country embraced the specialty requirement.
2. Section 4 of the Ordinance determines who is liable to surrender and in what circumstances. The first criteria of section 4 was met since under section 2, the US was a "prescribed place" in that it was a place to or from which a person may be surrendered, pursuant to an arrangement

in respect of which the Chief Executive had directed that the procedure of the Ordinance shall apply. The relevant arrangement here was the US/Hong Kong Extradition Treaty.

3. Under section 4, the only person who may be surrendered is one who is "wanted ...for prosecution..., in respect of a relevant offence against the law of the prescribed place...". Section 2(2) of the Ordinance established that there was a difference between an offence against the law of a prescribed place, and a relevant offence against that law. An offence against the law of the prescribed place meant an offence against the law of the US. But a relevant offence against that law was one that, under that law, carried a term of imprisonment of 12 months or any greater punishment.
4. Section 2(2) also required that a relevant offence was one in which the acts constituting the conduct amounted to conduct which, had it occurred in Hong Kong, would have constituted an offence in Hong Kong. The Ordinance catered for co-operation with territories that embrace disparate legal concepts, and crimes that are framed quite differently from those of Hong Kong. By examining the previous extradition legislation in relation to the new scheme, it is evident that the current extradition legislation and arrangements strive to minimise the circumstances in which either the executive or the courts are required to examine the law of the requesting jurisdiction and to place the emphasis upon underlying conduct which in Hong Kong would constitute a scheduled crime. As a result, the appellant's argument that the focus should be on the *actus reus* of the foreign offence was incorrect. In *Levy v. The Attorney General* [1987] HKLR 777, following the decision in *In Re Nielsen* [1984] AC 606, the Hong Kong Court of Appeal held that it was the conduct not the foreign offence "which the Governor considers when he decides whether to make an order requiring the magistrate to issue a warrant for the apprehension of the accused person."

Moreover, since the authority to proceed is required to relate to the scheduled Hong Kong offence, there was no requirement

for an examination of the foreign offence. There was nothing in the legislative provisions that required that Chief Executive in issuing an authority to proceed, to determine and examine the actus reus of the foreign offence so as to decide whether the authority to proceed can be lawfully issued.

The Specialty Considerations

5. There was no need for the Chief Executive to look at the law of the prescribed place in order to ascertain whether it contained a specialty protection, because the protection is contained in the relevant prescribed arrangement (i.e. Article 16 of the Hong Kong/US Treaty).
There was no merit in carrying out an exercise of isolating core conduct from the information submitted by the requesting state, by reference to the foreign indictment or warrant, because such a course would be fraught with practical difficulties and may lead to the analysing of the elements of the foreign offence, not required by the Ordinance.
Where information and evidence is forwarded with a request, the requested jurisdiction is entitled to proceed on the basis that it is in relation to the conduct disclosed by the totality of that information that surrender is requested.
6. "Whilst the courts must be alert to attempts to circumvent statutory provisions by artifice, especially where such devices touch upon the liberty of the individual, the court should not, in striving against artifice, be driven artificially in the construction and application of the statutory scheme. This is an ordinance 'intended to serve the purpose of bringing to justice those accused of serious crime.... There is a transnational interest in the achievement of this aim. Extradition Treaties and extradition statutes, ought, therefore to be accorded a broad and generous construction so far as the text permits it in order to facilitate extradition" (See *In Re Ismail* [1999] 1 AC 320, at 327...) 'So, too, a court "...should not, unless constrained by the language used, interpret any extradition treaty in a way which would hinder the working and

narrow the operation of the most salutary international arrangements" (per Lord Bridge in *Government of Belgium v. Postlewaite and Others* [1988] 1 AC 924 at 947).

The Limitation Point

7. There was nothing in the Ordinance that required the Chief Executive or the Magistrate to ask whether the Hong Kong Offence or the conduct that constitutes it was time-barred in the requesting jurisdiction. The Chief Executive was only required to address whether an authority to proceed could lawfully be issued. If it became apparent that the foreign offence was time-barred, that may be evidence upon which the Chief Executive might conclude that the request was bogus. "But so long as the prosecution of the foreign offence was not time-barred, and so long as that prosecution was grounded on acts or omissions in respect of which it may realistically be said that surrender has been ordered, there is no need to dissect the information and the evidence transmitted by the requesting jurisdiction to see whether this piece of evidence or that piece of evidence might, if encapsulated as a foreign offence, be time-barred."

The decision to issue the authority to proceed

8. The success of an attack on the decision to issue an authority to proceed must be predicated on a basis that it ought to have appeared to the Chief Executive that an order could in due course not lawfully be made. Such a conclusion is likely to be rarely made. The Chief Executive was not required to decide whether there was a prima facie case, he was concerned with whether there was sufficient evidence to warrant a magistrate to see if there was a prima facie case.
9. The argument that the authority to proceed could not have been issued because it was made in respect of certain offences that were different from those stated in the request, did not hold water. This was because the offence to which section 10(6)(b)(ii) of the Ordinance related was that to which the authority to proceed related, and the offence to which the authority to proceed related was the relevant offence.

Conclusion

10. The decision to issue the authority to proceed was lawful. There was no error of law, or abuse or irrationality.

Cosby v. The Chief Executive of Hong Kong, Unreported Case No. 118 of 1999, 12 November 1999

Extradition – Presidential consent to extradition request – whether unconstitutional – section 3(2) Extradition Act – Section 231 South African Constitution – (South Africa)

H is a citizen of Germany who resided in the Republic of South Africa. Germany requested his extradition from South Africa for serious fraud offences. Although there was no extradition agreement between South Africa and Germany, South Africa purported to accede to the German request relying on the provisions of section 3(2) of the Extradition Act 1962 as amended in 1996. That section provides that

“Any person accused or convicted of an offence contemplated by sub-section (2) and committed within the jurisdiction of a foreign state not a party to an extradition agreement shall be liable to be surrendered to such foreign state, if the State President has in writing consented to his being so surrendered.”

The South African President, consented to the German request in writing and the Minister of Justice thereupon issued a notice in terms of section 5(1) to the Magistrate (Notice to Proceed), whereupon the Magistrate issued a warrant for the arrest of H. The Magistrate instituted an extradition enquiry, found that H had committed an extradition offence and committed him to prison to await the Minister's decision with regard to his surrender.

H appealed the committal proceedings and raised, inter alia, the constitutionality of section 3(2) of the Extradition Act. Although the committal proceedings were set aside and a rehearing ordered, the High Court dismissed the constitutional issue. H appealed to the Constitutional Court of South Africa, raising the following questions:

- (a) “Whether section 3(2) of the Act is inconsistent with the provisions of section 231 of the Constitution;

- (b) Whether the consent given by the President under section 3(2) of the Act was in conflict with the provisions of section 231(2) and (4) of the Constitution and on that ground invalid and of no force or effect.”

○ Held:

1. Whether or not an extradition is being sought pursuant to an extradition agreement, the provisions of the Extradition Act governing the domestic proceedings must be complied with. “The effect of the provisions of section 3(2) is no less domestic in its reach than the other provisions of the Act. It neither initiates nor concludes extradition. Where there is an extradition treaty between South Africa and a requesting state, the Minister is authorised by the provisions of section 5(1) to set in motion the provisions of the Act by notifying the magistrate of the request. Where there is no extradition treaty between the requesting state and South Africa, it is the Minister who forwards the request for extradition to the President. Then under section 3(2) the President's consent is necessary to enable the Minister to give the notification to the magistrate. “

With respect to the constitutional arguments, Section 231 of the Constitution, which sets out the legislative process applicable to international agreements negotiated on behalf of South Africa, is inapplicable to such consent. The process under Section 3(2) creates a consent provision that is only of domestic application. It does not create an international agreement.

2. It is anomalous to presume that consent to an extradition request results in an international agreement entered into by the President. It cannot therefore be said that the President needed to submit the consent to Parliament for approval before it could be legal under section 231. The consent of the President served merely to bring the appellant within the purview of the Act. It was a domestic act, never intended to create international legal rights and obligations. This is borne out by the communications between the two countries surrounding the extradition. The exchange of diplomatic notes does not provide support for the conclusion that the President's consent under section 3(2) was anything more than a domestic act.

3. The appellant had also contended that under the doctrine of estoppel, the President was unconstitutionally allowed by section 3(2) to bypass the legislative process mandated by section

231 of the Constitution, in that he was able to effectively enter into an international agreement without adhering to the provisions of the Constitution. Having held that the President's consent did not amount to an international agreement, the Court held that Germany was not entitled to rely on the President's consent to

establish any enforceable obligation against South Africa. This contention was therefore also untenable.

Jurgen Harksen v. President of South Africa, and Others, 30 March 2000.
<http://www.law.wits.ac.za/lawrep.html>

MUTUAL ASSISTANCE IN CRIMINAL MATTERS

INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS

EASTERN AND SOUTHERN AFRICA ANTI-MONEY LAUNDERING GROUP

The first Meeting of the Task Force of Senior Officials of the Eastern and Southern Africa Anti-Money Laundering Group took place from the 17th to the 19th of April 2000.

The Meeting agreed on a work programme for the first year, approved the budget and the administrative structure of the Secretariat, which is to be based in Dar-es-Salaam, Tanzania.

The main preoccupations for the Group, in the fight against money laundering in the sub-region, are:

- (a) The setting up in each member country, of a register of national points of contact on anti-money laundering matters;
- (b) The updating of information on member countries anti-money laundering systems and controls, including the compilation of anti-money laundering legislation and self-assessment questionnaires;
- (c) The ultimate introduction of mutual evaluation exercises of member countries;
- (d) The establishing of a collection of national laws of member countries relevant to money laundering;
- (e) The establishing of three standing sub-groups covering legal, financial and law enforcement (including money laundering topologies) issues;
- (f) The setting up of anti-money laundering targets for each member country for the first session: this includes the establishment of a national multi-disciplinary anti-money laundering committee in each country by September 2000;

- (g) The development of an Internet web-site and access to an electronic library of national laws and international best practices on money laundering;
- (h) The development of links with local universities, NGOs and the private sector in the region to commission research papers on the extent of money laundering in Africa;

The Meeting was attended by senior officials from: (1) Botswana, (2) Kenya, (3) Malawi, (4) Namibia, (5) Swaziland, (6) Tanzania, (7) Uganda, (8) Zambia, (9) Zimbabwe. The government of the United Kingdom was also represented and the Financial Action Task Force of the OECD, the Commonwealth Secretariat, and the World Bank.

It is expected that the Secretariat of the Group will be up and running by the beginning of July.

It will be recalled that the countries of the Eastern and Southern Africa region had agreed to form a regional group to facilitate co-operation in the fight against money laundering, at a conference on Money Laundering in Cape Town in 1996.

Thereafter, with the assistance of the Commonwealth Secretariat and the government of the United Kingdom, and under the Chairmanship of Tanzania, the Group was launched in August 1999. A memorandum of Understanding was agreed upon as the basis for their co-operation. A country becomes a member of the Group upon signing the MOU. So far, seven countries have signed the MOU, bringing the Group into operation.

The MOU and other documents relating to the Group and its formation may be obtained from the Commonwealth Secretariat's Economic Affairs Division or the Legal and Constitutional Affairs Division.

