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Commonwealth Heads of Government Meeting

Meeting in Durban, South Africa, Commonwealth Heads of Government addressed a number of issues relevant to combating serious crime. Their communiqué notes:

Terrorism

- Their strongest condemnation of acts of terrorism in all its forms and manifestations, and their determination to promote international and regional co-operation and to strengthen the international legal framework to ensure that terrorists do not find safe haven in any part of the world. They welcomed the adoption of the UN Convention on the Suppression of Terrorist Bombings and called for the International Convention on the Suppression of Acts of Terrorist Financing. They also sought the enactment by all states of laws to prevent financing of terrorists and terrorist organisations.

Small Arms

- Their concern at the destabilising accumulation and proliferation of small arms, ammunition, and light weapons. They noted that many Commonwealth governments were adversely affected by the excessive and destabilizing accumulation, and the uncontrolled flows of these lethal weapons. They urged member countries to support and encourage the initiatives underway globally and regionally on this complex problem.

Good Governance and the Elimination of Corruption

- That corruption has become global in reach and that it must be tackled comprehensively through action at both national and international levels. They welcomed the report of the Commonwealth Expert Group on Good Governance and endorsed the Framework for Principles for Promoting Good Governance and Combating Corruption as the basis for pursuing concerted strategies based on "zero tolerance" for all types of corruption at national and global levels. They underscored that the Commonwealth commitment and work in promoting good governance and preventing corruption must be credible, tangible and visible.

Financial Services and Money Laundering

- The substantial importance of financial services to the economies of certain member countries and the need for improvements in the existing framework to regulate

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international financial transactions and markets in order to safeguard the international banking and financial system and to prevent financial crime, notably money laundering. They encouraged member countries to continue to implement the recommendations of the Financial Action Task Force (FATF) on money laundering and called on Commonwealth countries from the Asia/Pacific region which had not yet joined the Asia/Pacific Group on Money Laundering to consider doing so in order to strengthen regional anti-money laundering efforts within the Commonwealth.

COMMONWEALTH AFRICA REGIONAL WORKSHOP ON THE USE OF AND ENFORCEMENT OF THE CRIMINAL LAW IN THE PREVENTION OF ENVIRONMENTAL CRIME, GABORONE, BOTSWANA,

The Commonwealth Secretariat organised a regional workshop on the use of the criminal law in the prevention of environmental crime in Africa. It was held from 8-12 November 1999 in Gaborone, Botswana. Participants were drawn from 12 Commonwealth African countries. Each delegation was comprised typically of one Government prosecutor and an investigator in environmental crime. Present also were representatives from Interpol, the Lusaka Agreement Task Force, Department of Environment, Transport and the Regions (DETR) UK, Environment Agency (UK), and Greenlaw Africa. The workshop was funded by DETR. The objectives of the workshop were to:

- (i) Consider the implementation and effectiveness of Multilateral Environmental Agreements (MEAs) on environmental crime.
- (ii) Examine the use of, and enforcement of the criminal law as an effective approach for the prevention of environmental crime.
- (iii) Provide an overview of existing best practices, problems, and potential solutions in the prevention of environmental crime.
- (iv) Strengthen the capacity of government prosecutors and investigators in the prevention of environmental crime.
- (v) Evaluate and promote cooperation between national, regional and international enforcement agencies in the effective prevention of environmental crime.

Some of the views regarding the implementation of MEAs and national legislation were:

- I. Most countries had signed or ratified the said multilateral environmental agreements, and were in the process of implementing the obligations arising therefrom through national legislation. The important and challenging task is now the effective implementation of those provisions.
- II. National legislation on environmental and wildlife protection, including legislation intended to implement MEA obligations, varies in quality. In some cases, laws are inadequate or fragmented, whereas in others framework legislation provides for overall protection
- III. The extent to which countries have implemented MEA provisions for criminal sanctions, such as the Basel Convention provision criminalising the illegal traffic in hazardous waste, varies.
- IV. It was noted that in some countries, encouragement from international organisations would be useful to induce governments to ratify the MEAs that they have signed and to implement agreed obligations.
- V. Some countries observed that current legislation did not provide for adequate penalties and where they existed, difficulties in investigations contributed to the courts imposing less severe punishment.
- VI. Some participants identified the need for a shift in the burden of proof towards the defendant, or alternatively, that environmental crimes should generally be considered as strict liability offences.
- VII. Judicial awareness of the environment, international MEA obligations and national environmental legislation needs to be enhanced.
- VIII. It was felt that training in the preparation of cases and advocacy was needed. Investigators need to be trained to follow proper investigative procedure in the collection of evidence. Investigators and expert witnesses need to be trained in court procedure.
- IX. Considerable expertise already exists in Africa that should be utilized in further training.
- X. It was noted that undercover operations are a useful means to investigate environmental crime. However, in most countries training in the necessary techniques is required.

In respect of international, regional and national co-operation, it was observed that:

- I. Under their existing extradition legislation some countries do not have provision for extraditing offenders for environmental crimes. In this regard, it was noted that the Commonwealth Scheme for the Rendition of Fugitive Offenders (London Scheme) could provide an additional mechanism for co-operation on extradition.
- II. There is need for improved cooperation in investigations at regional and international level. Enhanced use of Interpol, increased membership of Interpol regional environmental groups, improved support for the Lusaka Agreement, and increased implementation of the Commonwealth Scheme Relating to Mutual Assistance in Criminal Matters (Harare Scheme), were just some of the ways in which better co-operation could be achieved.
- III. There is also need for greater inter-agency/ inter-ministerial coordination at the national level. The UK's PAW (Partnership for Action Against Wildlife Crime) could be used as a model and adapted to national circumstances.

As part of the workshop, participants presented country reports on the status of implementation of conventions and the national measures that have been undertaken in implementation of MEAs.

The country reports reflected differences of experiences in investigation and prosecution of environmental crime. In some countries, investigation and prosecution were hampered by lack of resources, expertise, lack of political will, and the low priority accorded to it by Government. Enforcement agencies in some countries are coordinating well, but in other countries, the lack of coordination hindered effective enforcement.

Most countries reported that they had some extradition legislation but this was rarely used. With the exception of South Africa, all the other

countries stated that environmental crimes were not extraditable under their extradition legislation.

The introduction of mock trials as part of the program, one concerning an endangered species and the other pollution, proved to be a valuable exercise in highlighting the degree of preparedness necessary for trials of environmental crimes. The mock trials gave the participants an appreciation of the particular evidentiary problems associated with such cases.

They also afforded an opportunity for the investigators to better appreciate the problems of the prosecutors who in turn appreciated the task of the investigators and, at the same time, both accepting the value of teamwork between prosecuting authority and environmental agency.

The following recommendations came out of the Workshop:

- I. That there was a need for technical assistance to be made available to develop and consolidate national environmental legislation and develop adequate procedures where necessary, drawing on best practice and procedures in other countries.
- II. There should be organized a train-the-trainer course in professional enforcement to prevent, investigate and prosecute environmental crime. Participation in the course should be dependent on a commitment by the participating countries to implement training courses.
- III. Member countries should organize in-country training, bringing together investigators and prosecutors.
- IV. There was a need for training on public relations and the use of the media with a view to improving public awareness on the environment, environmental laws and environmental crime.
- V. Relevant, accessible and understandable training materials such as videos and manuals should be produced and made available for use as reference material by prosecutors and investigators.

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Extradition - Confession and non-insistence on rule of speciality – Whether sentencing Court required to have regard to the public interest in the accused’s confession and non-insistence on rule of speciality (Australia)

The appellant sought to set aside an order upholding sentences in respect of 67 offences against school children who were under his care and control. He contended that the sentence was manifestly excessive and that the trial judge failed to give sufficient weight to the fact that, of the 67 charges, prosecution in respect of 39 of them was made possible only because, after he had been extradited to Australia, he “expressly waived his rights under the Extradition Treaty” to return to the United States without these 39 charges being laid against him.

Pursuant to Art. XIV(1)(c) of the Australia/US Extradition Treaty Australia requested “the United States Government’s consent to the prosecution and sentencing of [AB] on 39 charges related to offences for which he was extradited in April 1996.” The United States gave its consent.

The appellant’s claim assumed that he was entitled to a sentencing “discount” for his confession with respect to the non-extradition offences *and* a further “discount” because he had co-operated in obtaining the consent of the United States government to the prosecution of the 39 offences.

☉ **Held:** the Court by majority allowing the appeal

The public interest in the waiver by the appellant is a relevant matter which the sentencing Court and the Court of Criminal Appeal should have considered. The significance of the confession to the offences not the subject of any charge and the waiver of extradition rights in respect of them do have the important public interest implications.

The legal rights involved do indeed belong to the United States in accordance with the treaty. But the clear and practical consequence of those rights afforded a privilege to the appellant to object to prosecution upon any of the post-extradition offences. The appellant could have remained silent resting on that privilege.

It would, of course, have been open to Australia to seek the consent of the United States to the prosecution of the appellant for the post-extradition offences upon grounds other than the appellant’s waiver. However, the appellant would have been entitled to exhaust his legal remedies in

the United States to resist the provision of such consent against his wishes.

The significance of the appellant’s decision to waive his legal rights, and to insist upon confessing to 39 offences against nine additional persons that were not amongst those for which he had been extradited, assumes a new complexion. For such waiver the appellant was entitled to expect particular and additional consideration from the sentencing judge and the Court of Criminal Appeal. Far from receiving such consideration, the appellant’s action appeared to have been overlooked or ignored. Indeed, the results of his action, in exposing him to additional punishment for offences against a larger number of persons and over a considerably longer period of time, gave rise to a conclusion which significantly aggravated the perception of his total criminality.

Unless the sentencing judge were to mark in a specific and express way the credit to which the appellant was entitled for having surrendered his privilege to insist on the rule of speciality under extradition law, the outcome of this case would not encourage others, in a like position, to act as he did. That cannot be a result which is in the interests of the criminal justice system, of accused persons, of the victims of crime or of society. It was not, therefore, a result, which a proper approach to sentencing, would uphold.

Due and explicit regard ought to have been given to the significance of the appellant’s waiver of extradition rights, i.e. his non-insistence on the rule of speciality. It was a consideration different from, and additional to, contrition, the clearing up of crime difficult to detect and the saving of public costs. Because no such consideration was given at first instance or on appeal, and on the contrary because of the way the additional confessions were used to the appellant’s disadvantage, the sentencing discretion miscarried. The Court of Criminal Appeal erred in failing to correct this error.

AB v The Queen [1999] HCA 46: High Court of Australia, 9 September 1999

Extradition – Canada/US Extradition Treaty – Plea bargains – discovery – delay (US)

Canada sought the extradition of Drayer to face trial for murder. Drayer was, at the time of the extradition request, serving a sentence of imprisonment in the US.

The accused, in support of an application for *habeas corpus*, argued that his extradition should be refused on grounds relating to:

- (a) prior refusal for discovery of documents;
- (b) delay in the making of the request; and
- (c) failure of the US courts to enforce an alleged co-operation agreement between him and the Canadian authorities.

● **Held:**

1. The alleged plea bargain or immunity agreement arising from Drayer providing information to the RCMP, which led to the conviction of his co-accused, was insufficient to interfere with the US extradition power. The appropriate place for Drayer to raise a defence based on the co-operation agreement would be in any subsequent Canadian proceeding.
2. The discovery request sought information and documents in the possession or control of the US or Canada which tended to show that the homicide was not planned and deliberate. The application was denied on the basis that the US merely had factual information provided by the Canadian authorities. Unlike the *Demjanuk* case there had been no US investigation of offences underlying the extradition request.
4. The delay of 14 years between the issue of the Canadian arrest warrant and the formal request for the extradition did not breach the Fifth Amendment right to due process. There was no due process right to a speedy extradition.

In re The Matter of the Extradition of Michael John Drayer 199 US Appeals: 1999 FED App. 0313P: No. 98-3595, 30 August 1999 – as reported in the International Law Enforcement Reporter, November 1999.

Extradition – Backing of warrants – Words and Phrases: “correspond”; “any offence” – Backing of Warrants (Republic of Ireland) Act 1965, section 2(2) – (UK)

The two cases concerned appeals to the House of Lords by two men (Gilligan and Ellis) who were subject to be extradited to the Republic of Ireland from the United Kingdom.

Gilligan was arrested at Heathrow airport in the UK for drug trafficking. The Republic of Ireland also issued eighteen arrest warrants for offences which included murder and possession or control of firearms with intent to endanger life. The UK suspended proceedings against him to allow the Irish cases to proceed. The Irish warrants of arrest

were endorsed by a metropolitan Magistrate. Subsequently, it was ordered that Gilligan be returned to Ireland under section 2(2) of the Backing of Warrants (Republic of Ireland) Act 1965. His appeal to the Divisional court was refused.

Ellis was wanted in Ireland on charges of unlawful carnal knowledge of a girl under 15 and sexual assault. He was arrested in Plymouth in the UK and ordered to be returned under section 2(2) of the same Act.

Section 2(2) provides that

“(1)... after a person is arrested under [an Irish warrant endorsed under section 1 by an English magistrate or Scottish sheriff] he shall be brought before a magistrates’ court and the court shall order him to be delivered into the custody of the ... Garda Siochana ...

(2) An order shall not be made under subsection (1) ...if it appears to the court that the offence specified in the warrant does not correspond with any offence under the law of the part of the United Kingdom in which the court acts which is an indictable offence or is punishable on summary conviction with imprisonment for six months...”

In both appeals it was argued that the element of correspondence required by the Act was not satisfied. Gilligan also argued that the magistrate should have stayed the proceedings under the Act as an abuse of process.

● **Held: dismissing the appeal;**

1. In deciding whether the requirement of correspondence was met, a magistrate has to look at the warrant before him. “...however the warrant is drawn, that is what the court has to look at. No other material is admissible except that exceptionally, evidence may be admissible for the strictly limited purpose of explaining technical language in the warrant or words which an English court would not otherwise understand. But such evidence would not extend to explaining the legal components in Irish law of any label given to the offence in the warrant”.

2. The word “Correspond” in the Act was not a term of art, but one that must be given its ordinary meaning. The magistrate was simply to apply the word “correspond and determine whether the test of correspondence was satisfied on the basis of a perusal of the warrant, or in exceptional cases, all the materials before him.

3. “The offence specified in the warrant has to correspond with any offence under English law. The word ‘any’ shows that the court is not necessarily looking for an English offence which is

identical to the offence specified in the warrant nor one the juristic elements of which are the same – rather for a sufficiently serious offence that would correspond in English law to the offence specified in the warrant, if the conduct had occurred in England.

4. In the case of *Ellis*, the magistrate was right to hold that he did not have jurisdiction to entertain an application to stay the proceedings, because:

- section 2(2) properly construed, was inconsistent with a general abuse of process jurisdiction;
- an abuse of process jurisdiction would undermine the legislative purpose of simple and expeditious proceedings; and
- the 1965 Act was premised on the basis that the Irish courts were well able to guard against abuses and the English courts had no jurisdiction to entertain the application.

R. v. Governor of Belmash Prisons and Another, Ex parte Gilligan

R. v. Governor of Exeter Prison and Another, Ex parte Ellis Times, 24 November 1999

EXTRADITION - Eligibility for surrender - Whether supporting documents "duly authenticated" - magistrate request accompanied by "all available information" concerning identity - Diplomatic immunity - jurisdiction to entertain claim - Whether documents bearing seal of international organisation "duly authenticated". Extradition Act 1988, Extradition (Federal Republic of Germany) Regulations, Vienna Convention on Diplomatic Relations, Specialized Agencies (Privileges and Immunities) Regulations 1986 (Australia)

The Federal Republic of Germany on 1 September 1994 issued a warrant for arrest of the applicant on fifteen charges of damaging the financial position of another by fraudulent representation with the intention of gaining an unlawful pecuniary advantage for himself, contrary to s 263 of the German Penal Code; thirty four charges of attempting to damage the financial position of another by fraudulent representation with the intention of gaining an unlawful pecuniary advantage for himself contrary to ss 53 and 263 of the German Penal Code and two charges of fabricating false documents.

On 9 December 1994 a German court rejected a complaint by the applicant in relation to several

of the fraud and attempt charges. On 29 December 1994 another German court dismissed the applicant's complaint in relation to other fraud and attempt charges, but revoked the arrest warrant in relation to the two falsification charges.

As a result of a request presented by the FRG, on 7 December 1998 a provisional warrant for the arrest of the applicant was issued pursuant to s 12(1) of the Extradition Act. The warrant was executed on 21 December 1998. The applicant was thereafter remanded in custody. On 8 January 1999, the Minister for Justice and Customs, stated by notice in writing under s 16(1) of the Act that an extradition warrant in relation to the accused had been received from the Federal Republic. On 12 March 1999 proceedings under s 19(1) of the Act commenced before the second respondent ("the Magistrate") in the Magistrates' Court at Melbourne. The following German language documents with English translations were tendered to the Magistrate:

- I. the warrant of arrest dated 1 September 1994
- II. the decision of the first German court dated 9 December 1994
- III. the order of the second German court dated 29 December 1994
- IV. a certificate of identity of the applicant dated 15 March 1999, signed by "Reiber, Public Prosecutor"
- V. a certificate dated 24 October 1997 setting out the law constituting the offences with which the applicant was charged, and stating the punishment that could be imposed, again signed by "Reiber, Public Prosecutor" ("the certificate of offences").

On 10 May the Magistrate determined that the applicant was eligible for surrender on all of the offences the subject of the s 16(1) notice, and made an order under s 19(9) that the applicant was eligible for surrender.

The applicant then sought a review of that order pursuant to s 21 of the Act which empowers the Federal Court to confirm the magistrate's order or quash the order and direct the magistrate to order the release of the person the subject of the order. Under sub-section (6)(d) upon an application for review, the Court "shall have regard only to the material that was before the magistrate". If the Court determines that the person is eligible for surrender in relation to extradition offences, it shall include in its judgment on the review a statement to that effect specifying the offence or offences.

The applicants put forward the following grounds for review:

1. That the Certificate of identity was not duly authenticated as required by law.

A document is "duly authenticated" for the purposes of s 19(7) if it purports to be signed or certified by an officer in or of the extradition country, and purports to be sealed with an official seal of an officer of the Government of the extradition country. On the other hand, Article 10(2) requires a document to be signed or certified by a competent authority in the requesting state, and to be sealed with the official seal of an officer of the requesting state.

The applicant's contention was that s 19(7) is displaced by Article 10 of the Treaty, a displacement which is authorised by s 11(1) of the Act, which enables the regulations to apply the Act to an extradition country subject to such limitations, conditions, exceptions or qualifications as are necessary to give effect to the treaty with that country. Article 10(2) requires that the certificate be "made" as opposed to "purports to be", as in the case of 19(7). Thus it was accepted that as there was no evidence that "Reiber" was a competent authority in the Federal Republic or that the seal was that of an officer of the Republic, was not admissible the certificate admissible in evidence, because the sub-section did not preserve sub-s (6), which makes a duly authenticated document admissible.

For the first respondent reliance was placed on s 19(7A) of the Act. The sub-section was inserted to ensure that the "purports" standard in sub-s (7) applies notwithstanding any authentication provision to the contrary in an extradition treaty. See the Explanatory Memorandum to the Bill which became the 1990 Act.

2. It was contended that the certificate of identity was deficient because the data it contains was not matched with the facts said to constitute the offences for which extradition was sought

3. The applicant claimed to be entitled to diplomatic immunity because he was "for Australia, Director-General of the World Health Organization" ("WHO"). The evidence upon which the applicant relied for his claim to immunity consisted of two documents. The first purported to be a "Certificate" dated 25 August 1998 under the letterhead of WHO:

"I, Dr Gro Harlem Brundtland, Director-General of the World Health Organization (WHO), hereby certify that Thomas S R Topping, WHO Legal

Counsel, has the full authority to speak on behalf of the Organization concerning claims made by Mr Ulrich Christoph Eberhard Freiherr Von Arnim to be a representative of WHO, including use of the WHO name and emblem made by Mr Von Arnim to support such claims."

What purported to be a seal of WHO was placed beside the certifier's name and signature. The second document, again on WHO letterhead, purported to be a letter dated 19 February 1997 from Mr Topping to "World Health Organisation - Australasia Ltd Director General - Ulrich von Arnim".

"I have been instructed by His Excellency Director General - Hiroshi Nakagima to inform you that in accordance with regulations and pursuant to of the World Health Organization your incorporated International Non Governmental Organisation, World Health Organisation - Australasia Ltd, has been accredited - Status of a Regional Office of the World Health Organization of the United Nations in Australia with all the duties, rights and privileges of such office."

The Magistrate had declined to receive the documents in evidence as they were not authenticated. They were, however, part of the material before him. He also received in evidence a Certificate from the Minister for Foreign Affairs stating that the applicant "has never been recognised by the Government of the Commonwealth of Australia as a person entitled to diplomatic or other privileges or immunities as a representative of the World Health Organisation or any other international organisation to which the International Organisations (Privileges and Immunities) Act 1963 applies".

His Worship went on to say that the issue of immunity was in any event not a matter for him to consider. Notwithstanding that, he said that he saw nothing which would lead him to the conclusion that the applicant was a diplomatic agent.

● **Held:** dismissing the application;

1. A document that is authenticated in accordance with sub-s (7) was admissible under sub-s (6). In *Zoeller v Republic of Germany* (1989) 23 FCR 282 at 289 a Full Court held that a document that was duly authenticated within the meaning of s 19(7) was, by force of s 19(6), admissible in proceedings. The certificate purported to be signed by the Public Prosecutor of Stuttgart, who is an "officer in or of" the Federal Republic, and it purported to be sealed with an official seal. The requirements of s 19(7) were thus satisfied, and the certificate was admissible under sub-s (6).

The same applied to the certificate of offences.

2. On the question of the availability of information under Article 9 (i)(a), the Magistrate had no jurisdiction to consider whether all available information had accompanied the request. Nor had the Appellate Court on review. See *Federal Republic of Germany v Parker* (1998) 101 A Crim R 234 at 241, 254.

3. As to the identity of the appellant, there was ample evidence to satisfy the Magistrate that the person before him was the person named in the warrant. The Police had given evidence that a search warrant was executed at the applicant's premises. The applicant identified himself by his full name. In the course of the search police obtained the applicant's passport. On another occasion police obtained from the applicant's premises a German identity card which contained his photograph. The date of birth in the passport and identity card was the same as that in the certificate of identity. Signatures on documents emanating from Port Philip Prison, where the applicant was detained, and purporting to be his, were the same as signatures on the passport and identity card.

5. As to whether the Magistrate had jurisdiction to entertain the immunity claim, the function of s 11(6) is to ensure that nothing in s 11 expands the list in s 19(2). It does not go, any more than s 19(2) itself, to whether the magistrate has jurisdiction over the person of the individual whose extradition is sought. That depends on whether the applicant is a diplomatic agent within the meaning of the Vienna Convention on Diplomatic Immunities. If he is, he is immune from Australia's criminal, civil and administrative jurisdiction. The power a magistrate exercises under s 19 falls into one of those categories.

While initially the Magistrate seemed to have thought that he had no power to enter upon the immunity question, he appeared ultimately to have done so, and to have decided the question against the applicant. He was right to have entertained the claim to immunity. For the applicant it was claimed that the two WHO documents were authenticated as required by s 150(1)(e) of the Evidence Act (Cth). This

provides that the imprint of a seal on a document which purports to be the imprint of "the seal of a body ... or a body corporate, established by a law of ... a foreign country" is presumed to be the imprint of that seal and to have been duly sealed as it purports to have been sealed. A "seal" includes a "stamp". This provision did not assist the applicant. While WHO is doubtless a body, it is not established by the law of a foreign country, but by the States that are parties to the "Constitution of the World Health Organization". Even if the documents were authenticated as claimed, they were not admissible in evidence. For the applicant it was contended that they were admissible under s 19(6) of the Act. But that only applies to documents authenticated in the manner described in sub-s (7). Moreover, the persons who purported to have signed the documents were not called as witnesses, and there was no evidence that it was not reasonably practicable to secure their attendance.

6. The Magistrate was correct in declining to admit the WHO documents, and in acting on the Minister's Certificate. See *Duff v The Queen* (1979) 28 ALR 663 at 695. Even if the WHO letters were admissible, the Court would not have acted on them. The letters were unsatisfactory in several respects, and little weight could be attached to them. The Director-General named in the first letter was not the same person as the Director-General named in the second. The Brundtland letter was dated eighteen months after the Topping letter. The WHO seals on the two letters were different, notwithstanding that both purported to come from the head office of WHO. The Brundtland letter referred to "claims made by Mr Ulrich Christoph Eberhard Freiherr Von Arnim to be a representative of WHO", and it seemed to be a claim as to his entitlement to use the WHO name and emblem. Moreover, there was no evidence that the conditions attached to the Topping accreditation had been accepted.

7. The applicant was eligible for surrender to the first respondent in relation to the extradition offences specified in the Minister's notice under s 16(1) of the Act.

Von Arnim v. Federal Republic of Germany [1999] FCA 1159

