



Statement on the Southern African Development Community (SADC) Tribunal

The Commonwealth Lawyers Association (CLA), the Commonwealth Legal Education Association (CLEA) and the Commonwealth Magistrates' and Judges' Association (CMJA) are concerned about the recent decision of the Southern African Development Community (SADC) Summit of Heads of State to negotiate a new Protocol on the SADC Tribunal and limit the mandate of the Tribunal to interpretation of the SADC Treaty and Protocols relating to disputes between Member States.

The CLA, CLEA and CMJA recall that individuals had a clear right of access to the Tribunal as set out in the original Protocol and notes that all previous cases heard by the Tribunal have been brought by individuals.

The CLA, CLEA and CMJA further note that this decision appears counter to the outcome of the independent review initiated by SADC and submitted in March 2011 which affirmed the jurisdiction of the Tribunal and its legal authority. In May 2011, the SADC Committee of Ministers of Justice/Attorneys General was further mandated to review the operation of the Tribunal and submit a final report in August 2012. A copy of this report has not been made public.

The CLA, CLEA and CMJA recall the provisions of the *Commonwealth (Latimer House) Principles on the Separation of Powers and Independence of the Judiciary 2003*. The failure of the Summit to reinstate the Tribunal in its original form, together with the decision to renegotiate the mandate, raises difficult questions as to the institutional balance and separation of powers within the various structures of SADC itself as well as wider questions of commitment to the principles of democracy, human rights and the rule of law, including the independence of the judiciary, as set out in the SADC Treaty itself.

The CLA, CLEA and CMJA call upon the SADC Summit to reinstate the Tribunal in its original form noting that it is an important mechanism for the promotion, protection and full realisation of human rights within Southern Africa and also provides the citizens of the SADC region with access to justice and effective legal remedies independent of national judicial systems.

Commonwealth Lawyers Association (CLA)
Commonwealth Legal Education Association (CLEA)
Commonwealth Magistrates' and Judges' Association (CMJA)

23rd August 2012

NOTE TO EDITORS:

The **Commonwealth Lawyers Association** is an international non-profit organisation which exists to promote and maintain the rule of law throughout the Commonwealth by ensuring that an independent and efficient legal profession, with the highest standards of ethics and integrity, serves the people of the Commonwealth.
www.commonwealthlawyers.com

The **Commonwealth Legal Education Association** is an international non-profit organisation which fosters and promotes high standards of legal education in the Commonwealth. Founded in 1971, it is a Commonwealth-wide body with regional Chapters and Committees in South Asia, Southern Africa, West Africa, the Caribbean and the UK.
www.clea-web.com

The **Commonwealth Magistrates' and Judges' Association** is a not for profit organisation, registered in the UK, whose aims are to promote judicial independence, advance education in the law, the administration of justice the treatment of offenders and the prevention of crime in the Commonwealth. It brings together judicial officers of all ranks from all parts of Commonwealth and provides a forum for the promotion of the highest judicial standards at all levels. www.cmja.org