

Senate



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CANADA

**STANDING SENATE COMMITTEE ON  
FOREIGN AFFAIRS AND INTERNATIONAL TRADE**

***A Charter “Fit for Purpose”:  
Parliamentary Consultation  
on the Proposed  
Charter of the Commonwealth***

**April 2012**

Ce rapport est aussi disponible en français.  
Des renseignements sur le comité sont donnés sur le site :  
[www.senate-senat.ca/foraffetrang.asp](http://www.senate-senat.ca/foraffetrang.asp).

Information regarding the committee can be obtained through its web site:  
[www.senate-senat.ca/foraffetrang.asp](http://www.senate-senat.ca/foraffetrang.asp).

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## ACKNOWLEDGEMENT

This report is the outcome of the Standing Senate Committee on Foreign Affairs and International Trade's hearings on the establishment of a Charter of the Commonwealth, as agreed to by the Commonwealth Heads of Government meeting in Perth, Australia, in October 2011. Through our study, we have heard from witnesses in Canada and abroad, and from diverse backgrounds, including government, civil society, students, and international organisations. Learning from their perspectives, we have come to understand that a succinct document outlining core Commonwealth values stands to perform important educational and inspirational functions, particularly amongst the youth and parliamentarians that help make the Commonwealth a unique international organisation. A single, accessible document pulling those values together, and adopted by the Commonwealth's 54 member states, will be instrumental in promoting those values worldwide.

On behalf of the Committee, I would like to thank all the witnesses that appeared before our committee, in person or via videoconference, from Canada and other Commonwealth countries. In particular, I would like to thank Senator Hugh Segal, a former member of this committee, and the Honourable Justice Michael Kirby. Appearing before us, respectively, as a member and as the chair of the Eminent Persons Group assigned to identify means to reinvigorate the Commonwealth, it is to their credit that the idea of a Commonwealth Charter is now coming to fruition. I would also like to extend my personal thanks to the representatives of the Youth Branch of the Royal Commonwealth Society, whose perspectives shed important light on the future of the Commonwealth.

Natalie Mychajlyszyn and Brian Hermon, from the Parliamentary Information and Research Service of the Library of Parliament, and Line Gravel, the Clerk of the Committee, are to be thanked for their professionalism and support throughout the hearings and drafting process. I also extend my appreciation to Mona Ishack, of the Senate Communications directorate, for making this process open and accessible to the Canadian public. The committee also noted the good work done by the Translators, from Public Works and Government Services.

Finally, the Committee agreed to undertake this study in response to a request from the Minister of Foreign Affairs. We trust that this report proves helpful to him in his ongoing work with counterparts from other Commonwealth countries, as they work towards a final document.

Senator Raynell Andreychuk  
Chair of the Committee





## **THE COMMITTEE**

**The following Senators have participated in the study:**

The Honourable Raynell Andreychuk, Chair of the Committee  
The Honourable Percy Downe, Deputy Chair of the Committee  
  
and

The Honourable Senators:

Pierre De Bané, P.C.,  
Doug Finley,  
Suzanne Fortin-Duplessis,  
Janis G. Johnson,  
Frank Mahovlich,  
Yonah Martin,  
Pierre Claude Nolin,  
Fernand Robichaud, P.C.,  
David P. Smith, P.C., and,  
Pamela Wallin.

**Ex-officio members of the Committee:**

The Honourable Senators Marjory LeBreton, P.C. (or Claude Carignan) and James Cowan (or Claudette Tardif)

**Other Senators who have participated from time to time in the study:**

The Honourable Senators JoAnne L. Buth, Norman E. Doyle, Mobina S.B. Jaffer, Donald Neil Plett, Rose-May Poirier, Nancy Greene Raine, Terry Stratton.

**Senator appearing as a witness:**

The Honourable Senator Hugh Segal



## **Staff of the Committee:**

Brian Hermon, Analyst, Parliamentary Information and Research Service, Library of Parliament,

Natalie Mychajlyszyn, Analyst, Parliamentary Information and Research Service, Library of Parliament,

Louise Pronovost, Administrative Assistant, and  
Line Gravel, Clerk of the Committee.

## **Other Staff who have assisted the Committee from time to time in the study:**

Mona Ishack, Senior Communications Officer, Senate of Canada.



## ORDER OF REFERENCE

Extract from the *Journals of the Senate*, Tuesday, February 7, 2012:

The Honourable Senator Andreychuk moved, seconded by the Honourable Senator Neufeld:

That the Standing Senate Committee on Foreign Affairs and International Trade be authorized to study and report on the establishment of a “Charter of the Commonwealth” as agreed to by the Commonwealth Heads of Government meeting in Perth, Australia, in October 2011 and its implications for Canada; and

That the committee submit its final report to the Senate no later than April 13, 2012 and that the committee retain all powers necessary to publicize its findings until April 30, 2012.

After debate,

The question being put on the motion, it was adopted.

Gary W. O’Brien  
Clerk of the Senate



# **I. INTRODUCTION**

## **A. BACKGROUND TO THE COMMITTEE'S STUDY**

On January 20<sup>th</sup>, 2012, Canada's Minister of Foreign Affairs sent a letter (see Appendix A) to the Chair of the Standing Senate Committee on Foreign Affairs and International Trade ("the Committee") recommending that the Committee consider holding hearings on a "Charter of the Commonwealth."

The letter made reference to the Commonwealth Heads of Government Meeting (CHOGM) in Perth, Australia, in October 2011, in which Heads of Government agreed to establish a "Charter of the Commonwealth." The process was to begin with national consultations in all Commonwealth countries, and negotiation of the Charter's text was to commence in mid-April 2012. Agreement on a final text is anticipated in late 2012.

The Steering Committee of the Standing Senate Committee on Foreign Affairs and International Trade met to consider the Minister's letter, and subsequently submitted its recommendation to members of the Committee. The Committee agreed to undertake a brief consultation on the Commonwealth Charter, and to produce a short report to advise the Minister and the Department of Foreign Affairs and International Trade in their ongoing negotiation of the Charter's text.

## **B. THE COMMITTEE'S CONSULTATION PROCESS**

Appreciating the time required to undertake a thorough national consultation, and to receive feedback from interest groups and individuals across Canada, the Committee determined that it would be most efficient and expeditious to utilize the Senate of Canada's committee hearing process.

The Committee reached out to stakeholders in Canada and abroad, receiving testimonies in-person and via videoconference. It heard from witnesses already well-informed about the Commonwealth, and from a variety of backgrounds, including government, civil society, academia, international organisations, Commonwealth-affiliated associations, as well as from individuals interested in the Commonwealth. The Committee notes that, beyond those already involved in the Commonwealth in Canada, no other witnesses requested to appear and some contacted declined. The Committee publicised its hearings online, via social media, and television, in order to ensure the process was open to all Canadians.

In this manner, the Committee sought to begin a dialogue in Canada on the role of the Commonwealth in Canada and the world, and the potential value of a Commonwealth Charter. Using its report as a starting point, the Committee suggests that the Minister of Foreign Affairs continue consulting with Canadians on this matter, such as by welcoming online submissions on

the Department of Foreign Affairs and International Trade's website, and by keeping Canadians informed as the process advances.

## II. THE COMMONWEALTH AND THE PROPOSED CHARTER

### A. THE COMMONWEALTH OF NATIONS

The Commonwealth of Nations is a voluntary association of 54 independent sovereign states from all regions of the world. Its members include countries large and small, industrialized and developing, with diverse ethnic, cultural and religious heritage. The combined population of all Commonwealth member-states is approximately 2.1 billion, representing almost one third of humanity. Half of all Commonwealth countries have populations of less than one million, yet that of one member, India, exceeds 1 billion. Commonwealth members represent more than one-quarter of the United Nations, 20% of the Organisation of Islamic Countries, 40% of the African Union, 60% of the South Asian Association for Regional Cooperation, and over 80% of the Caribbean Community.<sup>1</sup>

Traditionally, Commonwealth countries have derived their sense of kinship from their common use of the English language and exposure to British institutions during their colonial past. However, some Commonwealth members, such as Cameroon, Mozambique and Rwanda, have only tenuous links to these experiences. Only parts of Cameroon were under British rule, while Mozambique was a Portuguese colony. Rwanda, which joined the Commonwealth in 2009, is a former German and Belgian colony and has no constitutional link to Britain, but maintains close relations with its Commonwealth neighbours Kenya, Tanzania and Uganda.

A Commonwealth Heads of Government Meeting is held every two years to set priorities for the organisation. The Commonwealth Ministerial Action Group (CMAG), a rotating grouping of nine Foreign Ministers that serve two-year terms, meets when necessary to respond to serious violations of democratic principles and has the power to recommend punitive measures that can be taken against offending member-states. Canada rotated back onto CMAG at last year's CHOGM, and is currently working alongside Australia, Bangladesh, Jamaica, Maldives<sup>2</sup>, Sierra

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<sup>1</sup>[\*A Commonwealth of the People: Time for Urgent Reform\*](#), Report of the Eminent Persons Group to Commonwealth Heads of Government, Perth, October 2011, p. 29-30 (EPG Report).

<sup>2</sup> On 22 February 2012, following an extraordinary meeting of CMAG Ministers, it was agreed that Maldives' membership on CMAG would be "placed in abeyance" following events leading up to the resignation of President Mohamed Nasheed in Maldives (described by President Nasheed as a "coup").



Leone, Tanzania, Trinidad and Tobago, and Vanuatu in a re-constituted CMAG. Canada had most recently served on the CMAG from 2003-2007.<sup>3</sup>

A small Commonwealth Secretariat led by a Secretary-General supports the intergovernmental meetings and operates a number of small programs related primarily to conflict prevention and building support for democratic processes and human rights. The Commonwealth Secretariat's Strategic Plan sets out the overall strategic focus, objectives and expected results of the organisation. The Strategic Plan has two ongoing and interlinked goals:

First, the democracy pillar focuses on strengthening democratic institutions and processes in member countries. Activities under this pillar include training programs, initiatives promoting links between organisations building democracy at the grass roots, election observer missions, and technical assistance in support of democratic structures and institutions.

Second, the development pillar is focused on promoting sustainable economic and social development. The Commonwealth Fund for Technical Co-operation (CFTC) is the principal means by which the Commonwealth delivers this assistance to member countries. With about 350 experts on location in various Commonwealth countries, the CFTC provides technical support in the areas of economic growth (i.e., trade, investment, private sector development and debt management advice and support), poverty reduction and sustainable development.<sup>4</sup>

In addition to these principal organs of the Commonwealth, a network of hundreds of Commonwealth-affiliated professional and advocacy organisations connect people, including professionals, scientists, educators, and politicians in member countries. These organisations work at the local, national, regional and international levels and carry out the major work of the Commonwealth, benefiting not only the smaller and developing members, but also the larger industrialized states like Canada, Great Britain, Australia and New Zealand. The Commonwealth Games Federation, which manages the Commonwealth Games that take place in a different Commonwealth country every four years, is an example of a Commonwealth accredited organisation.<sup>5</sup>

## B. COMMONWEALTH RENEWAL

Revitalizing and reforming the Commonwealth to ensure that it can deal effectively with the challenges Commonwealth countries face and support efforts to build strong societies and economies has been central to discussions among member countries and parliaments for some time.

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<sup>3</sup>Department of Foreign Affairs and International Trade [DFAIT], "Canada and the Commonwealth," Background Note provided to committee staff, February 2012.

<sup>4</sup>The CFTC provides advisory services both through local agencies and consultants as well as external experts. Commonwealth Secretariat, "[About the CFTC.](#)"

<sup>5</sup>Commonwealth Secretariat, "[The Commonwealth: Who We Are.](#)"

In 2009, the Royal Commonwealth Society undertook the largest ever global public consultation on the future of the Commonwealth. The *Commonwealth Conversation*, as it was called, found that people were unclear about what the Commonwealth today represents.

If the Commonwealth is to function as a strong and dynamic association, then all member states must uphold the commitments they have made to democracy, good governance, human rights, freedom of expression, rule of law and sustainable environmental, social and economic development.<sup>6</sup>

Informed by this consultation, in 2009 Commonwealth leaders established an Eminent Persons Group (EPG) to study and develop recommendations for Commonwealth renewal and modernization. The Group was chaired by former Malaysian Prime Minister Tun Abdullah Ahmad Badawi and included Canadian Senator, the Hon. Hugh Segal, among its eleven members. The EPG's discussions centred on a core question:

How best to increase the effectiveness of the Commonwealth, its institutions and activities so that member states and their citizens are well-served by an association that is greater than the sum of its parts, justifying continued affiliation, participation and collaboration of all of its member states?<sup>7</sup>

Titled *A Commonwealth of the People: Time for Urgent Reform*, the EPG's final report was submitted to leaders at the biennial Commonwealth Heads of Government Meeting (CHOGM) in Perth, Australia in October 2011.<sup>8</sup> The report concludes "that the success of reform is in strengthening the role and connectivity of the people of the Commonwealth."<sup>9</sup> The first of the 106 recommendations made by the EPG states:

A "Charter of the Commonwealth" should be established after the widest possible consultation in every Commonwealth country. Civil society organisations should be fully involved with national governments in the process of pan-Commonwealth consultation including in the organisation of the process and assessment of its results. A task force should be appointed to analyse the findings of the national consultations and to make recommendations, on that basis, to

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<sup>6</sup> [The Commonwealth Conversation](#) took place between July 2009 and March 2010 and was led by the Royal Commonwealth Society (London, United Kingdom office).

<sup>7</sup> EPG Report, p. 23.

<sup>8</sup> Leaders in Perth adopted 30 of the EPG recommendations outright, conditionally adopted twelve, and rejected eleven. The remaining recommendations were assigned to a special Task Force of Ministers who will consider them further and provide advice to Commonwealth Foreign Ministers at a meeting on the margins of the United Nations General Assembly in September 2012. Department of Foreign Affairs and International Trade (DFAIT), "A Charter of the Commonwealth," Background Note provided to committee staff, February 2012.

<sup>9</sup> EPG Report, p. 23.

Heads of Government. If the findings favour a Charter, the task force should be authorised to draft the final text.<sup>10</sup>

Commonwealth leaders meeting in Perth agreed to this recommendation, stating in their Communiqué “that there should be a ‘Charter of the Commonwealth’, as proposed by the Eminent Persons Group, embodying the principles contained in previous declarations, drawn together in a single, consolidated document that is not legally binding.”<sup>11</sup>

A draft Commonwealth Charter, included in the EPG report as the basis for the national consultations, draws from a series of declarations agreed to by Commonwealth leaders over the years about the association’s aspirations and values. The first explicit statement of the Commonwealth’s commitment to democracy is found in the 1971 Singapore Declaration of Commonwealth Principles. The Singapore Declaration set out the core political values and the fundamental principles that member-states hold in common: “We believe in liberty of the individual, in equal rights for all citizens regardless of race, colour, creed or political belief, and in their inalienable right to participate by means of free and democratic political processes in framing the society in which they live.”<sup>12</sup>

The 1991 Harare Commonwealth Declaration reinforced the Singapore Declaration, further defined the core values of the association, and called on the Commonwealth to focus its activities on those areas where it can make a distinct contribution.<sup>13</sup> At the 1995 CHOGM in New Zealand, leaders adopted the Millbrook Action Programme on the Harare Declaration. The Millbrook Action Programme established a mechanism – the Commonwealth Ministerial Action Group (CMAG) – to deal with members who seriously or persistently violate Commonwealth principles.

The 2009 Affirmation on Commonwealth Values and Principles, adopted at the CHOGM in Port of Spain, Trinidad and Tobago, reiterates the commitment of leaders to the association’s core values and principles.<sup>14</sup>

Set against this background, leaders at the 2011 CHOGM in Perth sought ways in which to better uphold and enforce the Commonwealth’s commitment to its fundamental values and principles. Along with the Charter recommendation, leaders agreed to strengthen the role of the Commonwealth Ministerial Action Group in order to “enable the Group to deal with the full

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<sup>10</sup> EPG Report, p. 36.

<sup>11</sup> Commonwealth Secretariat, “[CHOGM 2011 Communiqué](#),” Commonwealth Heads of Government Meeting, Perth, Australia, 28–30 October 2011.

<sup>12</sup> Commonwealth Secretariat, “[Singapore Declaration of Common Principles 1971](#).”

<sup>13</sup> Commonwealth Secretariat, “[The Harare Commonwealth Declaration](#).”

<sup>14</sup> Commonwealth Secretariat, “[Affirmation of Commonwealth Values and Principles](#).”

range of serious or persistent violations of Commonwealth values.”<sup>15</sup> Leaders also agreed to further evaluate the proposal to create an Office of a Commissioner for Democracy, the Rule of Law and Human Rights.<sup>16</sup>

The Committee believes that by adopting the recommendations to establish a Charter and to strengthen the role of CMAG, and by agreeing to evaluate the proposal to create a Commissioner for Democracy, the Rule of Law and Human Rights, leaders indicated their commitment to more effectively supporting and upholding those values and principles already embodied in previous Commonwealth declarations. **The question for the Commonwealth now is how to implement and move forward with these recommendations under the consensus model of leadership in which the Commonwealth operates.**

### III. THE COMMITTEE’S HEARINGS ON THE PROPOSED CHARTER OF THE COMMONWEALTH

In order to assist and to provide advice to the Minister of Foreign Affairs and the Department of Foreign Affairs and International Trade Canada, the Committee agreed to undertake a brief parliamentary consultation on the Commonwealth Charter. The Committee heard from a variety of witnesses that had experience working with the Commonwealth or its affiliated organisations in Canada or internationally, as well as from others that had a perspective on the proposed Commonwealth Charter. Witnesses were asked to comment both on a draft Commonwealth Charter appended to the EPG report, and to provide their general opinions on what the content and format of an eventual Commonwealth Charter should be. The following section discusses the outcome of the Committee’s hearings.

#### A. THE FORMAT AND FUNCTION OF A COMMONWEALTH CHARTER

As noted earlier in the report, over the past 40 years, a number of declarations dealing with the values and aspirations of the Commonwealth have been adopted at the biennial Commonwealth Heads of Government Meetings. Seven of these declarations are referenced in the draft

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<sup>15</sup> Recommendations relating to the role and mandate of CMAG came from both the Eminent Persons Group report and an internal study carried out by CMAG itself. Commonwealth Secretariat, “Commonwealth Heads of Government Meeting: CHOGM 2011 Communiqué,” Perth, Australia, October 2011.

<sup>16</sup> As proposed, the Commissioner would provide the Commonwealth Secretary-General and CMAG with information on “serious or persistent violations of democracy, the rule of law and human rights in member states, and indicate approaches for remedial action.” EPG Report, p. 46. Leaders did not agree outright to the recommendation to create a Commissioner. Instead, leaders asked a Task Force of Ministers to study the recommendation further and to advise Foreign Ministers on options at their meeting in New York in September 2012.

Commonwealth Charter.<sup>17</sup> While not contradicting one another, the existence of several different declarations, each with varying focus and scope, can make it difficult to identify those core values and aspirations that are most fundamental to the Commonwealth.

Witnesses told the Committee that a Charter would have significance as a stand-alone document if it concisely draws together the Commonwealth's key values, principles and aspirations, becoming a singular source on what the Commonwealth stands for. As one witness said, the title of the document alone would put it in a very privileged position: "People in many member states of the Commonwealth might look to [the Charter] and say, 'We get our mandate from that document.'"<sup>18</sup>

From a conceptual standpoint, some witnesses questioned the appropriateness of the document being called a "Charter." As one witness pointed out, the word charter is "loaded" and has a corporate meaning to it.<sup>19</sup> Another term, such as a "statement of principles," may better complement the Commonwealth's consensus-building approach.

Several witnesses argued that the draft Charter under consideration is too long and complex. They explained that, while it is ultimately the content of the Charter that matters, presentation is also important. As Nick Hare, Former Commonwealth Deputy Secretary (Development Cooperation), noted in his written submission:

The draft [Charter] as it stands is an excellent document in terms of drawing together the many inspirational beliefs, values and aspirations that successive landmark meetings of Heads of Government have agreed upon, but I do not see it in its present form as quite the user friendly Charter that is needed at this time in the context of the spirit of reform the EPG promotes.<sup>20</sup>

A lengthy document is less accessible to the public and the media interested in learning and discussing the Commonwealth. By contrast, **a more succinct Charter that clearly and concisely sets out the Commonwealth's values and its aspirations could have immense value.**

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<sup>17</sup> The seven declarations are: the 1971 Singapore Declaration; the 1991 Harare Declaration; the 1995 Millbrook Commonwealth Action Plan on the Harare Declaration; the 2002 Coolum Declaration; the 2009 Trinidad and Tobago Affirmation of Commonwealth Values and Principles; the 2009 Declaration on Young People Investing in Young People; and the 2009 Declaration of Port of Spain: Partnering for a More Equitable and Sustainable Future. The draft Charter also makes reference to language in the 1945 United Nations Charter, the 1948 Universal Declaration of Human Rights and the 2011 Eminent Persons Group report.

<sup>18</sup> William Schabas, 41:1, Issue no. 8, p. 47.

<sup>19</sup> Senator Segal, 41:1, Issue no. 8, p. 33.

<sup>20</sup> E.N. Hare, written submission to the Committee, 7 March 2012.

From an educational perspective, the Committee heard that the process of establishing a Charter is an opportunity to engage and educate people about the Commonwealth and to raise the profile of the association more generally. As Canadian Senator, The Hon. Hugh Segal, member of the Eminent Persons Group, told the Committee: “[M]ore clarity in a more succinct way about what the Commonwealth is about and what it stands for would be of generic educational value right across the system.”<sup>21</sup> Witnesses also noted that the consultation process itself provides an opportunity for the peoples of the Commonwealth to provide input on the Charter and to reaffirm their individual and collective agreement to the Commonwealth’s fundamental values and principles.<sup>22</sup>

Some witnesses noted that the consultation process presents a chance for the peoples of the Commonwealth to do something unique and to create a document that speaks to their ideals and objectives.<sup>23</sup> However, the process by which people come to embrace a Charter is like any long constitutional debate: if it becomes a long, drawn out process, it risks adding to existing cynicism about the Commonwealth. Such a process, led by a selection of highly industrialized Commonwealth countries, could be seen as a concept imposed on the rest of the Commonwealth. The Committee believes, therefore, that it is important for the Charter to be an inclusive document that takes into account the shared experiences of all Commonwealth countries.

The Committee believes that a succinct Charter would be more accessible, help raise the profile of the association, and serve to educate people about the Commonwealth. While all witnesses generally supported the concept of a Charter, further discussion revealed that many witnesses had mixed opinions about the reason for establishing a Charter and its intended purpose.<sup>24</sup> For example, several witnesses suggested that the Charter could be used to establish membership criteria for the Commonwealth while others made the case that it could be used as an educational tool. As the title of this report indicates, the Committee believes that the Charter should be “fit for purpose,”<sup>25</sup> that is, prepared to serve the purpose it is intended to. The Committee thinks that if the Charter is to be an effective tool, its ultimate purpose needs to be agreed upon by member-states and outlined with greater clarity.

## **B. FOCUSING ON CORE VALUES AND COMPARATIVE ADVANTAGES**

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<sup>21</sup> Senator Segal, 41:1, Issue no. 8, p. 30.

<sup>22</sup> DFAIT, 41:1, Issue no. 8, p. 12.

<sup>23</sup> William Schabas, 41:1, Issue no. 8, p. 44.

<sup>24</sup> Richard Bourne, 41:1, Issue no. 9, p. 16.

<sup>25</sup> The expression “fit for purpose” comes from the Eminent Persons Group report. In the report, the EPG recommended that Commonwealth institutions be reformed so as to effectively equip them to address the challenges of the 21<sup>st</sup> Century.

In recent years, the Commonwealth and its affiliated organisations have undertaken initiatives to modernize the association. Reports from two main thrusts of this effort – the Eminent Persons group and the “Commonwealth Conversation” – stressed a common message: **The Commonwealth must state more clearly, and work harder at upholding, the values most critical to the association.**

A key message from the Committee’s hearings was that the Commonwealth Charter needs to be more focused. As it currently stands, the draft Charter is nine pages long and touches on a wide range of issues. As noted previously, witnesses appearing before the Committee shared the view that the Charter should narrow its scope by focussing on the association’s fundamental values, core competencies and comparative advantages.

Many witnesses before the Committee spoke of the need for the Commonwealth to focus on “value-added” activities and on those areas where it fares better than other international organisations.<sup>26</sup> The Committee heard that, given the crowded international landscape in which many organisations are competing for political space and resources, the Commonwealth should find ways to use its unique strengths as a means of differentiating itself. While the establishment of a Charter represented a positive step, its final form should be more reflective of the “Commonwealth Advantage”, i.e. those areas where the Commonwealth has a comparative advantage.<sup>27</sup> For example, in a written submission to the Committee, the Royal Commonwealth Society of Canada stated:

It is respectively submitted that the content of the Charter reflect the “shared values, structures and methods” of the Commonwealth. This includes a commonality of Westminster [s]tyles of Parliament, common law and federalist distribution of powers (or “parliamentary, administrative and legal systems” [...]

The RCS Canada supports this recommendation as a “Charter” pursues the “Commonwealth Advantage” by providing governance accountability, focused objects and clear responsibilities for membership. The content of the Charter will be dependent upon the values and core-competencies of the Commonwealth.<sup>28</sup>

Leaders at the 2011 CHOGM in Perth agreed to better align the association’s programmes to members’ priorities on the basis of the Commonwealth’s comparative advantages, and where

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<sup>26</sup> DFAIT, 41:1, Issue no. 8, p. 18.

<sup>27</sup> Royal Commonwealth Society of Canada (RCS Canada), “Senate Hearing Note,” written submission to Standing Senate Committee on Foreign Affairs and International Trade, 29 February 2012.

<sup>28</sup> RCS Canada, “A Response to Eminent Persons Report A Commonwealth of People – Time for Urgent Reform as Submission to the Senate of Canada [...],” written submission to Standing Senate Committee on Foreign Affairs and International Trade, 29 February 2012.

necessary, retire programmes that do not meet these criteria.<sup>29</sup> This perspective was echoed by witnesses with respect to the Commonwealth Charter. As one witness said, the “Charter’s promise needs to be deliverable.”<sup>30</sup> As an organisation of 54 member-states, the Commonwealth will inevitably have a wide range of interests and objectives. Still, the Committee’s hearings furnished a good indication of what the Commonwealth’s comparative advantages might be.

### 1. The Youth Advantage

One of the areas identified by witnesses where the Charter could highlight the Commonwealth’s comparative advantages relates to its many young people. At least 60% of the population in the Commonwealth is under the age of 30, compared to a global average of 52%.<sup>31</sup> In his appearance before the Committee, Kamallesh Sharma, Commonwealth Secretary-General, highlighted efforts - including funding youth entrepreneurial training programs - where the association is bringing the issues of young people to centre stage.<sup>32</sup> Given the large youth demographic in Commonwealth countries, professional skills training and leadership programs promise to greatly benefit member states.

While the preamble of the draft Charter mentions the more than one billion young people in member-states, there is limited reference to the future leadership role that youth will play in the economic and political institutions of Commonwealth countries. The Committee heard from one witness that section 25.1 of the draft Charter, which mentions youth, could be strengthened by stating boldly the role that youth can play in the Commonwealth’s future.<sup>33</sup> A representative from the Youth Branch of the Royal Commonwealth Society said:

Young people relate to the Commonwealth and its values, and want to play a stronger role in shaping and having greater involvement in the Commonwealth. Again, young people believe that there should be a Commonwealth Charter and that it should clearly and concisely lay out its values and principles and feature youth and their role in the Commonwealth more prominently in the Charter.<sup>34</sup>

As the Committee heard from several of its witnesses, if the Commonwealth wishes to stay relevant, then empowering youth through education, training and leadership initiatives must be central to its mandate. The sheer size of the youth demographic in member countries, and the

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<sup>29</sup> Commonwealth Secretariat, “[CHOGM 2011 Communiqué](#),” Commonwealth Heads of Government Meeting, Perth, Australia, 28–30 October 2011.

<sup>30</sup> E.N. Hare, written submission to the Committee, 7 March 2012.

<sup>31</sup> EPG Report, p. 91.

<sup>32</sup> Secretary-General Sharma, 41:1, Issue no. 9, p. 43.

<sup>33</sup> Youth Branch of the Royal Commonwealth Society, 41:1, [Evidence](#), 14 March 2012.

<sup>34</sup> *Ibid.*



future leadership roles they will assume, are important reasons for featuring youth and the issues that matter to them more prominently in the Charter.

## 2. Leveraging the Commonwealth's Parliamentary Strengths

A second Commonwealth comparative advantage identified by witnesses is in the area of parliamentary governance. As an association rooted in parliamentary tradition, with similar legal and administrative systems, the Commonwealth has an opportunity to leverage its competency in this area. In the words of the Royal Commonwealth Society of Canada:

The competency of the Commonwealth programming is democratic reforms, development of common law institutions and the sharing of parliamentary best practices. This includes election monitoring, human right reforms, and parliamentary consultations. It can leverage this competency to engage programs that address emerging issues of human rights, environment and health. It can draw upon a large pool of related Commonwealth agencies to deliver effective programming in these areas.<sup>35</sup>

The Commonwealth was founded in the tradition of the Westminster model, and strengthening the parliamentary bonds between member-states has become a critical objective of the association. To this end, the Commonwealth Parliamentary Association (CPA), a Commonwealth-affiliated organisation, plays an important role in promoting democratic governance. CPA branches exist in more than 175 legislative bodies worldwide, encompassing about 17,000 parliamentarians at the national and sub-national levels. The Association has become a means of regular consultation among Commonwealth parliamentarians. As the Chair of the CPA's Canadian Branch told the Committee:

The CPA provides a valuable means through which legislators in the Commonwealth countries can consult each other on a regular basis, foster cooperation and mutual understanding, and promote good parliamentary practice.<sup>36</sup>

The Committee believes that parliamentary governance is a comparative advantage for the Commonwealth and it agrees with witnesses that parliamentarians can play an important role in implementing and enhancing the fundamental values and aspirations of the association.<sup>37</sup> However, the draft Charter makes only one mention of "parliament" (section 4.4) and does not mention the Commonwealth Parliamentary Association. This contrasts with the Charter of the Francophonie, which formally enshrines a consultative relationship between the Francophonie

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<sup>35</sup> RCS Canada, "Senate Hearing Note."

<sup>36</sup> Commonwealth Parliamentary Association (CPA), Canadian Branch, 41:1, Issue no. 9, p. 7.

<sup>37</sup> Ibid, p. 8.

and the Parliamentary Assembly of the Francophonie.<sup>38</sup> The Committee heard from one witness that the establishment of the Charter could enhance the ability of the Commonwealth and the CPA to work together.<sup>39</sup> The vast network of parliamentary experts throughout the Commonwealth is an important resource for sharing best practices and strengthening support for democratic governance. The Charter could be improved by emphasizing this parliamentary advantage.

### 3. Forum for Small States

A third area identified as one of the Commonwealth's comparative advantages involves its high proportion of small states. Thirty-two of the 54 member countries of the Commonwealth are considered to be "small states," having a population under 1.5 million.<sup>40</sup> Given these numbers, the Secretariat attaches high priority to supporting the integration of small states in the global economy and building their resilience and competitiveness.<sup>41</sup>

The Committee heard from witnesses that the Commonwealth has developed expertise working to advance the interests of small states. For example, where small states often fall below larger donors radars, through the Commonwealth Fund for Technical Co-operation they are able to gain access to Commonwealth technical assistance. As one witness said, for many small states, the functional cooperation programs are considered one of the most important benefits of membership in the Commonwealth.<sup>42</sup> Increasingly, assistance is taking the form where one developing country helps another, rather than following the more familiar North-South pattern, providing the Commonwealth with a unique development perspective that could be shared with other multilateral organisations.

The Committee thinks that Charter should seek to leverage the Commonwealth's strengths with regard to small states. Furthermore, the Committee believes that the Charter could be a useful tool in expressing formally the equality of partnership that exists between the large and small countries of the Commonwealth. Given the number of small states within the Commonwealth community, it is important that their concerns and the issues that matter to them be reflected and emphasized clearly in the Charter.

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<sup>38</sup> Article 2 of the Charter outlines the institutions of the Francophonie, with article 2.4 identifying the Parliamentary Assembly of the Francophonie as its consultative assembly. Organisation Internationale de La Francophonie, « [Charte de La Francophonie](#), » 23 November 2005. [IN FRENCH ONLY]

<sup>39</sup> CPA, Canadian Branch, 41:1, Issue no. 9, p. 12.

<sup>40</sup> Botswana, Jamaica, The Gambia, Lesotho, Namibia and Papua New Guinea are designated by the Commonwealth as small states because they share many characteristics of small states. Commonwealth Secretariat, [Small States Digest](#), Issue 3, 2011.

<sup>41</sup> Commonwealth Secretariat, "[Small States](#)."

<sup>42</sup> E.N. Hare, written submission to the Committee, 7 March 2012.

## C. INFORMING AND STRENGTHENING THE COMMONWEALTH'S OVERSIGHT FUNCTION

The Committee recognizes that the Commonwealth is a voluntary association of independent sovereign states and that member-states have not adopted legally-binding rules, treaties or obligations to govern the association. In many ways, the voluntary and non-binding nature of the Commonwealth's membership distinguishes the organisation and its flexibility. While each state is responsible for its own policies, the 54 member countries consult and co-operate with respect to their common interests and in the promotion of certain values.

The Perth CHOGM Communiqué reinforced that the Charter would not be legally binding. However, while the Charter would have no more legal authority than previous Commonwealth declarations, it could have increased moral standing.<sup>43</sup>

Witnesses suggested several ways in which the Charter could be used to guide decisions by Commonwealth bodies: It could be a tool used by leaders when determining whether to admit a new member-state to the association<sup>44</sup>; it could be used as the basis to assess when to expel or suspend a member<sup>45</sup>; and it could have standing as a formal point of reference for the Commonwealth Ministerial Action Group.<sup>46</sup>

In reference to the proposed establishment of a Commissioner of Democracy, the Rule of Law and Human Rights, which is being studied by a Task Force of Ministers, one organisation told the Committee: "Clearly, this new commissioner will need a code of conduct to work with, and the proposed charter is a logical place for such a code to be enumerated and agreed to by all member nations."<sup>47</sup> The Hon. Michael Kirby echoed this perspective and expressed his belief that the proposed Commissioner could be a means of carrying the aspirations of the Charter into effect.<sup>48</sup>

The Committee believes that better upholding and defending Commonwealth values and aspirations will take a collective approach. The Charter could be an important tool in this regard, as a means of informing the work of Commonwealth oversight bodies. In particular, the Charter could inform the mandate and objectives of CMAG and the proposed Commissioner for Democracy, the Rule of Law and Human Rights. Once established, the Charter could give the oversight bodies of the association terms of reference from which to assess the compliance of member-states with the Commonwealth's core values and principles.

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<sup>43</sup> DFAIT, 41:1, Issue no. 8, p. 12; CPA, Canadian Branch, 41:1, Issue no. 9, p. 11.

<sup>44</sup> Senator Segal, 41:1, Issue no. 8, p. 27.

<sup>45</sup> William Schabas, 41:1, Issue no. 8, p. 49.

<sup>46</sup> Senator Segal, 41:1, Issue no. 8, p. 29.

<sup>47</sup> CPA, Canadian Branch, 41:1, Issue no. 9, p. 9.

<sup>48</sup> Michael Kirby, 41:1, [Evidence](#), 14 March 2012.



## IV. CONCLUSION

The reach of the Commonwealth and the diversity of its membership place it in a good position to build consensus around global challenges. As an association of 54 member-states, made up of people from diverse ethnic, religious, cultural and socio-economic backgrounds, the Commonwealth has a tremendous potential to articulate the shared concerns of people across the world.

Although the Commonwealth is well positioned to speak out on global issues, the Commonwealth's credibility depends on its ability to uphold its values and pursue its aspirations. In the Perth CHOGM Communiqué, leaders stressed that the Commonwealth and its member-states must work harder at defending the shared values and principles of the association, and recommended ways to enhance the Commonwealth's mission and mandate.

The proposal to establish a Commonwealth Charter is part of the broader objective of revitalizing the association and ensuring its continue relevance in a rapidly changing world. That the Commonwealth cannot be all things to all people was reflected in the Perth Communiqué and the Eminent Persons Group report. Based on its history and membership, the Commonwealth has developed particular strengths, or comparative advantages, that could feature more explicitly in its eventual Charter.

The Committee believes that the proposed Charter can be an inspirational document that has moral standing in Commonwealth countries. However, in order to achieve maximum appeal and impact, the Commonwealth Charter should be shorter and focus on the Commonwealth's comparative advantages and the values and principles that are central to the its mandate. By clearly outlining its core values and aspirations, the Charter has the potential to be an important tool for strengthening the Commonwealth's capacity to promote democracy, good governance, human rights and the rule of law.

The consultation process on the Charter provides an opportunity for the people of the Commonwealth to create a document that they have ownership of. However, if the Charter is to resonate with all Commonwealth people, it is important that the consultation process not be seen as one group of countries imposing its values on others. The equal participation of countries large and small, industrialized and developing, is critical to the process of drafting a Charter that is reflective of the values as aspirations of all Commonwealth people.

Establishing a Charter presents an opportunity for the peoples of the Commonwealth to come together behind a document that not only explains what the Commonwealth is, but also where the Commonwealth wants to go. The Committee is hopeful that the process of consultation on the Charter can make a significant contribution to revitalizing the Commonwealth. In the year of

Queen Elizabeth II's Diamond Jubilee, the establishment of a Commonwealth Charter would carry special significance. This is an opportune moment in the history of the Commonwealth and the citizens of the Commonwealth should seize it.

## V. RECOMMENDATIONS

### RECOMMENDATION 1:

**The Committee recommends that the Minister of Foreign Affairs continue the dialogue started through the Committee’s hearings on the proposed Charter of the Commonwealth and, using technologies such as websites, social media, blogs and electronic polling, take measures to ensure adequate consultation and information sharing with interested parties and individuals in Canada throughout the Charter negotiation process.**

### RECOMMENDATION 2:

**The Committee recommends that the Minister continue to pursue a consensus-building document that encapsulates Commonwealth values, and that through that process he take the following into consideration:**

- a) The term “Charter” carries implications of a binding document. A “statement of principles,” or like title, may better complement the Commonwealth model.**
- b) A document that is shorter, more concise and focussed on the Commonwealth’s fundamental values may better serve the educational function ascribed to it.**
- c) A document that more clearly delineates the Commonwealth’s comparative advantages – including the youth, parliamentary, and small states advantages – could help ensure that those elements continue to differentiate the Commonwealth and underpin its unique added value to member states.**
- d) Ways and means could be sought to support the successful implementation of the final document.**

### RECOMMENDATION 3:

**The Committee recommends that, in his ongoing deliberations with other Commonwealth officials, the Minister of Foreign Affairs encourage member states to arrive at and be guided by shared understanding and clarity on the objectives and ultimate purpose of the document, and on the steps that the Commonwealth Ministerial Action Group needs to take to ensure its full implementation across the Commonwealth.**





## VI. APPENDIX A

The Honourable A. Raynell Andreychuk, Senator  
Chair, Standing Senate Committee on Foreign Affairs and  
International Trade  
The Senate of Canada  
Ottawa ON  
KIA OA4

Dear Senator Andreychuk:

I am writing to recommend that the Standing Senate Committee on Foreign Affairs and International Trade (the Committee) consider holding hearings on a "Charter of the Commonwealth."

At the Commonwealth Heads of Government Meeting in Perth, Australia, in October 2011, Leaders considered a report from the Eminent Persons Group (EPG). The EPG was established in 2010 to provide recommendations on reforming and modernizing the Commonwealth. As you know, Senator Hugh Segal was a member of the EPG, and played a significant role in its deliberations.

The EPG completed its work in Perth, submitting a report to Leaders containing 106 recommendations. The first of these was to establish a "Charter of the Commonwealth":

A "Charter of the Commonwealth" should be established after the widest possible consultation in every Commonwealth country. Civil society organisations should be fully involved with national governments in the process of pan-Commonwealth consultation, including in the organisation of the process and assessment of its results. A task force should be appointed to analyse the findings of the national consultations and to make recommendations, on that basis, to Heads of Government. If the findings favour a Charter, the task force should be authorised to draft the final text.

Appended to the EPG report is a sample "Charter of the Commonwealth", drafted by the Honourable Michael Kirby, an EPG member. The text is based on the many declarations and statements of Commonwealth values and principles; although the sample text has no status with Commonwealth members, the EPG report suggests that it might be used as a basis for the proposed Commonwealth-wide national consultations.

Leaders accepted this recommendation; they will agree to a text for the Charter in 2012, following a process of national consultations, consideration by a Task Force of Foreign Ministers drawn from all geographical groupings of the Commonwealth, and a meeting of all Commonwealth Foreign Ministers in New York, in September 2012. The Charter is to embody the principles contained in previous declarations, drawn together in a single, consolidated document that is not legally binding.

I believe that the most effective manner of conducting these national consultations would be for the Committee to undertake a brief study of a "Charter of the Commonwealth." Should the Committee agree, hearings could commence early in February 2012. This would involve the Committee holding

a small number of sessions-hearing from witnesses in person and by teleconference- receiving submissions, and producing a final report in March 2012. The report would provide recommendations for Foreign Affairs and International Trade Canada officials and myself to take forward into the negotiation of the text, scheduled to commence in mid-April 2012.

In addition to being transparent and inclusive, this process for fulfilling Canada's national consultation obligation on the Charter would further demonstrate our commitment to Commonwealth reform and renewal. It would provide an opportunity for Canadians to weigh in on the outcome of the Charter and help ensure that key Canadian values such as democracy, good governance, the rule of law, human rights and freedom of religion are central to the text of the Charter.

I appreciate your consideration of my recommendation, and I would be pleased to provide more details upon request.

Sincerely,

John Baird, P.c., M.P.

c.c. The Honourable Percy E. Downe, Senator, Vice-Chair, Standing Senate Committee on Foreign Affairs and International Trade

Senator the Honourable Marjory LeBreton, P.C., Leader of the Government in the Senate

The Honourable James S. Cowan, Senator, Leader of the Opposition in the Senate

## VII. APPENDIX B – WITNESSES 41.1

<b>Meeting Date</b>	<b>Agency and Spokesperson</b>
February 29, 2012	<p><b><i>Foreign Affairs and International Trade</i></b> Olivier Nicoloff, Director, Democracy, Commonwealth and Francophonie, Thomas Balint, Senior Policy Advisor.</p> <p><b><i>Senate of Canada</i></b> The Honourable Senator Hugh Segal.</p>
March 1, 2012	<p><b><i>As an individual</i></b> William A. Schabas, Professor of International Law, Department of Law, Middlesex University.</p>
March 7, 2012	<p><b><i>Commonwealth Parliamentary Association Parliament of Canada</i></b> Russ Hiebert, M.P., Chair; Joe Preston, M.P., Member.</p> <p><b><i>As individuals</i></b> Richard Bourne, Senior Fellow, Institute of Commonwealth Studies, School of Advanced Study, University of London;</p> <p>Arthur Donahoe, Former Secretary General of the Commonwealth Parliamentary Association;</p> <p>Nick Hare, Former Commonwealth Deputy Secretary (Development and Cooperation).</p>
March 8, 2012	<p><b><i>Commonwealth Secretariat</i></b> Kamalesh Sharma, Secretary General.</p> <p><b><i>Organisation Internationale de la francophonie</i></b> Pierre de Cocatrix, Chief of Cabinet of the Secretary General; Eric Pelletier, Advisor responsible for Cooperation.</p>

March 14, 2012

***Youth Branch of the Royal Commonwealth  
Society***

Adam Foote, Member.

***As an Individual***

The Honourable Michael Kirby, Former Justice  
of the High Court of Australia and Former  
Member of the Eminent Persons Group.

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March 2012

Submitted a brief but did not appear before the committee

Royal Commonwealth Society – Canada

Colin Reichle, National Chair, Peter Kucherepa, Member, Reverend  
Joshua Philpotts, Member and Brian Hodgson, Member.