

CSAT

The CSAT was established to meet the requirements of the Agreed Memorandum on the Commonwealth Secretariat (1964) which was revised by governments in 2005. In fulfilment of its obligations under the Agreed Memorandum, the United Kingdom Government passed the Commonwealth Secretariat Act 1966 which, among other things, gives the Commonwealth Secretariat legal personality and accords it certain immunities and privileges.

In keeping with the requirements of the Agreed Memorandum, every contract entered into by or on behalf of the Commonwealth Secretariat contains a provision for any dispute arising out of any such contract to be submitted to the CSAT for settlement. As a corollary to the institutional immunities and privileges conferred on the Commonwealth Secretariat by the Commonwealth Secretariat Act 1966, the Statute of the Tribunal specifically provides in Article IX.2 that:

“The judgment of the Tribunal shall be final and binding on the parties and shall not be subject to appeal”

However, notwithstanding this provision, the first decade of the Tribunal’s existence did not pass without some difficulties so far as establishing its exclusive jurisdiction is concerned.

A number of challenges were made in the High Court which sought to subject judgments of the Tribunal to judicial review by the UK courts. It became apparent that the unintended consequence of such challenges would be the circumvention of the intention of governments as well as the clear provision of the Tribunal Statute which states that judgments of the Tribunal are final and binding on the parties and are not subject to appeal. This necessitated an amendment by the United Kingdom Parliament of the Commonwealth Secretariat Act 1966 by the International Organisations Act 2005. The International Organisations Act repeals the section of the Commonwealth Secretariat Act under which the judgments in question were challenged. The 2005 Act not only puts beyond doubt the finality of a judgment of the Tribunal but it also extends to members of the Tribunal immunity from suit and legal process for acts done in the performance of their functions.”