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**DOCUMENT PACK FOR THE  
MEETING OF THE PLENARY OF THE  
MULTI-PARTY NEGOTIATING  
PROCESS**

**17 NOVEMBER 1993**

***VOLUME III***

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TO BE HELD ON 17 NOVEMBER 1993 AT 13H45**

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**REPORT ON THE  
DEMARCATIION / DELIMITATION OF  
STATES/ PROVINCES/ REGIONS**

## REPORT ON THE DEMARCATION/DELIMITATION OF STATES/PROVINCES/REGIONS

1. The Negotiating Council had appointed a Commission on the Demarcation/Delimitation of States/Provinces Regions on 28 May 1993 (see addendum A) and the Commission reported back to the Negotiating Council and recommended that 9 regions be demarcated (see addendum B). The Commission however acknowledged the fact that the time to do the work was limited, and it was agreed that further work needed to be done (see addendum C).
2. The Co-Chairpersons of the Commission was requested to do further work on the demarcation/delimitation of SPRs as a Task Group. A report in this regard was tabled on 15 October 1993. This report formed the basis for debate in the Negotiating Council and to expedite the matter, four Ad-Hoc Committees were appointed. They reported on 4 November 1993 to the Negotiating Council and the report was accepted in principle (see addendum D).
3. Further extensive debate took place in these Ad Hoc Committees and as a result of this, bilateral meetings, and considering all the evidence available, the Negotiating Council agreed on the following adjustments to the boundaries recommended by the Commission on the Demarcation/Delimitation of SPRs (see addendum E) for purposes of the Constitution for the Transition.  
[Note: Amendments expressed by magisterial districts]
  - 3.1 That KwaNdebele (including KwaNdebele, Moutse 1, 2 and 3 and Moretele 2) be included in the Eastern Transvaal;
  - 3.2 That Sasolburg be included in the OFS;
  - 3.3 That Mount Currie be included in Natal/KwaZulu;
  - 3.4 That Clanwilliam, Vredendal and Vanryhnsdorp be included in the Western Cape;
  - 3.5 That Kuruman, Postmasburg and Hartswater be included in the Northern Cape;
  - 3.6 That Brits and Bophuthatswana (Odi 1 and Moretele 1) be included in the North West;

4. That Umzimkulu remains with the Eastern Cape but that the votes cast in the General Election in the district of Umzimkulu be counted separately to facilitate a possible future re-allocation to Natal/KwaZulu, subject to a majority agreement between the parties elected by the voters of the area, or subject to a referendum.
5. That the votes cast in the General election in the magisterial districts of Pretoria, Bronkhorstspuit, Cullinan, Wonderboom (including Soshanguwe) (ie "Greater Pretoria") be counted separately to facilitate a possible future re-allocation to the Eastern Transvaal SPR, subject to a majority agreement between the parties elected by the voters of the area, or subject to a referendum.
6. That the votes cast in the General election in the Eastern Cape be cast and counted in two blocs on either side of the boundary to the east of the districts of Venterstad, Steynsburg, Hofmeyr, Tarkastad, Fort Beaufort, Albany and Bathurst included in the Eastern Province and the rest in the Border/Kei SPR in order to facilitate a possible future division of the Eastern Cape into two separate SPRs, subject to a majority agreement between the parties elected by the voters of a particular bloc, or subject to a referendum petitioned for by either bloc. A 60% majority decision in favour of division into two SPRs by either bloc shall be decisive. However, the committee cautions that this should not create a precedent for any other major boundary change outside the recommendations of this Report, but that any other such further change be dealt with in terms of the relevant sections of the Constitution for the Transition.
7. That the existence of the proposed Northern Cape Region, as amended by paragraph 3.4 and 3.5, shall also be determined subject to a majority agreement between the parties elected by the voters of the area, or subject to a referendum. A 60% majority in favour of dissolving this SPR should be decisive.
8. The Committee further recommends:
  - 8.1 If a sufficient number of persons in the districts in 3.1 to 3.6 wish to change their delimitation, they may petition Parliament, within one year of the General Election, for a referendum to be held to resolve the matter. Parliament should be obliged to adhere to the petition and a proper body should be established to conduct the referendum within 3 months.
  - 8.2 Provision should be made in the appropriate Schedule of the Constitution for the Transitional Period for the petitioning and holding of the referenda indicated in 8.1.
  - 8.3 Provision should be made in the appropriate Schedule of the Constitution for the Transitional Period for the content of the Schedule to be amended according to the outcome of the referenda, by proclamation.

- 8.4 The provisions of 8.1 to 8.3 should also apply to the district of Umzimkulu specified in paragraph 4, to the four districts of Pretoria specified in paragraph 5, the two parts of the Eastern Cape specified in paragraph 6 and in the Northern Cape SPR as specified in paragraph 7.
- 8.5 The following disputed districts as demarcated by the Commission on the Demarcation/Delimitation of SPRs should also be entitled to petition for referenda as per the provisions of 8.1 to 8.3.
  - 8.5.1 Bushbuck Ridge
  - 8.5.2 Namaqualand
  - 8.5.3 Groblersdal
  - 8.5.4 Northern Transkei/ Pondoland
9. All technical implications deriving from this report with respect to the method of petitioning, percentage of signatures required, persons entitled to vote, the drawing up and registering of party lists, specific electoral and referenda procedures and separate counting of votes have to be referred to the Independent Electoral Commission to establish all the necessary conditions/provisions prior to the General Election.
10. Provision should be made for an enabling clause in the appropriate Schedule of the Constitution for the Transitional Period to enable SPRs to establish sub-regions and that this concept should be addressed by the Negotiating Council.
11. This adopted report was given to the Technical Committee on Constitutional Issues in order to include provincial boundaries in the draft Constitution for the Transition.

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*15/11/93*

as Co-Chairpersons, and

1. Basson Dion, Prof
2. Bernstein Ann, Ms
3. Daphne Paul, Mr
4. Du Plessis Attie, Mr
5. Govinden Betty, Ms
6. Gwagwa Lulu, Ms
7. Malefo Beauty, Dr
8. Muthien Yvonne, Dr
9. Burns-Ncamashe, Chief
10. Nkuhlu Wiseman, Professor
11. Rautenbach Ignus, Professor
12. Reyneke Koos, Mr
13. Steyn Anna, Professor

as members of a Commission on Regions/States/Provinces to make recommendations to us, the Negotiating Council within six weeks, on the delimitation of regions/states/provinces.

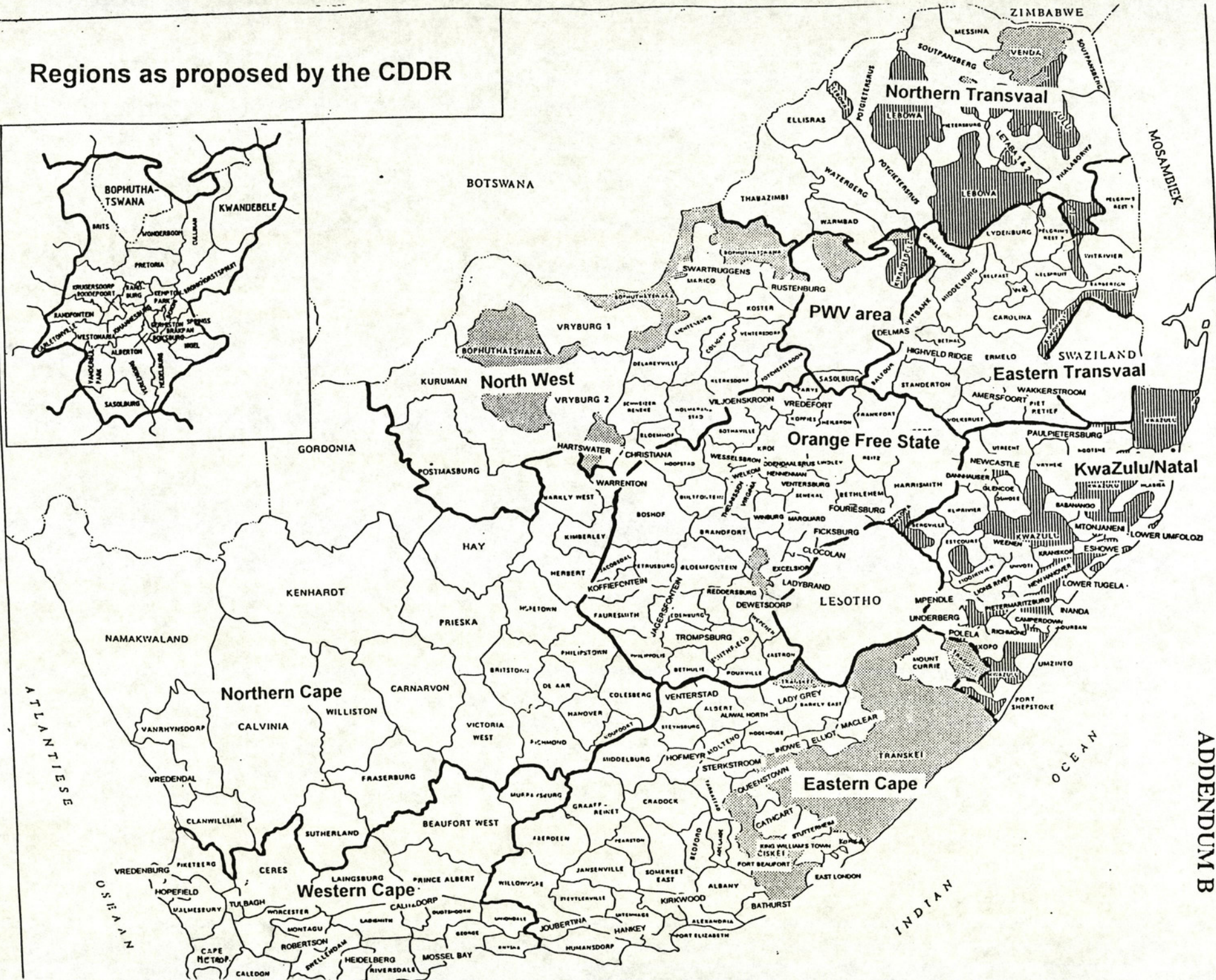
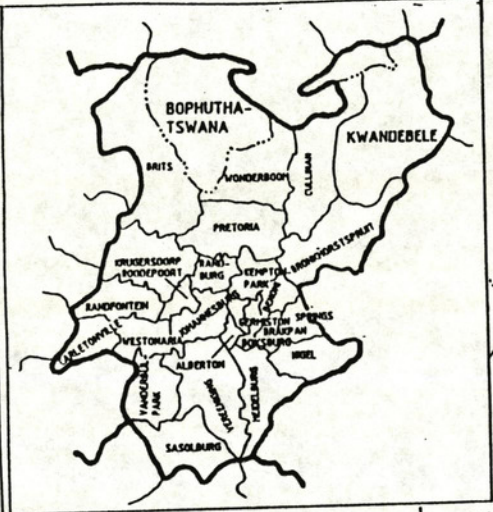
**FOR THE PURPOSES** of its recommendations, the Commission shall:

1. Take into consideration, inter alia, the following:
  - 1.1 Historical boundaries, including provincial, magisterial and district boundaries and infrastructures;
  - 1.2 Administrative considerations including the availability or non-availability of infrastructures and nodal points for services;
  - 1.3 The need or otherwise to rationalise existing structures (including the TBVC States, self-governing territories and regional governments);
  - 1.4 The necessity of limiting financial and other costs as much as is reasonably possible;
  - 1.5 The need to minimise inconvenience to the people;
  - 1.6 The need to minimise the dislocation of services;
  - 1.7 Demographic considerations;
  - 1.8 Economic viability;
  - 1.9 Development potential;
  - 1.10 Cultural and language realities;

2. Allow interested parties and persons to submit their views and recommendations within a specified period, which should not be less than one month after an invitation in this regard has been published, and take these into account;
3. Be free to take cognisance of any other material it might wish to collect; and
4. Take cognisance of any progress made in the Negotiating Council by way of agreements on constitutional matters.



# Regions as proposed by the CDDR



**RESOLUTION ON THE REPORT OF  
THE COMMISSION ON THE DELIMITATION/DEMARCATIION OF REGIONS  
AND THE WAY FORWARD  
ADOPTED BY THE NEGOTIATING COUNCIL ON 10 AUGUST 1993**

This Negotiating Council meeting on 9 August 1993 at the World Trade Centre in Kempton Park:

1. **Noting** the various discussions on the Report of the Commission on the Delimitation/Demarcation of SPR's;
2. **Confirms** that the Report of the Commission provided a useful starting point to the discussion on the delimitation/demarcation of SPR's.
3. **Takes note** of a number of areas of agreement and some areas of disagreement on the Report identified by the Negotiating Council.
4. **Emphasises** that the people and communities who would be directly affected by the boundaries of SPR's, should have a further opportunity to contribute to the process of regional delimitation/demarcation, particularly in respect of a more detailed consideration of the boundaries of SPR's, including those highly sensitive areas identified by the Negotiating Council.

**Therefore resolves:**

To convey its sincere gratitude to the Commission for its valiant effort to prosecute the extremely difficult and strenuous brief given to it by the Negotiating Council, notwithstanding the extreme limitations of time and opportunity to consult more broadly.

**And further resolves that the process be taken further through the following steps:**

1. That further submissions are invited from participants in the Negotiating Council and from people and organisations in the sensitive areas identified in the debate in the Negotiating Council.
2. That the Co-Chairpersons of the Commission will work out the modalities for carrying out the undermentioned tasks in consultation with the Planning Committee and invite members of the Commission and the Technical Support Team to assist them to:
  - 2.1 Receive oral evidence in respect of the sensitive areas;

- 2.2 Analyse these submissions;
  - 2.3 Prepare a Technical Report which indicates the application of the criteria and the reasons for and against the options in respect of the different recommended regions;
  - 2.4 Evaluate and report on the information available to it with a view to assisting the Negotiating Council to take a decision on boundaries to be incorporated into the Constitution for the transitional period.
3. That the Planning Committee recommends appropriate time frames for this process in consultation with the Commission.

**RESOLUTION BY THE NEGOTIATING COUNCIL ON THE REPORT OF THE  
CO-ORDINATING COMMITTEE OF THE AD-HOC COMMITTEES ON  
THE DEMARCATION/DELIMITATION OF SPR's**

**4 NOVEMBER 1993**

1. The attached report of the Co-ordinating Committee of the Ad-Hoc Committees and the recommendations of the Planning Committee are hereby tabled before the Negotiating Council for its consideration.
2. Having considered the above report, the Planning Committee believes:
  - 2.1 That the differences reflected in the reports of the Ad-Hoc Committees might not be resolved in the limited time available before the Constitution for the Transitional Period is finalised by the Negotiating Council;
  - 2.2 That the issues in this regard are very emotionally charged and contentious and should not be concluded by the Negotiating Council without further processes being put into place by the Negotiating Council;
  - 2.3 That extensive consultation with, and optimal participation by, the local people and organisations is a pre-requisite to a harmonious resolution of the differences; and
  - 2.4 That appropriate mechanisms must be considered to give effect to 2.2. and 2.3.
3. The Planning Committee therefore recommends to the Negotiating Council that:
  - 3.1 The boundaries recommended by the Commission on the Delimitation/Demarcation of Regions be incorporated in a Schedule of the Constitution for the Transitional Period, subject to 3.2, 3.3, 3.4 and 3.6;
  - 3.2 Further attempts to reach consensus by lunchtime on Wednesday 10 November 1993, inter alia, by way of bilateral discussions should be undertaken in respect of the areas identified in paragraphs 1.2, 2, 4.1.2 and 6 of the report by the extended Co-ordinating Committee on the Demarcation/Delimitation of SPR's;
  - 3.3 The recommendations of the Ad-Hoc Committees in respect of the following is accepted:
    - 3.3.1 That the current Provincial/State boundary between Natal/KwaZulu and Transkei should be retained as an interim measure. That would imply that the district of Umzimkulu would remain with the remainder of Transkei whilst the magisterial districts of Alfred and Mount Curry would remain with Natal/KwaZulu;

- 3.3.2 That Groblersdal should be included in the Northern Transvaal;
  - 3.3.3 That KwaNdebele be transferred to the Eastern Transvaal; and
  - 3.3.4 That Sasolburg be included in the Orange Free State.
- 3.4 The Multi-Party Negotiating Process establishes a structure (which the successor to the Multi-Party Negotiating Process will continue to manage and to which it will report) which will be charged with the responsibility of finalising those matters which still remain outstanding in respect of the areas mentioned in paragraphs 1.2, 2, 4.1.2 and 6 of the report by the extended Co-ordinating Committee on the Demarcation/Delimitation of SPR's, by way of:
- 3.4.1 Taking cognisance of all submissions and reports on the boundaries;
  - 3.4.2 Continuing with further negotiations on the disputed areas; and
  - 3.4.3 Implementing appropriate mechanisms which will ensure optimal participation of people from the affected areas with a view to eliciting their opinions, inter alia, as recommended by the extended Co-ordinating Committee on the Demarcation/Delimitation of SPR's.
- That structure will complete this task within a time consistent with the requirements of the electoral process.
- 3.5 Provision is made in the appropriate Schedule of the Constitution for the Transitional Period for the content of the Schedule to be amended, if necessary, by proclamation before the elections.
- 3.6 The Planning Committee reviews progress in respect of any matter still outstanding by 11 November 1993 with a view to presenting further recommendations to the Negotiating Council.

**Note:**

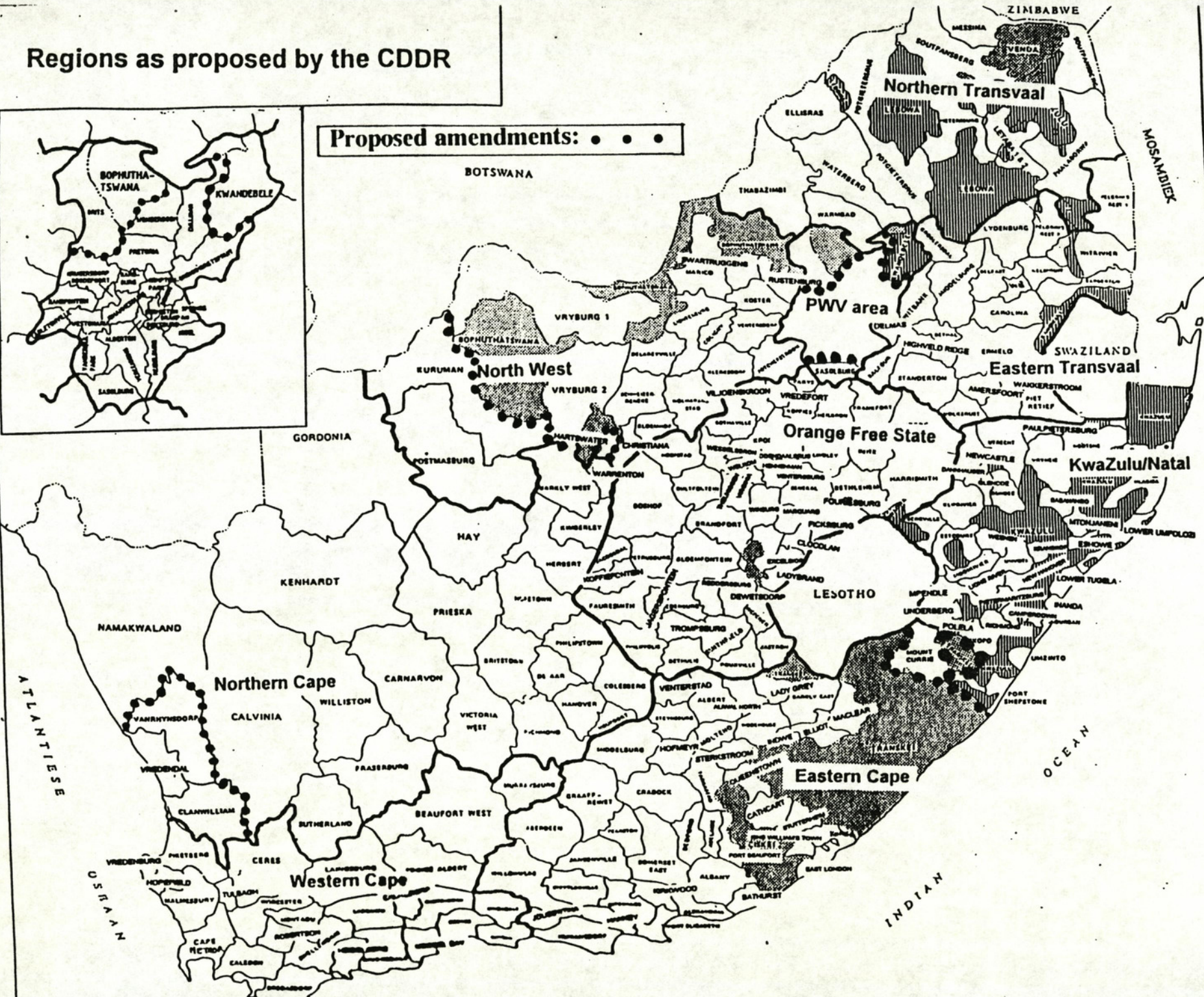
It was minuted that clause 3.3.1 was referred back to the relevant Ad-Hoc Committee.

# Regions as proposed by the CDDR

Proposed amendments: • • •



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**REPORT ON THE  
COMMISSION  
ON NATIONAL SYMBOLS**

## REPORT ON THE COMMISSION ON NATIONAL SYMBOLS

### 1. Resolution on the Commission on national Symbols

The Negotiating Council adopted the following resolution on the Commission on National Symbols on 7 September 1993:

1. **Whereas** in the deliberations concerning a constitution for the transitional period, the question of national symbols will have to be addressed;
2. **And** whereas this is an extremely emotional issue that will have to be dealt with the utmost sensitivity;
3. **But** whereas cultural, artistic and technical aspects are also to be taken into account;
4. **We**, the Negotiating Council, hereby appoint :  
Prof Elize Botha as Chairperson  
Mrs P G P Maluleka as Vice Chairperson, and  
Mr F G Brownell  
Prof Lynda Gilfillan  
Mr Bill Jardine  
Prof P H M Kapp  
Ms Barbara Masekela  
Dr C Pama  
Prof C J Reineke  
Prof Themba Sirayi  
Dr Musa Xulu  
Prof Fatima Meer  
Ms Rosette Nothemba Mlonzi

as members of a Commission on National Symbols to make recommendations



before the end of October 1993 to us, the Negotiating Council, or to any body that might at that time have replaced the Negotiating Council, on a national flag, a coat of arms, a seal and an anthem for the Constitution for the transitional period.

5. **The Commission is requested to -**

- 5.1 invite proposals from all interested persons or parties and to allow at least one month for submissions to be made;
- 5.2 take into account the diversity of the South African population but concentrate on the unifying function that national symbols must serve;
- 5.3 and in its recommendations submit at least four alternative flags and coats of arms.

2. **Decisions taken on National Symbols**

Only one commissioner, Mrs Barbara Masekela, was not able to take up the appointment. The Commission held its first meeting on 15 September 1993, whereafter invitations for submissions in the three categories, National Flag, Coat of Arms and National Anthem was sent out. At the request of certain members of the Commission the appointment of regional facilitators was approved in regions where it was feared that the invitation would penetrate with difficulty.

All interested persons and parties were given the opportunity to submit proposals in the three categories. The Commission received approximately 7000 submissions on a flag, 80 on the coat of arms and 120 on the national anthem.

The Commission submitted their report to the Negotiating Council for debate on 19 October 1993. Following discussion in the Negotiating Council it was proposed that five advertising/design agencies be permitted the opportunity to submit proposals on a flag. In the final analysis the Negotiating Council agreed on the following:

## **2.1 The Flag**

Due to the time constraint and sensitivity of the issue the Negotiating Council agreed not to make a decision on the flag. The Negotiating Council recommended that both the Heraldry Council and others such as the Commission be consulted with a view to establishing what further process could be undertaken in order to do further justice to this issue. It was decided that an appropriate clause be drafted for the Constitution for the Transition to allow for the flag to be proclaimed by the State President on the advice of the Transitional Executive Council, before the April 1994 election.

## **2.2 The Coat of Arms**

The Negotiating Council agreed that the present seal and coat of arms should remain for the transitional period.

## **2.3 The National Anthem**

A decision was taken by the Negotiating Council that the issue of the national anthem, being a highly emotive and political one, be referred to bilateral meetings and be dealt with in due course.

**REPORT ON THE REPEAL OF LEGISLATION  
IMPEDING FREE POLITICAL ACTIVITY AND  
DISCRIMINATORY LEGISLATION**

## LEGISLATION TO BE REPEALED OR AMENDED

Two Substantial Reports were tabled by the **Task Group on the Identification and Repeal of Legislation Impeding Free Political Activity and Discriminatory Legislation**.

A **summary** of decisions is herewith provided. For full details, the Reports and Minutes should be consulted.

On **1 November** the Negotiating Council (with some delegations reserving their positions) agreed that the following should be repealed or amended:

### A. SOUTH AFRICA

- (1) Prohibition of Foreign Financing of Political Parties Act 51 of 1958 - to be repealed in toto
- (2) Affected Organizations Act 31 of 1974 - to be repealed in toto
- (3) Publications Act 42 of 1974 - Sections 47(2)(c), (d) and (e) to be repealed (also see 11 November and Outstanding Matters below)
- (4) Parliamentary Internal Security Commission Act 7 of 1976 - to be repealed in toto
- (5) Internal Security Act 74 of 1982 -  
amend to narrow the scope of Section 4, in terms of which the Minister can declare certain organizations unlawful, by removing "disturbance" and "disorder" from the wording, but leaving "violence"  
Section 50, giving power to the police to arrest without a warrant, to be amended to subject the decision of the police to an objective instead of a subjective test  
Sections 58, 59 and 60 to be repealed  
Section 62 to be repealed (see 11 November and Outstanding Matters below)
- (6) Disclosure of Foreign Funding Act 26 of 1989 - to be repealed in toto
- (7) The Gatherings and Demonstrations in the Vicinity of Parliament Act 67 of 1976, the Demonstrations in or near Court Buildings Prohibition Act 71 of 1982 and the Gathering or Demonstrations in or near the Union Buildings Act 103 of 1992 were to be repealed by the "Goldstone Bill" - delegates requested to see the "Goldstone Bill".

### B. TRANSKEI

- (1) Public Security Act 30 of 1977 - Sections 7, 12, 13, 14, 22, 24, 33-37, 40-42, 46 to be repealed, as recommended
- (2) Transkei Authorities Act 4 of 1965 - Section 42 to be repealed as recommended

- (3) Transkei Prisons Act 6 1974 - amend as recommended, but look at South Africa too, including the position of teachers, soldiers, etc.
- (4) Publications Act 18 of 1977 - some Sections to be repealed, as recommended and agreed with regard to South Africa
- (5) Newspaper and Imprint Registration Act 19 of 1977 - Sections 2, 8, 9 and 10 to be repealed as recommended
- (6) Undesirable Organisations Act 9 of 1978 - to be repealed in toto
- (7) Penal Code Act 9 of 1983 - agreed to amend as recommended by Task Group, in accordance with "Goldstone Bill"
- (8) Electoral Laws Provisions Act 8 of 1987 - to be repealed and replaced by South African Act, as recommended
- (9) Aliens and Travellers Control Act 29 of 1977 - agreed to amend as recommended, but issues of freedom of movement and "aliens" to be investigated as stated above

### C. BOPHUTHATSWANA

- (1) Internal Security Act 32 of 1979 -  
 Sections 2, 3, 4, 7, 8 to be repealed  
 Sections 5,7,8, 10, 12, 13, 14 to be repealed  
 Sections 6 and 9 to be repealed  
 Section 15 to be repealed  
 Section 19 to be repealed  
 Section 22 agreed to repeal instead of amend, as recommended  
 Section 25 to be repealed  
 Sections 26, 27, 30-36, 43A to be repealed - see TEC Act and "Goldstone Bill" in South Africa  
 Views were also expressed that the entire "piece of legislation" be repealed, regarding the Internal Security Act.
- (2) Bophuthatswana Traditional Authorities Act 23 of 1978 - Section 38 to be repealed, as recommended
- (3) Bophuthatswana Electoral Act 13 of 1979 - Sections 16, 16A, 16C, 16D to be amended, as recommended
- (4) Newspaper and Imprint Registration Act 18 of 1979 - Section 2, 9, 10 to be repealed, as recommended
- (5) Publications Act 36 of 1979 - some Sections to be repealed, as recommended with regard to South Africa
- (6) Bophuthatswana Broadcasting Control Act 28 of 1989 and Bophuthatswana Broadcasting Corporation Act 30 of 1989 - Task Group recommended to amend in order to place control in hands of a non-partisan body, in stead of the Government; Council decided that the Acts should be repealed, in view of South African developments and its future irrelevance
- (7) Prevention and Control of Mass Action Act 59 of 1992 - repeal Sections 2 and 4(g), as recommended
- (8) Security Clearance Act 40 of 1985 - to be repealed in toto

- (9) Aliens and Travellers Control Act 22 of 1979 - agreed to repeal, as recommended - see however the other areas and 6 below

D. VENDA

- (1) Republic of Venda Constitution Act 9 of 1979 - Section 6A to be repealed
- (2) Maintenance of Law and Order Act 13 of 1985 -  
Section 4 - to be amended in accordance with South African recommendations  
Sections 5-9 to be repealed as recommended  
Sections 10 and 12 (2) - to be amended, as recommended, in accordance with South African situation  
Sections 14(10), 15-17, 18-28 to be repealed as recommended  
Section 46 to be treated in same way as similar provisions in accordance with "Goldstone Bill"  
Section 50 to be amended in accordance with South African situation, as recommended by the Task Group, namely to require objective instead of subjective test  
Section 54 to be repealed (agreed by Venda delegation - see also 4 below)  
Section 55 to be repealed  
Section 56 to be repealed  
Sections 58-60 to be repealed
- (3) Population Registration Act 6 of 1980 - to be repealed in toto
- (4) Newspaper and Imprint Registration Act 22 of 1982 - to be amended as recommended
- (5) Publications Act 15 of 1983 - repeal some sections as recommended with regard to South Africa
- (6) Radio Act 15 of 1984 - too be amended as recommended
- (7) Internal Security Act 44 of 1953 - Section 17(bis) to be repealed
- (8) Public Safety Act 3 of 1953 - deal with in terms of TEC Act of South Africa as recommended
- (9) Proclamation R293 of 1962 - chapters 5 and 6 to be repealed, but see new recommendations in 8 on Self-Governing Territories
- (10) Prohibition of Foreign Financing of Political Parties Act 51 of 1968 -to be repealed in toto, as recommended
- (11) Affected Organisations Act 31 of 1974 - to be repealed in toto, as recommended

E. CISKEI

- (1) National Security Decree 19 of 1993 - The Council decided that the items recommended by the Task Group should be repealed. Chapter 5 should be dealt with in terms of "Goldstone Bill" as recommended

- (2) Proclamation R293 of 1962 - chapters 5 and 6 to be repealed - but see new recommendations in 8 on Self-Governing Territories
- (3) Defence Act 1 of 1981 - Section 75 to be amended as recommended
- (4) Administrative Authorities Act 37 of 1934 - Sections 26(ix), 26(n), 26(o), and 65, as well as sections 52 and 53 to be repealed
- (5) Broadcasting Act 8 of 1985 - amend in accordance with South African developments
- (6) Immigration and Aliens Act 9 of 1988 - Sections 7, 8, 56, 58, 60, 63, 64, 68, 69 to be repealed

The Task Group was requested to investigate the following matters in South Africa and the TBVC territories and to make the recommendations uniformly applicable to all relevant territories:

- (1) terrorism and related crimes against the state;
- (2) detention;
- (3) the control of "aliens" and related matters;
- (4) restrictions on the political activities of civil servants.

The Negotiating Council furthermore accepted recommendations by the Planning Committee, *inter alia* (1) that the decisions taken in the Negotiating Council should be binding on the self-governing territories and states represented in the Council and that the Relevant governments should undertake whatever steps are required to legislate those changes and (2) that the Task Group be asked to continue with its investigation regarding the identification and repeal of legislation impeding free political activity and discriminatory legislation in a longer term.

On **11 November** the Negotiating Council agreed to repeal or amend the following:

#### **A. SOUTH AFRICA AND THE TBVC TERRITORIES**

- (1) Section 54(2) of the South African Internal Security Act 74 of 1982 (the crime of subversion) to be repealed; legislation dealing with terrorism and related crimes against the state to be amended as a matter of urgency in accordance with the situation in South Africa, as amended, where it differs substantially; the entire area of statutory and common law crimes against the state to be investigated in the longer term, and that substantial reforms be considered in view of a Bill of Fundamental Rights and common law principles. (See for details as to the relevant legislation the Second Substantial Report of the Task Group pages 6 to 8.)
- (2) Section 29 of the South African Internal Security Act 74 of 1982 to be repealed; legislation regarding detention in the TBVC territories to be amended to bring it line with the South African situation, as amended, were substantial differences occur; all statutory provisions dealing with detention without trial to be investigated and repealed, or reformed in accordance with

the Bill of Fundamental Rights and common law principles. (See for details as to the relevant legislation the Second Substantial Report of the Task Group pages 9 to 11.)

- (3) The South African Aliens Control Act 96 of 1991, the Transkei Aliens and Travellers Control Act 29 of 1977, the Bophuthatswana Aliens and Travellers Control Act 22 of 1979 and the Ciskei Immigration, Emigration and Aliens Act 9 of 1988 to be amended, by amending the definition of "alien" not to include persons who are citizens of South Africa, Transkei, Bophuthatswana, Venda and Ciskei, as the case may be, to provide for freedom of movement: to amend to exclude persons who went into exile and as a result lost South African citizenship from the definition of "alien".
- (4) All legislation dealing with restrictions on the political activities of civil servants (see pages 15 to 17 of the Second Substantial Report for a detailed list) to be amended to accord with the following guide-lines or principles agreed to by the Council:

"Apart from exercising the right to vote, persons employed by the Government, **excluding** members of the Police Force, the Defence Force, the National Intelligence Service, the Correctional Services, as well as judicial officers such as magistrates and prosecutors, should be allowed to -

- (a) be a member of a lawful political party or organisation;
- (b) serve on the management of or hold an executive position of such political party or organisation and otherwise taking part of the activities of such party or organisation;
- (c) attend political meetings, preside at such meetings and speak and take part in the debates at such meetings;
- (d) draw up and publish any writing or deliver a public speech to promote or prejudice the interests of any political party or political organisation;
- (e) accept, with prior notification to the head of the department, nomination or election as a member of a public body such as a local authority or school board, but not in respect of provincial government and Parliament, in which case the member shall take leave from the date of nomination and resign from the date of election.



However such a member shall not make use of his or her position in the service of the Government to further or prejudice the interests of any political party or organisation.

Members of the Police Force, the Defence Force, Correctional Services and the National Intelligence Service, as well as judicial officers such as magistrates and prosecutors, are required to be neutral and impartial and should, therefore, not be seen to be associated with any political party, political organisation or movement. It is consequently suggested that apart from exercising the right to vote and to attend public meetings of political parties, organisations or movements while dressed in civilian clothes, such members should not be allowed other political freedoms such as membership of a political party, organisation or movement, actively taking part in the activities thereof, presiding or speaking at meetings, etc. (They should be allowed to be members of trade unions or similar organisations.)"

**The question whether these amendments were to be made immediately, or referred to a later structure, was to be considered by members of the Planning Committee - see Outstanding Matters below.**

- (5) The issue of freedom of expression and racial "hate speech" (Section 47(2)(c) and (d) of the Publications Act and Section 62 of the Internal Security Act, to be repealed in terms of the decision of 1 November) had to be revisited. The Task Group recommended on 15 November that Section 47 (2) (c) and (d) be repealed, that Section 62 be retained for the time being and that Section 29 of the Black Administration Act 38 of 1927 be repealed. The Task Group furthermore recommended that the relevant provisions on the TBVC states be repealed or amended in accordance with the abovementioned South African situation, and that the legal position regarding freedom of expression and possible limitations thereof be thoroughly investigated and revised and reformed, in accordance with a future Bill of Fundamental Rights, common law principles and of democracy and human rights. After discussion and bi-lateral talks, the Negotiating Council accepted the recommendations, with the qualifications that Section 62 be retained only until the last-mentioned investigations, whereafter it should be amended or scrapped and, in the last mentioned event, be replaced with an appropriate provision. (See the Task Group's Report of 15 November for details).

## **B. SELF-GOVERNING TERRITORIES**

The Negotiating Council agreed to the recommendations in Annexure "B" of the Second Substantial Report of the Task Group, as summarized below (details being available in the Report);

## LEGISLATION APPLYING IN ALL SELF-GOVERNING TERRITORIES

|    | <u>Law</u>   | <u>Recommendation as agreed to</u> |
|----|--|------------------------------------|
| 1. | Self-governing Territories<br>Act 21 of 1971, Chapter 3  | Amend                              |
|    | The Act must be amended in order to effect amendments and repeals in the territories.  |                                    |
| 2. | Item 21A of Schedule 1 of<br>Act 21 of 1971  | Repeal                             |
|    | The item authorises the territories to make laws in respect of the prohibition of organisations, the restriction of persons and censorship.  |                                    |
| 3. | Proc R.293, Reg 4, Ch 5,<br>Control of Townships, Communal<br>Halls  | Amend                              |
|    | Amend to remove sole and absolute discretion from township superintendents in respect of the hiring of facilities for meetings, and to provide a speedy mechanism where a dispute arises.  |                                    |
| 4. | R. 293, Reg 1, Ch 6, Control,<br>supervision, restriction or<br>prohibition of Public Meetings   | Amend                              |
|    | Amend to provide that Magistrates shall invite representations from interested parties before prohibiting meetings on the grounds that it will breach the peace, and so as not to conflict with the Goldstone Bill once it is enacted. |                                    |
| 5. | Reg 2  | Repeal                             |
|    | Repeal provision providing for application to Township Manager for holding of any meetings.  |                                    |
| 6. | Reg 3  | Repeal                             |
|    | Repeal control of meeting by Township Manager.   |                                    |
| 7. | Reg 4  | Repeal                             |
|    | Repeal control of subject matter by Township Manager at meetings.  |                                    |

- |     |  |        |
|-----|--|--------|
| 8.  | Reg 5  | Repeal |
|     | Repeal control of duration of meeting by Township Manager.   |        |
| 9.  | Reg 8(a)   | Amend  |
|     | Amend offences accordingly.  |        |
| 10. | Regs 8(c) - (f)  | Repeal |
|     | Repeal offences accordingly.   |        |
| 11. | Proc R.188, Land Regulations,<br>Regs 63 & 64, Presence<br>in Black Areas of Persons<br>other than Blacks and<br>Unauthorised Blacks | Repeal |
| 12. | Proc R.268, Control of<br>Meetings in Black Areas  | Repeal |
|     | Repeal proclamation which prohibits gatherings of more than 10 Blacks without permission.  |        |
| 13. | Proc R.200/1967, Community<br>Service  | Repeal |
|     | Repeal Proclamation which in effect provides for forced labour of Blacks.  |        |
| 14. | Proc R.201/1968, Collective<br>Responsibility  | Repeal |
|     | Repeal Proclamation which provides for collective responsibility for Blacks in cases of damage, theft or personal injury.            |        |

## GAZANKULU

- |    |  |       |
|----|--|-------|
| 1. | Civil Protection Act 5 of 1987<br>Sections 2, 7 and 8  | Amend |
|    | Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies. |       |

2. Education Act 7 of 1973  
Sections 15(1)(d) & (2)(b), Repeal  
  
Repeal discriminatory provision against single female teachers.
3. Sections 21(e) & (k), (u), 25 (1),  
(3) & (4) Repeal  
  
Repeal misconduct provisions which prohibit public criticism and debate by teachers; membership or active participation in any political organisation; and the restriction on holding public office.
4. s25(2) Amend  
  
Amend accordingly to set out that the only restriction on teachers holding office should be that there should be no interference with the performance of their duties.
5. Gazankulu Public Service Act  
5 of 1972. s18(g), Staff  
Regulations A 13, A 14 Repeal  
  
Repeal misconduct provisions which prohibit membership or active participation in any political organisation by civil servants; and the standing for election; and the requirement that female employees give written notice of their intention to marry.

## KANGWANE

1. Kangwane Civil Protection Act  
18 of 1989 Amend  
  
Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.
2. Kangwane Public Service Act  
5 of 1989, s15(2) & (4)  
Retirement and Retention of  
Services Amend  
  
Discriminatory. Amend to have same retirement age for men and women.

3. S19, Misconduct Repeal

Repeal misconduct provisions which prohibit public criticism and debate by teachers.

### KWANDEBELE

1. Kwandebele Civil Defence Act  
7 of 1987 Amend

Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.

2. Kwandebele Traditional  
Authorities Act 8 of 1984  
s16(2) & 18(1)(A) Repeal

Repeal provision which requires that residents give traditional leaders "loyalty, respect and obedience" which may be construed as political support.

3. Kwandebele Police Act  
11 of 1986, s36 A (1) Amend

Amend by deleting provision which permits the Kwandebele Police Force to enter into agreements whereby it can conduct cross-border operations into South Africa.

4. Kwandebele Public Service Act  
3 of 1981, s4(5) & 18(g) Repeal

Repeal provisions which prohibit membership or active participation in any political organisation.

5. S15(8) Repeal

Repeal power of Cabinet to discharge, transfer or demote without hearing employee or furnishing reasons.

6. S18(p) Repeal

Repeal misconduct provisions which prohibit public criticism and debate by teachers.

## KWAZULU

1. KwaZulu Act on the Code of  
Zulu Law 16 of 1985  
S 7(1) and 7(1)(a). Amend  
  
Amend to delete power of chiefs and headmen to prohibit gatherings and to use force to disperse gatherings.
2. S115(1)(a) Repeal  
  
Repeal offence of spreading false report affecting KwaZulu Government.
3. KwaZulu Black Administration  
Amendment Act 26 of 1988 Repeal  
  
Repeal Act which provides for forced removals and banishment orders.
4. KwaZulu Act on the Powers and  
Privileges of the Legislative  
Assembly 25 of 1988 Amend  
  
Amend to prevent inquiry into political affiliation or actions of any person or groups.
5. KwaZulu Amakhosi and  
Iziphakanyiswa Act 9 of 1990  
(Chiefs and Headmen)  
s4(b) Repeal  
  
Repeal prohibition on committing any act unless permitted by custom.
6. s18(1)(b) Repeal  
  
Repeal provision which requires that residents give traditional leaders "loyalty, respect and obedience" which may be construed as political support.
7. s18(1)(d) Amend  
  
Amend to prevent the use of force by Chiefs and to prevent the reporting of political activity to the Government.
8. s18(1) Amend  
  
Amend to accord protection to all travellers.

9. s18(1)(f)(vi) Repeal  
Repeal requirement of reporting unauthorised meetings or distribution of undesirable literature.
10. s18(1)(g) Amend  
Amend to delete power of chiefs and headmen to use force to disperse gatherings.
11. s18(1)(i) Amend  
Amend to prevent instructions and orders relating to attendance and participation at political events.
12. s18(1)(l) Amend  
Amend to permit Chiefs to engage in lawful resistance to any law.
13. s23(l)(g) Repeal  
Amend misconduct provision in respect of joining certain organisations whose objects are prejudicial to the government.
14. KwaZulu Civil Defence Act  
11 of 1984 Amend  
Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.
15. KwaZulu Police Act 14  
of 1980, s42A(1) Amend  
Amend by deleting provision which permits the KwaZulu Police Force to enter into agreements whereby it can conduct cross-border operations into South Africa.

16. KwaZulu Education Act 7  
of 1978, s21A Repeal
- Repeal authority to discharge teacher at short notice if employment not in the interest of KwaZulu.
17. Sections 22(f), (t), (u)  
(v) and Regs R1755, 13(l)(i),  
(l) and (m). Repeal
- Repeal misconduct provisions which prohibit public criticism and debate by teachers; and which prohibit membership or active participation in any political organisation.
18. Public Service Act 5 of 1980  
s19(t) Repeal
- Repeal prohibition on joining trade unions or attending union meetings.
19. s9(2) Repeal
- Repeal requirement on declaring written loyalty to the KwaZulu Government.
20. s21(5), KwaZulu Education Act  
7 of 1978 Amend
- Delete authority for dismissal of women teachers who fall pregnant out of wedlock; and amend to provide for paid maternity leave.

## LEBOWA

1. Lebowa Public Service Act  
2 of 1972 Repeal
- Repeal provision which forces women who marry to retire.
2. Regulations governing schools  
under Lebowa Govt Service, 1978  
Reg. 17(1) Holding of Office by  
Teachers Repeal



Repeal regulation which requires teacher to obtain the Minister's consent to hold office.

3. Reg 18(c), (s), (v)

Repeal

Repeal misconduct provisions which prohibit public criticism and debate by teachers

4. Reg 18(v) and 33

Amend

Amend restrictions on political activity only to apply during school hours.

5. Staff Reg. 1976, A14

Repeal

Repeal requirement that females give notice to department head when they intend to marry.

6. Lebowa Civil Protection Act,  
1988

Amend

Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.

## QWA QWA

1. Regulations, Chiefs and  
Headmen, GN 11, 25/2/85  
s2(b)

Repeal

Repeal provision which requires that residents give traditional leaders "loyalty, respect and obedience" which may be construed as political support.

2. s5(b)

Amend

Amend to prevent the reporting of political activity.

3. s5(h)

Amend

Amend to accord protection to all travellers.

9. s5(i) Repeal  
Amend to delete power of chiefs and headmen to use force to disperse gatherings.
10. s5(j) Amend  
Amend to delete power of chiefs and headmen to prohibit gatherings and to use force to disperse gatherings.
11. s5(l) Amend  
Amend to prevent instructions and orders relating to attendance and participation at political events.
12. Qwa Qwa Civil Defence Act  
12 of 1983 Amend  
Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.
13. Qwa Qwa Education Act  
4 of 1976, s21(e), (s), (t)  
(u) Repeal  
Repeal misconduct provisions which prohibit public criticism and debate by teachers; and which prohibit membership or active participation in any political organisation.
14. Regulations ito Act  
7 of 1987, 1/9/88  
Reg 15 Amend  
Amend provision to contain extent of prohibition on political activity to school hours.
15. Qwa Qwa Public Service Act  
5 of 1973, s 18(f), (g), (h) Repeal  
Repeal misconduct provisions which prohibit public criticism and debate by teachers; and which prohibit membership or active participation in any political organisation.
16. Proclamation No. R. 195, 1981,  
Regulations for the Administration  
of Qwa Qwa Repeal

These regulations provide for, inter alia, 90 days detention without trial; the prohibition and restrictions on meetings; ouster clauses on legal intervention; various offences repugnant to freedoms of expression and association.

17. Qwa Qwa Education Act  
7 of 1987, s20 Repeal

Repeal misconduct provision in respect of unmarried teachers falling pregnant.

### OUTSTANDING MATTERS

- (1) The Task Group has to proceed with the drafting of the necessary legislation to repeal or amend the above, with assistance from the state law advisors and guidance from the Negotiating Council or its successor, or oversee the drafting of all required legislation by the South African government, the TBVC states and self-governing territories.
- (2) As to the above-mentioned guidelines or principles relating to restrictions on the political activities of civil servants, the Negotiating Council should determine what is to be done to give effect to these principles, after approval of the constitutional principles dealing with the public service by the Negotiating Council.
- (3) A law or laws for the amendment or repeal of all statutes dealing with gatherings and demonstrations should be drafted, since the Negotiating Council has not had the opportunity to see the "Goldstone Bill", referred to in the Task Group's reports.
- (4) The Task Group should deal with medium and long term issues and report back to the Negotiating Council or its successor on (a) legislation in South Africa and the TBVC territories, which may resemble the aspects dealt with under the self-governing territories (mentioned above), which have not been dealt with, (b) discriminatory legislation which should be identified and legislation drafted, with the input of members of the Negotiating Council, and (c) research and proposals regarding the entire area of security legislation.
- (5) In terms of a decision of the Negotiating Council the South African Government should be directed to present to Parliament during the November 1993 session legislation empowering the State President to repeal, amend, supplement or alter discriminatory legislation or legislations inhibiting free political activity by proclamation. The wording of the empowering clause should be the same as that previously approved by the Negotiating Council in respect of self-governing territories.

COMPOSITE LIST OF CONTRIBUTORS  
TO THE  
MULTI-PARTY NEGOTIATING PROCESS

**Composite list of contributors to the Multi-Party Negotiating  
Process - update as at 16 November 1993**

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**SCHEDULE OF NEGOTIATING FORUM,  
NEGOTIATING COUNCIL AND PLANNING  
COMMITTEE MEETINGS**

**SCHEDULE OF NEGOTIATING FORUM, NEGOTIATING COUNCIL AND  
PLANNING COMMITTEE MEETINGS HELD AT THE WORLD TRADE  
CENTRE, KEMPTON PARK**

|                     |               |
|---------------------|---------------|
| Negotiating Forum   | 01 April 1993 |
| Negotiating Forum   | 02 July 1993  |
| Negotiating Council | 05 March 1993 |
| Negotiating Council | 06 March 1993 |
| Negotiating Council | 18 March 1993 |
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| Negotiating Council | 26 April 1993 |
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| Planning Committee | 15 November 1993  |

**LIST OF PARTICIPANTS FROM  
FOREIGN MISSIONS / ORGANISATIONS**

## LIST OF PARTICIPANTS FROM FOREIGN MISSIONS / ORGANISATIONS

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### **Embassy of Belgium**

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### **British Embassy**

Sir A Reeve

### **Brazilian Embassy**

Mr LA Fachini-Gomes

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Dr M Anafu

Ms C Lowe-Morna

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Mr CH Chen

### **Embassy of Chile**

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### **Embassy of Czech Republic**

Dr J Babicky

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Mr MA Brault

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Ms M Peterson

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Dr C Zimmermann

**Ambassador of France**  
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**Embassy of Greece**  
Mr PA Tsamoulis

**Embassy of the Republic of Hungary**  
Mr L Szalay

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**Embassy of the Kingdom of Lesotho**  
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**Office of the Interests of the Kingdom of Morocco**  
Mr MS Benryane

**Malawi Embassy**  
Mr WS Khosa

**Consulate-General of Mauritius**  
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**Royal Netherlands Embassy**  
Mr ThYM van Oorschot

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HE Mr J Ritto

**Embassy of Paraguay**

Mr A Franco

**Liaison Office of Pakistan**

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**Singapore Consulate**

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**Embassy of Spain**

Mr M Ucelay

**Embassy of Sweden**

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Mr CE Wyse  
Mr M Ndulo

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Mr CK Kalumiya  
Mr M Lubega

**Zimbabwe Trade Mission**  
Mr SH Comberbach

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Mr RJ Jerster  
Mr JP Bosman