

**COMMENTS ON LEGISLATIVE FRAMEWORK FOR A
TRANSITIONAL EXECUTIVE COUNCIL**

GENERAL COMMENTS

1. Paragraph 12 of Working Group 3 report remains a problem. It constitutes a suspensive condition in respect of all the agreements set out in the rest of the report. A priority objective should therefore be to get other participating parties to agree to the deletion of the suspending condition. This will open the way for proceeding, immediately on the resumption of multi-party negotiations, with the finalisation of the legislation on the basis of the Working Group 3 report and with implementation as soon as the parties are ready to do so. It must be borne in mind that the Independent Electoral Commission is also part of these agreements and that it is linked to the TEC. The early implementation of the IEC is even more important than that of the TEC.
2. Against this background it is still felt that the process can be accelerated by enacting enabling legislation as soon as possible.
3. The TEC legislation should not form part of the transitional constitution. It provides for the first phase of the transition while the transitional constitution provides for the second phase. Furthermore, to wait for the enactment of the transitional constitution will delay the institution of the TEC for too long.
4. The composition of the framework appears to be logical and all aspects are fully covered.
5. **Paragraph 2**
 - (a) The description of the powers is too comprehensive and too vague. Whatever statutory powers there should be, should be spelt out. The more parties and governments that are involved, the less the specific statutory powers will, of necessity, have to be.
 - (b) The State President's powers are not mentioned in the Working Group 3 report.

- (c) Governments other than the South African Government are not dealt with in the draft framework.
- (d) No statutory powers in respect of the affairs of participating organisations other than governments, are mentioned.
- (e) Sub-councils will only have those powers delegated to it by the TEC. All the powers needed for sub-councils will therefore have to be given to the TEC. It is therefore necessary that the powers needed for the critical areas (for law and order, stability and security and for defence) be identified first. Thereafter other areas can be covered.

6. **Paragraphs 3, 4 and 5**

The real power of the TEC will lie in its political interaction. To be able to use its political power effectively, the TEC should have access to all relevant information, wherever it is to be found. The TEC should therefore be given greater statutory access to information that is foreseen in these paragraphs. The TEC should perhaps be given similar powers to those of a statutory commission of enquiry to call for documents and to subpoena witnesses.

7. **Paragraph 6**

There should also be a sub-council for elections.

8. **Paragraphs 8 to 12**

It is suggested that these aspects should not be spelt out in such formal detail. The TEC should function as informally as possible.

9. **Paragraph 14**

Perhaps not necessary.

10. **Paragraph 21**

Unnecessary. The TEC will be a structure of state and should be financed and logistically supported like other state structures.

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