

SOUTH AFRICAN CHAMBER OF BUSINESS

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The Voice of Business/Die Sakestem

10 August 1993

To: **Participants in the Multi-Party Negotiating Process****The Technical Committee on Fundamental
Rights during the Transition****The Technical Committee on Constitutional Issues****FUNDAMENTAL ECONOMIC RIGHTS**SACOB respectfully reminds Participants in the Multi-Party
Negotiating Process that :

1. The business community and SACOB specifically have strongly supported Participants in their efforts to find common ground on constitutional and related issues that have fundamental significance for the future well-being of all South Africans.
2. New political structures will not be successful unless they are underpinned by a strong economy that is delivering economic growth. SACOB has on a number of occasions now offered to assist Participants and the appropriate Technical Committees with advice and other inputs drawing on the expertise and experience of SACOB members on matters considered to be of critical importance for the future efficient functioning of the national economy, particularly with respect to sound economic development and sustained employment growth.
3. In keeping with the foregoing and reflecting the concern of the business community and of present and potential investors in the country's productive resources. SACOB has repeatedly called on Participants to acknowledge and place the necessary weight and emphasis on economic issues and rights, side by side with the political rights and issues that have understandably preoccupied Participants throughout the negotiating process.
4. Socio-economic injustices likewise need to be redressed in the new dispensation and it is appropriate for the Participants and Technical Committees to address these concerns. The present submission is, however, narrowly

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focussed on fundamental rights because if these primary economic rights are secured, that will itself help to improve socio-economic conditions; and conversely, if these primary rights are not secured, there can be no real or lasting improvements in socio-economic conditions in our country.

5. SACOB reiterates the submission made in the 18 June 1993 memorandum to Participants, namely that the planning of South Africa's new regional constitutional dispensation with appropriate structures, essential as these will be, would in a very real sense "be secondary in nature, and effective only if constructed or super-imposed on fundamental individual rights to property - rights which, in turn, provide the basis for all economic activity in a market - or mixed - economy (and without which no workable, not to say successful, economic system can be predicated)."

In the light of the foregoing, SACOB now earnestly appeals to Participants :-

- A. To acknowledge unambiguously the vital need for rights of ownership in property both real and incorporeal to be enshrined in the Bill of Rights for the Transition, so as to make this proposed Statute in effect a Charter for sustained economic progress and job creation. SACOB is not presuming to tender advice on legal terminology, but does insist on the need for certainty and confidence that nobody would under any circumstances be deprived of their property without due process of law and fair compensation.
- B. To spell out these rights in a manner that will provide utmost clarity regarding the intentions of the founding parents of the new democratic South Africa, for the guidance, alike, of courts that may be called on to interpret the proposed Bill of Rights or Charter, and future legislators responsible for review and amendment.
- C. To urgently consider ways and means of entrenching the fundamental economic rights as formulated for purposes of the Bill of Rights during the Transition with respect to:-
- i subsequent amendment by Parliament during the Transition (before and after the general election) and pending the adoption of the proposed final Bill of Rights; and
 - ii principles to be respected by the future Parliament or National Assembly and from which there should be no scope for deviation in drawing up the permanent Bill of Rights - in other words, these principles should apply in both the interim and final constitutional dispensation.