

PAC

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ADDENDUM 'B'

A6

[6]

CONSTITUTIONAL PRINCIPLES AND FORM OF STATE

1. The CODESA Declaration of Intent (page 30 of the Consolidated Document) contains 6 Constitutional Principles namely:
 - 1.1. S.A. will be united, democratic, non-racial and non-sexist state in which sovereign authority is exercised over the whole of its territory.
 - 1.2. the Constitution will be the supreme law and it will be guarded over by an independent, non-racial and impartial judiciary.
 - 1.3. that there will be a multi-party democracy with the right to form and join parties and with regular elections on the basis of universal suffrage on a common voters role; in general the basic electoral system shall be that of proportional representation.
 - 1.4. separation of powers between the legislature, executive and judiciary with appropriate checks and balances.
 - 1.5. the diversity of languages, cultures and religions of the people of S.A. shall be acknowledged.
 - 1.6. all shall enjoy unversally accepted human rights...etc.
2. In addition CODESA Working Group 2 produced almost similar Constitutional Principles to be binding on a Constitution Making Body (P.48 Consolidated Report).

PAC INPUT

In our new input we wish to stress that we support the idea to have constitutional principals to ensure that the settlement is internationally acceptable. To this end we refer to the Constitutional Principles of the U.N. Consensus Declaration of December 1989.

We furthermore believe that the question of Provinces and regions should be decided upon by the elected Constituent Assembly. At this point we may note that we are not opposed to anybody raising the issue in the Constituent Assembly.

WAY FORWARD

Bearing in mind the Consolidated Report, the U.N. Declaration and the PAC input, the Negotiations Council should appoint a Technical Sub-Committee to produce Constitutional Principles for discussion in the Negotiating Council.

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(2)

ADDENDUM 'G'THE ELECTION DATE.

Since the election of representatives with due mandates to draft a new Constitution in a elected Constituent Assembly/Constitution Making Body is a prerequisite to the drafting of a new constitution and the heralding of stability, justice and equality for all, and since steps need to be taken to this end as a matter of urgency.

We propose that the Negotiating Council appoints a Technical Sub-Committee of 4 persons to investigate the most feasible date for such elections and to report back to the Negotiations Council through the planning Committee within 10 days.

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ADDENDUM 'F'CONSTITUENT ASSEMBLY/CONSTITUTION MAKING BODY

1. CODESA basically reached a common understanding that
 - 1.1. an interim constitution be negotiated in terms of which elections be held for an interim government which will also draft a new Constitution and;
 - 1.2. a second phase from such election until the new constitution is adopted and a new government installed in terms of the provisions of the new constitution.
 - 1.3. the agreement on Constitutional principles be binding on the final Constitution.

2. P.A.C. INPUT

We believe that

- 2.1. An Executive Transitional Authority be negotiated in the negotiations process and take control over critical areas having a direct bearing on the transition such as I.E.C, I.M.C, SECURITY and defined areas of the budget. The E.T.A. is not a sub-council of the government but has full executive authority over the matters under its jurisdiction through enabling legislation. Meanwhile the government control other areas and amendments to the constitution may take place. This does not lead to a new permanent or new interim constitution but the same existing constitution as amended. It is not a new or different constitution because the same parties will remain in parliament. Therefore it is the same system albeit with possible amendments. There is therefore no need to negotiate an interim constitution. This is our response to the question of constitutionality during the transitional period.
- 2.2. An operational Constitution is the Supreme Law and not the interim law.
- 2.3. The E.T.A. through its commissions should prepare for elections for an unfettered Constituent Assembly with the sole aim of drafting a new Constitution. This task should be completed within 18 months. The Constitution should enshrine the Constitutional principles agreed upon.

3. WAY FORWARD

- 3.1. The Negotiations Council should appoint a Technical Sub-Committee to Draft proposals on the bringing about and functioning of an elected Constituent Assembly/C.M.B. bearing in mind the aforementioned views.

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(4)

ANNEXURE "A"P.A.C. INPUTPAGE 000032/334. DISPUTE RESOLVING AND DEADLOCK BREAKING MECHANISMS.

4.2. after the word 'plenary' add a new sentence

'It is however advisable that maximum effort be employed in the Negotiating Council to attend to deadlocks which has arisen. To this end a standing Appeals Committee should be established with balanced representativity and acting as a sub-organ to which all structures from the Negotiating Council up-wards can refer matters for proposed consensus formulation. The Appeals Committee may also propose bilateral discussions with or without mediators between parties after due consultation with them.

4.3. Add new sentence.

'This is subject to the agreed upon role of the international community'.

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