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18 June 1993

Dr. Theuns Eloff
Administration; Multi-Party Negotiating Process
World Trade Centre
Kempton Park

By Fax - FIVE pages including this one - 011 397 2211

Dear Dr. Eloff

re: Submission to (i) Technical Committee on Constitutional Matters;
(ii) All Participants in the Multi-Party Negotiating Process

Please be good enough to distribute the following document (four pages) to the above-named .

I make this request on behalf of SACOB's Director-General, Mr Raymond Parsons.

Yours truly .

PETER DUMINY
Director Parliamentary Information Centre

The Voice of Business/Die Sakestem

SOUTH AFRICAN CHAMBER OF BUSINESS/SUID-AFRIKAANSE BESIGHEIDSKAMER Reg. No./Nr. 05/20230/08
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The Voice of Business/Die Sakestem

18 June 1993

- To
1. Members of the Technical Committee on Constitutional Matters
 2. All Participants in the Multi-Party Negotiating Process

**Regional Boundaries and the National Economy: Fundamental
Constitutional Rights and Issues**

SACOB notes that the Technical Committee on Constitutional Matters ("the Technical Committee") has been instructed to examine, report and recommend on the powers, functions and structures of regional governments, and that these matters are specifically excluded from the terms of reference of the Commission on Demarcation/Delimitation of Regions ("the Commission").

SACOB intends responding to the invitation it has received from the Commission by offering written and oral submissions on factors that, in its considered view, should govern selection of the future boundaries of South African States, Provinces and/or Regions ("the regions").

The urgency of both these studies is well understood, and SACOB would at all costs wish to avoid raising any matters that would unnecessarily delay progress towards Multi-Party agreement on either or both of these essential requirements for the future constitutional dispensation.

However, it is practically impossible, and might well in some respects be superfluous, to make proposals for future regional boundaries without a clear understanding of the powers and responsibilities that will (and those that will not) be vested in the regions, their voters and/or governments.

From an economic standpoint it would, by way of example, seem highly probable that the more extensive the overall powers and the more onerous the responsibilities attaching to the regions, the fewer regions there can be; and, conversely, the more restricted the regional powers and responsibilities, the more regions there *could* (though not necessarily *should*) be.

From this it follows that in offering suggestions to the Commission, SACOB and other petitioners will need to make certain basic assumptions, which may prove to be considerably at variance with what later turn out to be the facts, with respect to the nature of the regions that are to be functionally endowed and empowered on the recommendation of the Technical Committee.

SACOB therefore welcomes unofficial reports that the Co-Chairmen of the Commission have asked the Technical Committee and/or Participants in the Multi-Party Negotiating Process for an early indication of the powers, structures and functions that are envisaged for the regions.

Submissions to the Technical Committee on Constitutional Matters

(i) On need for general principles to be established

For this reason alone, SACOB likewise desires to offer this prior submission to the Technical Committee - that is to say, asking it to provide the basis for rational public evaluation of boundary possibilities by formulating broad proposals on powers, functions and structures appropriate for the regions if at all possible before the 6 July cut-off date for public submissions to the Commission. Given even the provisional imprimatur of the Multi-Party Participants, these proposals would then serve as a sound working basis for all parties wishing to put submissions before the Commission.

At the same time there are other matters of fundamental importance that SACOB wishes to bring to the attention of the Technical Committee and, simultaneously, to all Participants in the Multi-Party Negotiations.

(ii) On need for matters of detail to be filled in only after consultation

In the first instance, it is stressed that in asking for a *general* exposition of the future constitutional, legislative and administrative roles of the regions, SACOB is not suggesting the Technical Committee should at this stage be looking at matters which could be classed as details in constitutional terms but may nevertheless have considerable substance in financial, economic or other respects.

Illustrative examples would include:

- avoidable costs of government;
- scrutiny of public expenditures by the Auditor-General;
- limits on the taxation powers of the regions.

On the contrary, SACOB earnestly requests that all such matters be addressed at a later date and in consultation with all interested parties, including organised business. In this connection SACOB sincerely repeats its offer of professional economic and business assistance with the important tasks that would remain to be undertaken. Under no circumstances should that conceivably vital work be preempted by decisions needlessly taken on the run, without consultation with those most affected.

(iii) On the basic economic rights and issues

Next, there are matters which may collectively be described as the need to establish certain ground rules and guiding principles for economic and/or commercial powers that should or could be vested in the regions, with particular reference to the preservation of a single and inviolably integrated South African economy with certain fundamental and inalienable rights for all persons, natural and corporate, within its outer borders.

This calls for clear understanding of, and commitment to, the necessity for, *inter alia*:-

- a single currency and central bank, akin to the Federal Reserve System in the United States;
- a unified companies code and companion securities code to provide for efficient operation of the single capital market;
- unrestricted trade and movement of people across regional boundaries;
- centralised control of inter-regional communications, including roads and railways.

Moreover such regional structures, essential as they would be, would themselves 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).

SACOB accordingly urges that agreement on these fundamentals be spelled out now by the Multi-Party Participants in order to provide a framework for the studies they have commissioned and a basis for confidence in all the relevant outcomes; and, failing this, that these fundamentals should not be overlooked or put on one side in the understandable haste to achieve a political accommodation.

The present phase may be the only one that will be available to negotiate fundamental rights to be enshrined in the new Constitution, whether for the transitional phase or longer-term. It would be a grave oversight to allow such fundamentals to go by default, whether under the possibly mistaken impression that they are universally accepted, or, worse still, believing them to be matters of some contention. The time to sort that out is now.

ENDS