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SACOB
SABEK

The Voice of Business/Die Sakestem

Reg. No/Nr. 05/20230/08

[18]

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22 October 1993

BY HAND

The Chairperson
 Technical Committee on Constitutional Issues
 Multi-Party Negotiating Process
 World Trade Centre
 KEMPTON PARK

Dear Sir

LOCAL GOVERNMENT IN A NEW CONSTITUTIONAL DISPENSATION

The South African Chamber of Business as the largest employer body, representing approximately 40 000 business undertakings in the country, has been consistently addressing the subject of local government in a new constitutional dispensation, and has adopted a number of policy stances during the last few years, in view of the business community's vital stake in the outcome of local government negotiations.

It is our view that a successful new system of local government will largely depend on the emergence of a politically and economically sound division of powers, duties and functions, with necessary entrenchments, between central, regional and local structures.

The central theme throughout our policy documents and position papers is that there should be maximum devolution of power to local levels with the minimum of central control, provided however that Government should and must accept financial responsibility for a minimum level of socio-economic services and basic infrastructure.

Furthermore the business community, as the largest contributor to local coffers, strongly believes that provision for a corporate vote available to juristic persons, must be made in any new local government dispensation.

I enclose herewith copies of the following :-

- [1] Motion on Local Government, adopted in the course of SACOB's 1990 Annual Convention together with background document;

INCORPORATING:

THE ASSOCIATION OF CHAMBERS OF COMMERCE AND INDUSTRY OF SOUTH AFRICA • THE SOUTH AFRICAN FEDERATED CHAMBER OF INDUSTRIES

Directors: Mr. J.H. Viljoen, Mr. G.J. Trollope, Mr. S. Sterling

- [2] Discussion document on Local or Metropolitan Government Financing - June 1992;
- [3] Submission to the President's Council - May 1993
- [4] Motions [with accompanying background documents] adopted at the 1993 SACOB Annual Convention on
 - [i] Cost of Local and Regional Government
 - [ii] Local Government Accountability [note that paragraph [iii] originally read "the introduction of a ward or constituency system and not proportional representation...." [my underlining]. The motion was adopted subject to the deletion of the word "not"].

We trust that due consideration will be given to our views in the course of your Committee's deliberations.

Kind regards.

Yours sincerely



K F WARREN
DIRECTOR : LEGAL AFFAIRS

Encs

MOTION ADOPTED AT 1990 SACOB ANNUAL CONVENTION

Local Government

"In welcoming Government's intention to introduce a new system of local government as part of a new political dispensation and to enable local authorities to deal with challenges such as urbanisation

this Convention urges Government to ensure that such system of local government

- [i] offers a wide range of optional models;
- [ii] is open to participation by all, including corporate entities, with equal rights on a non-racial basis;
- [iii] provides for local options to be arrived at through negotiation, involving all in the community, and with the greatest possible measure of consensus;
- [iv] is aimed at the maximum devolution of authority at the local level, with the minimum of central control; provided however that Government should accept financial responsibility for a minimum level of socio-economic services and basic infrastructure;
- [v] promotes administrative rationalisation and greater efficiency in local government; and
- [vi] entails a fair distribution of the local tax burden."

BACKGROUND DOCUMENT TO THE MOTION ON
LOCAL GOVERNMENT
BY THE CAPE TOWN CHAMBER OF COMMERCE

AGENDA ITEM 2

The Chamber strongly supports the view that the status quo in local government cannot be maintained and has welcomed the Government's announcement that a new system of local government must be developed which will -

- (i) strengthen the hand of local government to deal with challenges such as urbanisation;
- (ii) move away from the system based solely on colour;
- (iii) be arrived at through negotiation with the involvement of all in the community, and with the greatest possible measure of consensus;
- (iv) be aimed at the maximum devolution of authority to the local level, with the minimum of central control;
- (v) promote administrative rationalisation and greater efficiency.
- (vi) entail a fair distribution of local income sources.

The Chamber fully supports the proposals of the Thornhill Technical Committee of Investigation into a New System of Local Government which provide for autonomous, democratically elected local authorities with maximal powers and functions, and an emphasis on the need for a process of negotiation involving all elements of local communities to decide the best option for their area.

The time is most appropriate for a total review of the local government structure throughout the country. The present structure is based on historical developments over time, and is a highly complex and fragmented one, that is complicated by the involvement of higher levels of government in decision-making that directly affects development at the local level. The present structure is, moreover, fundamentally flawed in that it is not open to participation by all, with equal rights on a non-racial basis, with the result that is totally unacceptable to the majority of citizens in South Africa.

LOCAL OPTION

The Technical Committee has proposed an open-ended and wide range of optional models for local government, and has

recommended that each community be given the right to determine the structure of this local authority by way of an inclusive local negotiation process in each town and city.

While we certainly commend the flexibility offered to local communities in terms of this proposal, and support the need to involve all elements of the community in the negotiation process on a non-racial basis, we believe it to be equally important to focus on the metropolitan as well as the local level. One of the major defects of the present local government system in metropolitan areas is that it is fragmented and allows a proliferation of local authorities, resulting in considerable duplication of effort and inequitable distribution of responsibility for regional social and amenity expenditure. Unless geographic boundaries are determined for the negotiation process to arrive at new systems of local government for metropolitan areas, a danger exists that smaller local areas within a metropolitan region, will seek to avoid their responsibility toward the region on the one hand, while the objective of greater administrative rationalisation and efficiency will not be achieved on the other.

We would accordingly recommend that the negotiation process to arrive at appropriate structures of local government in metropolitan areas, be conducted at the metropolitan level initially. Just as in the case of regional Services Councils where the need for local governments within RSC areas is recognised to handle local issues, there will undoubtedly be a need for smaller local government entities within the metropolitan context, but the important thing is to involve them all at the metropolitan level initially.

DEVOLUTION OF AUTHORITY

The Chamber supports the view that the maximum devolution of authority to local levels is essential in any new local government dispensation, and would stress the need for entrenched Constitutional provisions to guarantee the devolution of real powers to government at the local level. The objective should be to provide for smaller government structures that are closer to the needs of the electorate and that are responsive to local priorities.

At the same time it must be recognised that the central government has a responsibility to provide all the country's inhabitants with a minimum level of socio-economic services and basic infrastructure. Although it will probably be necessary to phase in equal levels of service and infrastructure for all inhabitants over a period of time, central Government must accept financial responsibility for eliminating backlogs caused as a result of apartheid policies in the past. For instance the cost of urban transport subsidies to offset the high fares that indigent people would otherwise have to pay to reach their places of employment, as well as the basic infrastructural and social service costs associated with low income housing areas, must

be borne by the central fiscus, and not transferred to regional authorities. It is important to recognise the necessity - for continued State support for the vital infrastructure that presently underpins regional employment centres that represent important engines for growth.

RATIONALISATION AND EFFICIENCY

The Chamber fully supports the view of the Technical Committee that "any new system of local government must be efficient and cost-effective, and contribute towards administrative rationalisation, improve manpower utilisation and savings for the public and government". Although a major objective of Regional Services Councils has been to rationalise the provision of bulk services in metropolitan areas, so as to achieve economies of scale, the fact of the matter is that these Councils have only served to channel funds into more needy areas, and they have not succeeded to any significant extent in eliminating the duplication of services and structures within the metropolitan area. On the contrary in the Cape Province, they have taken over the functions of former Divisional Councils which has given rise to growing bureaucracies that are not subjected to the discipline of government by way of the electoral process.

The opportunity must be taken in the forthcoming review of the local government system -

- (i) to consolidate and rationalise local government bureaucracies into more efficient and effect local government structures;
- (ii) to shift the emphasis in local government structures away from being direct providers of services, toward being facilitators of services which should be provided by the private sector wherever more efficient and economic services will result, and
- (iii) to involve a metropolitan level of government in the provision of the various bulk services that Regional Services Councils ought to provide.

FRANCHISE

As business concerns are major contributors to the coffers of local government, we certainly support the view of the Technical Committee that "democratic local government in South Africa has to provide for local franchise for natural owners and occupiers, as well as fictitious persons such as companies and close corporations".

Whatever system of franchise is decided upon, the Chamber believes it to be important that the principle of fiscal accountability should be recognised, and that a direct link should exist between taxpayers and the electorate. Spending decisions at local government levels should be made by

persons who are elected by voters that are direct contributors to the tax base, and therefore have a vital interest in the way in which their taxes are spent.

LOCAL TAXES

The traditional local government tax form of assessment rates meets the criterion of fiscal accountability in that by far the majority of adult inhabitants are contributors to the Rates Fund, either as property owners or tenants.

The RSC levies, on the other hand, do not meet this criterion in that they are perceived as taxes on business and on employers. Although they are certainly passed on to voters as end-consumers in the form of increased prices for goods and services, this linkage is not generally apparent, with this tax form and spending decisions.

The Chamber has pointed out that the RSC levy system is in any event inefficient and administratively burdensome tax mechanism that further extends the bureaucratic collection process, and has proposed that it be substituted by a regional surcharge on VAT. We certainly support the view that higher levels of government should not exercise control over the spending decisions of local government, and to that end have proposed that a regional VAT be returned, together with the national VAT, but the regional VAT be paid over to the governing authority in the region in which it is paid. This approach would have the advantage of rationalising the tax collection process while affording a productive and broadly-based taxing mechanism to raise funds for metropolitan government.

MOTION ADOPTED AT THE 1993 SACOB ANNUAL CONVENTION

Cost of Local and Regional Government

"Believing that the cost of public administration, especially in local government, is too high and adds unnecessarily to the cost structure of the country, and recognising that a lower cost structure is vitally important to achieve economic growth and to create jobs in the new South Africa, Convention calls on the parties concerned in the restructuring of local and regional government, to rationalise and streamline public administration so as to improve efficiency."

BACKGROUND DOCUMENT TO THE MOTION ON THE COST OF LOCAL AND
REGIONAL GOVERNMENT BY THE CAPE TOWN CHAMBER OF COMMERCE

We are standing on the brink of a new dispensation in respect of local and regional government. At this very moment, forums around the country are involved in negotiations in order to create second and third tier levels of government in a way, unprecedented in this country, which will ensure proper representation and effective administration at regional and local government levels.

At the national level it has been recognised that in a future South Africa the role of regional government will be more autonomous and its devolution of power to third tier levels will be more meaningful. It is in this context that the new structures at second and third tier level need to be designed in such a way as to incorporate checks and balances which will ensure a cost-effective and dynamic public administration.

Accountability and Transparency

Weaknesses in the current structure are in the areas of accountability and transparency. Maladministration, inefficiency, corruption in the public sector in South Africa has been hidden away from public scrutiny by using a system which did not make provision for general transparency.

The new structures which are being contemplated at present should be constructed in such a way that public scrutiny can penetrate into all the levels of administration. Transparency eliminates suspicion and enhances co-operation in that all parties concerned will feel part of the running of a public authority.

Accounting Practices

It is essential that the public sector adopts the process of normal accountancy practices as applied in the private sector.

Every department and government function must be subject to the discipline of receiving allocated funds and accounting for the manner in which those funds are expended, in such a way that value-for-money may be assessed and corruption avoided. When deciding whether to perform a function "in-house", or to contract out to the private sector, the principle of total costing should be adhered to, rather than the marginal costing principle which many local authorities apply at present.

Remuneration

Immediate steps must be taken to review the present system of remuneration which, in effect, allows the senior executive in the public sector, in terms of the Remuneration of Town Clerks Act, 1984, to determine his own level of remuneration.

Jobs in the public sector should be evaluated in accordance with acceptable private sector principles using established evaluation packages such as Pattersons, Hay or Peronne. By applying these neutral criteria, civil administrators will not be tempted to build their own "in-house" empires but will be encouraged to look for greater cost-efficiency.

Value-for-money Auditing

A number of years ago, Assocom Congress urged government to accept and implement a system of value-for-money auditing. We have learned that some pilot projects within the Department of Finance have been very successful and we urge the creators of the new local and regional government structures to incorporate regular value-for-money auditing procedures in order to ensure that cost-efficiency remains a priority.

Zero-Based Budgeting

Inflationary expectation has fuelled inflation. It is essential that the principle of zero-based budgeting be applied, not only in capital budgets, but also in operating budgets. As local and regional government authorities spend taxpayers' money, we believe that those who spend such monies must provide proper and acceptable explanations in advance on how they intend to spend that money. The new structures should ensure proper report-back and transparency in respect of explanations.

Corruption

Much has been said and heard about the enormous levels of corruption which have been uncovered in the public sector. Although generally accepted that the uncovered cases only form the tip of the iceberg, the monetary loss to the country has already been alleged to amount to multitudes of the annual National Budget.

Fertile ground for corruption existed in the dark ages of apartheid and international isolation, when covert action was rewarded and nepotism was not frowned upon.

Corruption must be eliminated and in this respect the new authorities are urged to ensure that independent audits are carried out early and made public unconditionally. Acceptable but tight timeframes should be agreed upon in respect of the completion of an audit and South Africa's judicial system should be used extensively to penalise any perpetrators of corrupt practices.

Rationalisation

Extensive co-operation is required between local authorities individually and the regional authority to rationalise services and functions and to reduce duplication of functions to the minimum.

Functions and services need to be identified which are provided by all, and innovative ways of avoiding duplication need to be developed, while the rationalisation of such functions ought to be encouraged.

One such function is the collection of rates, taxes, levies, licence fees, service fees. All local and regional authorities have developed large bureaucracies for the purpose of collecting their income.

It is proposed that the issue of revenue collection be investigated with a view to allocating such function to a specialist body. Greater autonomy for the regions in a future South Africa could open the way to a centralised regional collecting agency which would collect income on

behalf of regional/...

behalf of regional functional authorities and local authorities, and distribute such revenues in accordance with instructions by the geographical or functional authority for which the revenue has been collected. Such a centralised administration would slim down regional and local bureaucracies by the removal of the collection departments and it would remove anomalies in the collection and administration process between the various authorities.

Conclusion

No person doubts the need for public administration at various levels of government. South Africa's new dispensation will bring into life new local and regional authorities that will represent all the people of our country. Proper representation is crucial to ensure adequate accountability of the public administration. Here is a unique opportunity for those who are involved in the creation of these new structures, to start off on the right footing.

The cost of public administration at both regional and local levels of government is too high. In order to reduce these costs, local and regional authorities should become leaner by subcontracting to the private sector; by improving their financial management; by applying private sector principles in respect of accounting practices and job evaluations; and by creating a culture within their own environment of honesty, transparency and efficiency.

ACS/eaw
20 September 1993

MOTION ADOPTED AT THE 1993 SACOB ANNUAL CONVENTION

Local Government Accountability

"In view of the current debate taking place in the Local Government Negotiating Forum, regarding a new and fully representative system of local government, this Convention urges SACOB to propose to that Forum on which SACOB has observer status, that provision be made in a new local government dispensation for

- [i] the establishment of regional and local government consultative committees representative of the private sector, to interact with and advise local authorities on matters of concern, including local government budgets, the optimum utilisation of scarce financial and other resources, and the impact on the community of proposed legislation;
- [ii] the introduction of a juristic or corporate vote available to business as the major contributor to local coffers and the sector most directly affected by revenue collection and expenditure decisions; and
- [iii] the introduction of a ward or constituency system and proportional representation for the election of representatives in primary local authorities, in the interests of accountability to voters as a fundamental prerequisite for the success of a new local government dispensation."

BACKGROUND DOCUMENT TO THE OFS/NORTHERN CAPE REGIONAL CONGRESS MOTION ON ACCOUNTABILITY IN LOCAL GOVERNMENT

1.0 INTRODUCTION

- 1.1 SACOB's basic stance on local government reform is encapsulated in the following motion, adopted in the course of the Annual Convention held in Johannesburg during October 1990:-

"In welcoming Government's intention to introduce a new system of local government as part of a new political dispensation and to enable local authorities to deal with challenges such as urbanisation

This Convention urges Government to ensure that such system of local government

- (i) offers a wide range of optional models;
- (ii) is open to participation by all, including corporate entities, with equal rights on a non-racial basis;
- (iii) provides for local options to be arrived at through negotiation, involving all in the community, and with the greatest possible measure of consensus;
- (iv) is aimed at the maximum devolution of authority to the local level, with the minimum of central control; provided however, that Government should accept financial responsibility for a minimum level of socio-economic services and basic infrastructure;
- (v) promotes administrative rationalisation and greater efficiency in local government; and
- (vi) entails a fair distribution of the local tax burden."

- 1.2 This motion was also SACOB's basic point of departure in its Memorandum of Comment to the President's Council concerning the Investigation of the Development of an Efficient and Representative System of Third-tier Government in a New Constitutional Dispensation, and in other submissions made to relevant forums.

- 1.3 Implicit in SACOB's views concerning a new local government dispensation is the principle of accountability, fiscal and otherwise, to all sectors of the community.
- 1.4 Notwithstanding the present turbulence surrounding local government negotiations in the respective forums, present indications are that emerging new third-tier structures are likely to substantially conform to most of the principles enumerated earlier.
- 1.5 However, certain aspects of vital concern to business are in danger of being either ignored or overlooked, and these are accordingly addressed in this motion before Convention.

2.0 CONSULTATION WITH THE PRIVATE SECTOR

- 2.1 Paragraph (i) of the motion calls for the establishment of regional and local government consultative committees representative of the private sector, to interact with and advise local authorities on matters of concern.
- 2.2 In most major "white" local authorities, such consultative mechanisms, comprising representatives of organised business and councillors, meet at regular intervals to discuss important issues, including local government budgets, projects proposed to be undertaken which may directly or indirectly have an impact on business, and legislative proposals likely to affect local communities.
- 2.3 In its report released earlier this year before its dissolution, the President's Council recommended formalised consultative mechanisms insofar as rate-payers and civic associations were concerned, but no mention was made of forums for interaction with organised business. Business feel strongly that, as the major contributor to local coffers, appropriate consultative bodies should be established at local and regional levels as commerce and industry can, and should, play an important part in influencing third-tier decisions.

3.0 CORPORATE VOTE

- 3.1 In 1990 the Thornhill Technical Committee of Investigation into a New System of Local Government stated that "democratic local government in South Africa has to provide for local franchise for natural owners and occupiers, as well as fictitious persons such as companies and close corporations".

- 3.2 The Local Government Bodies Franchise Act No 117 of 1984 attempted to provide for a corporate vote, proposing that a natural or juristic person owning rateable immovable property of a value equal to or higher than that prescribed by the Minister, should have a vote in every ward where such a rateable property is situated. However, implementation of this Act, applicable to ethnically-based local authorities, was still-born as two Houses of the tricameral Parliament subsequently refused to pass legislation to give effect to the necessary electoral mechanisms.
- 3.3 In 1987 organised business made strong representations for the necessary further legislation to be passed to enable the corporate vote to be available in time for the October 1988 municipal general elections. This initiative was not however successful, but the business community has nevertheless persisted in its endeavours to secure this franchise.
- 3.4 Business strongly subscribes to the view that the principle of fiscal accountability must be recognised in any new dispensation, and that a direct link should exist between taxpayers and the electorate. Spending decisions at local government levels should be made by persons who are elected by voters that are direct contributors to the tax base, and therefore have a vital interest in the way in which their taxes are spent. Organised business believes that commerce and industry can play a major role in facilitating a successful new third-tier system, and that the corporate vote could be an important vehicle to encourage the business community to play a greater role and have a larger say in local government affairs, particularly if as expected, more powers and responsibilities are likely to be devolved to local levels.

4.0 ELECTORAL SYSTEMS

- 4.1 The fundamental question to be addressed in regard to voting or electoral systems at local levels in a new dispensation, is whether or not there should be a ward (or constituency) system or a system of proportional representation or a combination of both.
- 4.2 In line with its belief that the best local authority system is that which makes individual councillors or representatives directly accountable to the people who elect them, organised business accordingly supports a ward system for the election of representatives of particular constituencies. In other words there should be one or more representatives elected for each ward on the basis of a popular vote.

- 4.3 Business does not regard a system of proportional representation as appropriate for the election of primary local government representatives, as it would presuppose elections on party or group lines which would not necessarily be in the best interest of local residents. This is borne out by experiences of the past, when for example local government elections in 1988 mainly along party political lines resulted in purely ideological decisions being taken to the detriment of local communities.
- 4.4 In fact we could go so far as to say that at local level a constituency representative of the people is fundamental to the success of local government.

5.0 CONCLUSION

Business believes that acceptance and implementation of principles, (being complementary to those accepted by Convention in 1990) will contribute greatly to the establishment of a fully democratic and accountable local government system in South Africa.

6. REGIONAL SERVICES COUNCILS AND JOINT SERVICES BOARDS

- 6.1 Certain of the RSC's and the JSB's have been doing valuable work. In the metropolitan areas they could to some extent form the nuclei of, or be integrated with, metropolitan authorities. Their planning experience and abilities are valuable. Whatever the final decision, it is considered important that economic considerations must play a vital role in the final decision of dividing the country into regions if so decided.
- 6.2 However, the RSC's and the JSB's need restructuring and may even have to be replaced by metropolitan structures. It is a present deficiency that they are not responsible to any local or metropolitan electorates, and this aspect requires attention. Taxation must be accompanied by representation. The same would apply to the envisaged metropolitan authorities, which, either directly or through local authorities, should be democratically constituted and bear accountability to voters.

7. REGIONAL AUTHORITIES

- 7.1 It is envisaged that a future South Africa might be constituted, federally or otherwise, on the basis of a number of regions. The present memorandum will not comment on the constitution of such regions, which is no doubt a matter for the bodies engaged in formulating a new constitution.

8. TAXATION

- 8.1 The present overall tax burden in South Africa is high in global terms. Great care should be taken not to increase the total tax burden in the process of restructuring at local and metropolitan level. Careful consideration should be given to the canons of taxation in restructuring tax systems at all levels of government.

- 8.2 Business would favour the utilisation of existing forms of taxation in preference to the introduction of new types or systems - there exists already an adequate plethora of impositions. It is also imperative that tax collection be efficient, low in cost, and centralised to minimise the size of the revenue bureaucracy.
- 8.3 A central tax-collecting corporation to carry out some revenue-gathering operations - national, regional, metropolitan and local - would have much to commend-it. However, the potential for differences in tax levels and rates between metropolitan and local authority should not be undermined by this consideration.
- 8.4 Particularly at the metropolitan level, a surcharge - a "piggy-back" tax - on an existing tax seems, after careful thought, to be advisable. This tax could be based upon income tax, or it could be based upon VAT.
- 8.5 While it has been argued that VAT is a highly visible tax and creates resistance - a resistance that might also attach to levies on VAT - this very transparency argues strongly in favour of basing metropolitan taxes upon VAT. It is in principle desirable that the cost or impact of taxes should be seen. A surcharge upon, or a share of, VAT is favoured as a metropolitan revenue source.
- 8.6 It would be interesting - if the information were available - to study the correlation coefficient between present VAT revenues and RSC or JSB levy receipts, area by area.
- 8.7 It would also be interesting and probably beneficial to forge a link in the public mind as between VAT revenue and government social expenditures. The latter could be associated, in budget accounting, with the former.
- 8.8 The suggestion has been made in some quarters that a major share of third or fourth tier tax burdens should be borne by employers, and that the RSC and JSB establishment and payroll levies could therefore be used as a major source of metropolitan or local revenues. However, this suggestion is not favoured. While the work of the RSC's and JSB's is

valuable, the levies are unsoundly based, because turnovers and payrolls are but imperfect indicators of, and do not reflect, ability to pay or contribution to Gross Domestic Product. The turnover levy also brings with it an element of double taxation. Furthermore, the law and the regulations covering these levies are excessively convoluted and complex and for that reason are in fact not being accurately imposed or complied with. If the present low rates of the levies were to be raised, formidable obstacles to both compliance and enforcement would at once emerge.

8.9 The suggestion has been voiced that a low-rated comprehensive business tax [CBT] along the lines proposed some years ago in the Margo Report, and successfully resisted by organised business, might prove to be a useful local government revenue source. This also is strongly disfavoured, however, for numbers of reasons, including the bias of such a tax against desirable labour-intensive industries, its unavoidable penalisation of exports, and its divorce from the principle of ability to pay. Furthermore, a CBT is but another form of value added tax which is already in place in our tax system.

8.10 It is inevitable that rates on fixed property and/or land should continue as a metropolitan or local revenue source. There is much scope for debate on the rating of land or improvements, and other aspects.

9. CHARGES AND PAYMENTS FOR SERVICES

9.1 It is of great importance that a public culture of making honest and prompt payment for supplies of electricity, water and other services should be re-established, promoted and developed.

9.2 Charges for electricity, water, sewerage, garbage disposal or other services should be separately identified and levied, without any cross-subsidisation. If at all possible, coin or card machine payment should be introduced, to avoid the costs and problems of meter-reading and resulting accounting systems. A perception of discrimination in collection methods should be avoided at all cost.

4. METROPOLITAN AUTHORITIES ESSENTIAL

4.1 To economise in that respect as far as possible, and to secure all possible efficiency in the administrative and planning fields, each major metropolitan area must set up a metropolitan authority, to which central government transfers will solely be made. Each metropolitan authority would distribute some of this government assistance to local authorities in its area, according to its own informed assessment of local needs. Full representation and participation of all local authorities at metropolitan level must be ensured to underpin the correct use of funds and resources.

4.2 Duplication of local government administration and bureaucracies could thus be avoided, including such present excessive administrative machinery as is involved in licensing, development and building plan approval procedures, and other activities. The number of local government bodies must be kept to a minimum.

4.3 If - as at present seems likely - South Africa's political system moves towards some devolution of functions and powers, the establishment of metropolitan bodies would fit into such a pattern.

4.4 Certain existing central government functions could perhaps be transferred to metropolitan authorities with the view to narrowing the gap between taxpayer/user of services and government authority.

4.5 Metropolitan authorities would be dominant in the field of planning.

5. LOCAL AUTHORITIES

5.1 The functions of local authorities, while somewhat reduced, would remain of much significance, especially in spheres such as traffic control, water and electricity distribution, reticulation and payment collection, culture, recreation and others.

- 2.2 The development of a new system of local and metropolitan governmental structures needs to be viewed against the background of the overall constitutional process and the macro economic environment. This implies that the constitutional evolutionary change now in progress needs to be taken into account on an ongoing basis in our strategies for the local level. It also implies that fully representative and mandated negotiating forums, similar to Codesa, will have to be created in local communities in order to ensure legitimacy and acceptability of new structures and systems are created. Furthermore, in the design of a local system of taxation the overall tax burden, which is already high, needs to be taken into account.
- 2.3 Ultimately, regions will compete in their efforts to draw residents as well as economic activity. A sound basis for efficient competition in this area needs to be laid in order to facilitate the principle of "voting with your feet" to promote sound regional and local economic development. Ultimately a system has to be designed which will result in efficiency in local management becoming the ultimate criterion in the localising of both individuals and business.

3. TRANSFER PAYMENTS FROM CENTRAL GOVERNMENT

- 3.1. Though all possible local authority financial self-sufficiency must be aimed for, it is inevitable that many municipalities - regard being had to their tax and other revenue bases - will still require fairly massive financial assistance sourced from the central government. It is also quite clear that certain phenomena, like the process of urbanisation are driven by national, rather than local conditions and will therefore by their very nature need to be addressed through Central Government initiative and funding. But, if proper principles are applied, such assistance will represent a substantially smaller proportion of central government outlays than is justified today on the basis of today's extremely distorted situation. Wherever possible the transfers should always be conditional in order to ensure that overall affordability be taken into account in the standard of services delivered at lower levels of government.

- 9.3 As far as possible, the privatisation of services, and of the provision of housing, should be encouraged. Thus market forces should be allowed to encourage efficiency in the delivery of such services and also to establish a balance between supply and demand.

10. BASIC TAX PRINCIPLES

- 10.1 Finally, the following statement is commended :

A formula for local taxation must be found that will :

- 10.1.1 have the broad acceptance of the community;
- 10.1.2 offer a direct link between the taxpayer and the taxing authority to promote fiscal discipline;
- 10.1.3 be productive, in that it should respond to changes in economic performance in the local taxpaying area, and generate higher revenue to offset inflation without any increase to rates;
- 10.1.4 be broadly based, while recognising the principle of ability to pay in taxation and that of benefits received in the case of user charges;
- 10.1.5 be flexible enough to allow for local choice in the determination of the level of local taxation, while it should be subject to wider discipline to ensure that any increases in taxation are kept within reasonable bounds;
- 10.1.6 be efficient in that it promote administrative rationalisation while avoiding the need for new bureaucracies at local level to administer and collect new taxes;

- 10.1.7 be as simple as possible, to enhance administrative efficiency and promote better understanding of taxes that people have to pay.

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Reg. No. 16 05 20230 08

The Voice of Business/Die Sakestem

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1 June 1992

A SACOB DISCUSSION DOCUMENT

LOCAL OR METROPOLITAN GOVERNMENT FINANCING

1. INTRODUCTION

1.1 Though local government renders to individuals and corporations the public services most essential to the economy and to modern living [ranging from water supply to sanitation and from public health to commuter transport facilities], a large proportion of South African local authorities are today severely crippled both financially and otherwise. Particularly in the large metropolitan areas, much local government, based on the sadly mistaken ethnicity of the past, is simply unable to fulfill its duties in anything approaching an adequate way.

1.2 This discussion document, drawn up on the basis of inputs from Chambers of Commerce and Industry into discussions held by a special South African Chamber of Business [SACOB] committee, sets out certain basic principles which, in SACOB's submission, must be accepted and put into practice in remedying this grave situation.

2. NON-RACIAL LOCAL GOVERNMENT

2.1 It is assumed that local government in the future South Africa will be based on constituencies delineated otherwise than by ethnic considerations, and designed in such manner as will give local authorities, as far as possible, tax bases incorporating in each case a fairly broad cross-section of economic activity with a resultant good spread of industrial, commercial and residential resources.



Ref : TL4

1 June 1992

TO : SECRETARIES ALL CHAMBERS
DIRECT MEMBERS
NATIONAL ASSOCIATIONS
MEMBERS OF THE TAXATION COMMITTEE
MEMBERS OF THE ECONOMIC AFFAIRS COMMITTEE

Dear Sirs

I am enclosing a SACOB discussion document on Local and Metropolitan Government Financing for your perusal. The document was formulated by a special task group of the SACOB Taxation Committee through a protracted process of consultation with Chambers.

The main goal of formulating a document of this nature was to attempt to identify the main principles which could facilitate discussions on this matter within the SACOB family. In a sense it is not a final SACOB policy document because of the fact that the main parameters which will determine the nature of local authorities are not fully known yet and still need to be clarified by the constitutional process.

SACOB therefore expects its views to be modified and adjusted as this process unfolds in the months to come. From that point of view the debate on local finance is still open in the SACOB ranks and we therefore welcome all constructive inputs into our final policy document.

Yours faithfully

BEN VAN RENSBURG
Chief Economist

"Although it will probably be necessary to phase in equal levels of service and infrastructure for all inhabitants over a period of time, central Government must accept financial responsibility for eliminating backlogs caused as a result of apartheid policies in the past. For instance the cost of urban transport subsidies to offset the high fares that indigent people would otherwise have to pay to reach their places of employment, as well as the basic infrastructural and social service costs associated with low income housing areas, must be borne by the central fiscus, and not transferred to regional authorities. It is important to recognise the necessity for continued State support for the vital infrastructure that presently underpins regional employment centres that represent important engines for growth."

(It is regrettable that the central government has subsequently announced a freeze on transport subsidies, calling on third tier government to calculate their future subsidy needs and the impact this will have on future RSC levies. Business firmly believes that such subsidies should come from the central government.)

(d) Development potential in the sense of there being

- sufficient land for future development;
- the actual or potential availability of skills and resources to foster and effect development; and
- the existence of a need for development in a particular area.

While we consider the above criteria as being of prime importance in the determination of local government areas, this does not detract from our basic premise that each community should be given the right to determine the structure of its local government by way of an inclusive negotiation process conducted in each settlement, township, town or city. We rather suggest that these criteria should be the main ones applied in the course of such inclusive negotiation processes.

It is evident that special attention will also have to be given to metropolitan areas (loosely defined as large urban areas which are integrated economically and socially, but in which political authority is fragmented among several local government bodies), and metropolitan government.

As pointed out by the Cape Town Chamber, although a major objective of existing regional structures, namely Regional Services Councils (RSCs) has been to rationalise the provision of bulk services in metropolitan areas so as to achieve economies of scale, they have so far only served to channel funds into more needy areas, and have not succeeded to any significant extent in eliminating duplication of services and structures within the metropolitan area. There is thus a need to involve a metropolitan level of government in the provision of the various bulk services that the RSC ought to provide.

The Cape Town Chamber states further :

"While we certainly commend the [proposed] flexibility offered to local communities and support the need to involve all elements of the community in the negotiation process on a non-racial basis, we believe it to be equally important to focus on the metropolitan as well as the local level. One of the major defects of the present local government system in metropolitan areas is that it is fragmented and allows a proliferation of local authorities, resulting in considerable duplication of effort and inequitable distribution of responsibility for regional social and amenity expenditure. Unless geographic boundaries are determined for the negotiation process to arrive at new systems of local government for metropolitan areas, a danger exists that smaller local areas within a metropolitan region, will seek to avoid their responsibilities towards the region on the one hand, while the objective of greater administrative rationalisation and efficiency will not be achieved on the other.

We would accordingly recommend that the negotiation process to arrive at appropriate structures on local government in metropolitan areas, be conducted at the metropolitan level initially. Just as in the case of Regional Services Councils where the need for local governments within RSC areas is recognised to handle local issues, there will undoubtedly be a need for smaller local government entities within the metropolitan context, but the important thing is to involve them all at the metropolitan level initially."

There is clearly a need for the establishment of some form of metropolitan councils to co-ordinate and integrate planning, rationalise administration and achieve economies of scale in the provision of those services that are best provided on a metropolitan-wide basis. This would be an effective counter to the narrow self-interest of some local politicians or particular segments of the population.

Insofar as delimitation of wards and time frames in respect thereof are concerned, the following appears to be the position in South Africa at present :

- (a) Both ward and single constituency systems are permissible in all provinces, and for Black local authorities, except in Natal where all boroughs must be divided into wards. Ward boundaries are generally reviewed after some form of consultative process, by higher authority (normally the Administrator) at periods immediately prior to an ensuing election.
- (b) Elections are generally held every five years, except in the Cape Province, where there are two councillors for every ward who serve for periods of four years, and where half of the councillors' terms of office expire every two years, when elections must accordingly be held.

The main underlying and diverse philosophies regarding terms of office of councillors may be summarised as follows :

- (i) elections at relatively short notice are the essence of democracy, allowing local electors an opportunity to change their councillors frequently, if dissatisfied with their performance;
- (ii) on the other hand, frequent elections promote apathy and indifference; and
- (iii) unless councillors are given relatively long terms of office they cannot properly formulate and oversee long-term policies and objectives.

While most commentators would opt for a system of one councillor per ward elected for a period of five years, with corresponding reviews of ward boundaries in accordance with appropriate criteria, SACOB believes that here too, local options should be available to cater for local needs, circumstances and wishes.

5 FRANCHISE

In the background paper to the motion adopted in 1990 as quoted in paragraph 3.1, the Cape Town Chamber of Commerce as proposer stated :-

"Whatever system of franchise is decided upon, the Chamber believes it to be important that the principle of fiscal accountability should be recognised, and that a direct link should exist between taxpayers and the electorate. Spending decisions at local government levels should be made by persons who are elected by voters that are direct contributors to the tax base, and therefore have a vital interest in the way in which their taxes are spent."

At present there are, broadly speaking, two main local government franchise qualification systems, namely that based solely on eligibility as

- (i) a parliamentary voter; and
- (ii) as an owner or occupier of immovable property.

In additional provision is made for a corporate vote in respect of juristic (or fictitious) persons in some provinces.

In an effort to achieve a measure of uniformity and fairness, the Local Government Bodies Franchise Act, No. 117 of 1984 attempted a compromise by providing that a persons could have up to two votes as:

- (a) a natural person qualifying as a parliamentary voter; and

- (a) the present multiplicity of ethnically based local authorities leads to considerable duplication of effort, manpower and the wasteful allocation and utilisation of increasingly scarce financial and other resources; and
- (b) a new system of local government should entail a fairer distribution of the local tax burden, so that less affluent communities should be able to benefit from tax revenues generated by commercial and industrial undertakings which are presently located predominantly in "White" local authority areas.

(These paragraphs in effect enlarge on the sections of the SACOB motion relating to rationalisation and greater efficiency in local government and a fair distribution of the local tax burden.)

While the criteria stipulated for demarcation of local authority areas in various pieces of legislation may be useful, we consider the following to be the most important, in the light of our basic standpoint :

- (a) Cost effectiveness and efficiency in the rendering of services;
- (b) Economic interdependence. Although factors such as places of residence and work, commuting, recreation and predominant consumer spending are normally included under this concept, the most important aspects are
 - (i) where the tax resources are; and
 - (ii) which part of the community has the greatest need in regard to the upgrading or provision of services;
- (c) Relative financial self-sufficiency, bearing in mind that with large Third World components, few, if any, local government bodies are likely to achieve full financial self-sufficiency in the foreseeable future. While fully supporting the concept of maximum devolution of power to local levels with minimal central interference, SACOB has been at pains to stress the caveat that "Government should accept financial responsibility for
 - a minimum level of socio-economic services and basic infrastructure; and
 - providing land, rudimentary services and infrastructure".

The background document by the Cape Town Chamber of Commerce states :

- (iii) provides for local options to be arrived at through negotiation, involving all in the community, and with the greatest possible measure of consensus;
- (iv) is aimed at the maximum devolution of authority to the local level, with the minimum of central control; provided however that Government should accept financial responsibility for a minimum level of socio-economic services and basic infrastructure;
- (v) promotes administrative rationalisation and greater efficiency in local government; and
- (vi) entails a fair distribution of the local tax burden."

This motion is our basic point of departure in regard to the present investigation. Implicit therein is the principle of adequate fiscal accountability and control, including restrictions on expenditure.

In its submission to Government following publication of the Thornhill Committee's recommendations, SACOB also opted for broad enabling legislation regarding the voluntary as opposed to prescriptive formation of local authorities. We are firmly of the view that there should be a flexible range of options from which local communities can choose structures to suit their needs, which in turn would be a manifestation of true devolution.

Furthermore, in view of the great importance we (and others) attach to the principle of maximum devolution of power and local options in the light of widely disparate local and regional circumstances, we will, in most cases, deal with general principles and criteria only, without being too prescriptive.

4 **NORMS AND TIME SCALES FOR, AND THE MANNER OF DELIMITATION OF LOCAL AUTHORITY AREAS, WARDS AND NEIGHBOURHOODS**

We assume that the important issue of metropolitan government will also be addressed in the course of the present investigation.

A multiplicity of provincial and central legislation exists on the subject of the establishment and disestablishment of local authorities (including regional services councils), alteration of boundaries, demarcation of local authority boundaries and the like, giving Provincial Administrators and "own affairs" Ministers powers to perform these functions on a racial or ethnic basis after due concurrence/consultation processes have taken place.

SACOB's basic viewpoint, as contained in its comment on the Thornhill report, may be summarised as follows :

- (b) a natural or juristic person owning rateable immovable property of a value equal to or higher than that prescribed by the Minister, in every ward where such rateable property is situated.

(Implementation of this Act, applicable to ethnically based local authorities and one of the last passed by the old unicameral Whites-only Parliament, was still-born as two Houses of the subsequent tricameral Parliament refused to pass legislation to give effect to the necessary electoral mechanisms.)

Notwithstanding the prima facie merits of the 1984 Act, (leaving aside the racial/ethnic provisions which will perforce have to be scrapped in any event), the provisions relating to ownership of immovable property by natural persons as an additional vote is also not likely to be acceptable to the majority of South Africans on the grounds of unfair discrimination, as most disadvantaged persons do not yet own immovable property.

There are differing opinions within organised business as to local government franchise qualifications. The Cape Town Chamber of Commerce supports the view that the franchise must be inclusive and non-discriminatory and states that it accepts that it is not realistic to continue with the present electoral system (in force in some provinces) that is linked to ownership or occupation of fixed property.

The Durban Regional Chamber of Business, however, supports such a system, stating in a memorandum dated 29 March 1993 :-

"The question of franchise at third tier level needs to be thoroughly examined. Whilst very much aware of the fact that a new democratic dispensation would provide for one person one vote at national levels and whilst in no way trying to undermine democracy at third tier level, this Chamber does not believe that there should be an unqualified residential vote. It is this Chamber's suggestion that in order to register as a voter and get one's name on the Voters Roll, the qualification should be the ownership or occupation (formally or informally) of property in respect of which tax is paid."

However, on the subject of the corporate or juristic vote, business as the largest contributor to local revenues by means of assessment rates paid and services consumed, is firmly committed to the concept that juristic (or fictitious) persons should also have a local government vote, as envisaged in the 1984 Act.

The most appropriate local government franchise system would therefore appear to be one which caters for natural persons entitled to vote for Parliament (on whatever basis may be agreed in the course of the constitutional negotiations), and in addition juristic (or fictitious) persons owning or occupying rateable property - in other words a corporate vote available, inter alia, to businesses as the major contributors to local coffers and the major sector affected by revenue collection and expenditure decisions.

6 VOTING SYSTEMS

There is at present a plethora of central and provincial legislation dealing with voting for representatives of the vast variety of local government structures in South Africa. These mainly deal with the compilation of voters rolls and lists, qualification and disqualification and nominations for election of councillors and other representatives, frequency of elections and numbers of councillors or representatives, the mechanics of the electoral process and the manner of dealing with corrupt and illegal practices and other offences relating thereto.

While there are differences of detail according to the nature, functions, location and sophistication of the diverse local government bodies, the central theme throughout the legislation is the conduct of free and fair local elections by means of secret ballots (trite as this may seem).

We believe that this principle should be maintained throughout voting systems applicable to new local government bodies within a regional dispensation, with due cognisance of local options in regard to logistics and mechanics to cater for local circumstances.

However, the fundamental question to be addressed in regard to voting or electoral systems at local levels in a new dispensation is whether or not there should be a ward (or constituency) system or a system of proportional representation.

SACOB believes that the best local authority system is one that makes individual councillors or representatives directly accountable to the people that elect them, and accordingly supports a ward system for the election of representatives of particular constituencies. In our view there should be one or more representatives elected for each ward on the basis of a popular vote.

We do not regard a system of proportional representation as appropriate for the election of local government representatives, as it would presuppose elections on party or group lines, which we believe would not be in the best interests of local residents. The Durban Regional Chamber of Business puts it this way:-

"This Chamber rejects a local system based on proportional representation because at local level a constituency representative of the people is fundamental to the success of local government."

There does however appear to be a limited case for proportional representation at third tier government insofar as metropolitan government is concerned. The Cape Town Chamber of Commerce states as follows in a discussion document dated 29 March 1993 :-

numbers, composition and manner of determining the respective regions. At present suggested regional demarcation proposals range from the nine existing economic development regions, the seven-region proposals by the National Party, the ten and sixteen regions currently being debated within the ranks of the ANC, and the various "Volkstaat" options being advocated by the so-called Right Wing, including the Conservative Party, the Afrikaner Volksunie and the Afrikaner Vryheidstigting.

There is a view (a very valid one in our opinion), that the composition of regions should be determined by local communities themselves, and not by the politicians. In other words, a "bottom up" rather than a "top down" approach should be followed via appropriate consultative and mandating mechanisms.

There appears to be broad consensus that local government powers, duties and functions should, to a greater extent than ever before, be decentralised and devolved, via entrenched constitutional provisions, with minimal administrative interference by higher levels of government. An issue yet to be settled is whether local government should be the exclusive domain of regional authorities, or whether there should be some form of concurrent powers between the central and regional governments, where for example the central government will provide a framework of general policy within which regional and local authorities may otherwise freely operate.

As stated before, this will largely depend on the shape of a new central and regional dispensation, which in turn can, and should, be influenced by the outcome of the vitally important local government debate. It is highly probable that powers and functions assigned to the regional and local authorities will vary from region to region in accordance with local circumstances and needs, which organised business would fully support.

3 FUNDAMENTAL PRINCIPLES AS SEEN BY BUSINESS

In the course of SACOB's 1990 Annual Convention, the following motion was adopted unanimously :-

"In welcoming Government's intention to introduce a new system of local government as part of a new political dispensation and to enable local authorities to deal with challenges such as urbanisation

this Convention urges Government to ensure that such system of local government

- (i) offers a wide range of optional models;
- (ii) is open to participation by all, including corporate entities, with equal rights on a non-racial basis;

"Representation on the Metropolitan Council should comprise both elected and nominated representatives. Local authorities in the metropolitan area should each be entitled to nominate representatives, the number of nominees to be determined in proportion to the share of metropolitan services consumed in each local authority area. Business and labour are both important constituencies in the region, and should each be entitled to nominate a representative to serve on the Metropolitan Council.

Elected members should be elected on the basis of proportional representation, provided that constituencies other than political parties should be entitled to participate in elections. If, for example, business and labour wish to contest the elections and field candidates, they should be entitled to do so.

As a matter of principle, the number of elected members on the Metropolitan Council should exceed the number of nominated members."

7 CONCLUDING REMARKS

Although the present investigation deals with specific aspects of a new local dispensation, we believe that these must not be examined in isolation, but within the broad framework of the principles of good local government necessary to serve the diverse heterogeneous communities in South Africa, and our submission has accordingly been articulated in this context.

It is essential that a new system of local government should be as "user friendly" as possible to business. While a certain degree of deregulation may be necessary, this should be done after adequate consultation with all affected parties. Furthermore provision must be made for regular consultation with business via liaison committees and the like, to expose business and other organisations to information as to how local government funds will be collected and spent.

As stated before, a successful new system of local government will largely depend on the emergence of a politically and economically sound division of powers, duties and functions (with necessary entrenchments), between central and regional government structures, from the constitution-making body (an elected interim government or constitutional assembly) which in turn will hopefully soon emanate from the constitutional negotiation process which now appears to be back on track.

We believe that cognisance must be taken of the widely-held view that a pre-requisite for sound and workable central and regional relationships is agreement during the pre-election phase, between the principal political players on a framework of principles, definitions and criteria for approaching regional issues before moving to the final stages of writing a constitution. Detailed agreement on the exact powers and functions in terms of the specified principles and criteria, could then be left to final stages of the constitution-making process.

MEMORANDUM OF COMMENT BY THE SOUTH AFRICAN CHAMBER OF BUSINESS TO THE PRESIDENT'S COUNCIL CONCERNING THE INVESTIGATION OF THE DEVELOPMENT OF AN EFFICIENT AND REPRESENTATIVE SYSTEM OF THIRD-TIER GOVERNMENT IN A NEW CONSTITUTIONAL DISPENSATION.

1 SCOPE OF INVESTIGATION

The Committee for Constitutional Affairs of the President's Council has been charged with investigating and making recommendations on :-

- (i) a voting system for local government in a new constitutional dispensation;
- (ii) guidelines for franchise qualifications of residents of local authority areas; and
- (iii) the norms and time scales for, and the manner of, delimitation of local authority areas, wards and neighbourhoods.

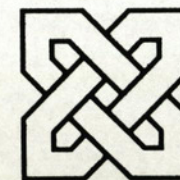
We believe that the topics listed above should more logically be dealt with in the reverse order, with the most important topic, namely, norms and time scales for the demarcation of local authority areas, wards and neighbourhoods being canvassed first, followed by franchise qualifications and then the subject of voting systems. We have accordingly framed our submission on this basis.

While existing systems may be useful for reference purposes to a certain extent, we believe that a new local government dispensation must be developed *de novo*, to cater for the needs of all sectors of the population.

2 PRELIMINARY OBSERVATIONS

It is obvious that the ultimate forms of new third-tier government structures will depend on the outcome of the political debate and negotiations concerning a new central and regional dispensation. While there appears to be broad consensus among the main political players on the need for strong regional government, there are considerable divergencies of opinion concerning the respective powers and functions, and the criteria for determining them, to be reserved by the central government or devolved to regional structures, and, through them, to local government levels.

Similarly, there are a multiplicity of views on the criteria relating to and the



SACOB

SOUTH AFRICAN CHAMBER OF BUSINESS

MEMORANDUM OF COMMENT

**BY THE SOUTH AFRICAN CHAMBER OF BUSINESS
TO THE PRESIDENT'S COUNCIL CONCERNING THE
INVESTIGATION OF THE DEVELOPMENT OF AN
EFFICIENT AND REPRESENTATIVE SYSTEM OF
THIRD-TIER GOVERNMENT IN A NEW
CONSTITUTIONAL DISPENSATION**

May 1993

The Voice of Business