

**SOUTH AFRICAN GOVERNMENT OFFICE
- WORLD TRADE CENTRE -**

30 November 1993


Head of the Administration
Multi-Party Negotiating Process
World Trade Centre

Dear Dr Eloff

**SUBMISSION BY THE SOUTH AFRICAN GOVERNMENT FOR THE
ATTENTION OF THE TECHNICAL COMMITTEE ON CONSTITUTIONAL
ISSUES**

1. Attached is a submission by the South African Government entitled "*Technical Committee Proposals to the Channel on the Commission on Provincial Government: 29 November 1993*".
2. Kindly transmit the document for immediate attention to the Technical Committee on Constitutional Issues.

Yours sincerely


GOVERNMENT OFFICE: WORLD TRADE CENTRE

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TECHNICAL COMMITTEE PROPOSALS TO THE CHANNEL ON THE COMMISSION ON PROVINCIAL GOVERNMENT

In view of the detailed provisions relating to provinces and provincial government which have been inserted in the draft constitution, some of the functions that have been assigned to the Commission on Provincial Government have in part become superfluous (eg those functions relating to the development of provincial constitutions (Clause 124) and a system of provincial government (Clause 125)). Other functions of the Commission would seem to overlap to a certain extent with those of the Public Service Commission (Clause 180) and the Provincial Service Commission (eg the functions relating to the consolidation and rationalisation of public administrative institutions).

Understandably this could not have been foreseen at the time when the concept of the Commission was conceived.

It does not mean, however, that the rationale for the establishment of a commission no longer exists; on the contrary, the establishment and maintenance of a system of provincial government in South Africa is likely to be such a complicated and protected matter that an independent coordinating and advisory body such as the Commission will have an important role to play in this regard.

The Technical Committee is, however, of the view that it may not be necessary for all members of the Commission to be full-time members (Clause 129(1)) who are not allowed to perform remunerative work outside their official duties (Clause 129(4)). A more practical and cost effective approach would be to make provision for more flexibility which will allow for the appointment of one or more permanent members and a number of non-permanent members assisted by a professional staff corps (Clause 136) with the full Commission meeting on an *ad hoc* basis for the consideration and approval of reports. (Compare the position of the South African Law Commission.) Such non-permanent members will have to make full disclosure of their sources of income.

According to Clause 136 the staff of the Commission will not be in the Public Service. The Technical Committee is, however, of the view that this provision should be more flexible and that it should remain possible that some members of the staff of the Commission could be public servants.