

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

20 July 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: TEC AND ITS SUB-COUNCILS**

1. Attached is a submission by the South African Government entitled *Proposed Terms of Reference: TEC Sub-Council on Defence (SCD): General*.
2. Kindly transmit the document for immediate attention to the Technical Committee.

Yours sincerely

E. Durrant
GOVERNMENT OFFICE: WORLD TRADE CENTRE

PROPOSED TERMS OF REFERENCE : TEC SUB-COUNCIL ON
DEFENCE (SCD) : GENERAL

CONTENTS

1. The matter is dealt with under the following headings (which represent areas of activity) :
 - a. Mandate.
 - b. Powers.
 - c. Guiding principles.
 - d. Research.
 - e. Information.
 - f. Legislation.
 - g. Investigation.
 - h. Code of conduct.
 - i. Monitoring of force preparation and -deployment
 - j. Media.

MANDATE

2. Working Group 3 of Codesa proposed the following broad mandate for the Sub-Council on Defence :

This Sub-Council will acquaint itself with developments concerning defence and military formations at all levels of government (central, regional or local) and concerning

all other participants in the TEC; it will take steps to identify and promote all developments in this field which in its opinion may impact favourably upon the levelling of the playing fields and free political participation, and the creation as far as possible of a climate of peace and stability; it will take steps to identify and to prevent within its powers all developments in this field which in its opinion will impact adversely upon peace and stability, the levelling of the playing fields, free political participation or the transition to democracy.

POWERS OF THE SCD

3. The powers of the SCD will be derived from the TEC following multiparty negotiation, agreement and enabling legislation.

GUIDING PRINCIPLES

4. South Africa shall be committed to resolving internal and external conflict primarily through non-violent means.

5. National, internal and personal security shall be sought primarily through efforts to meet the social, political, economic and cultural needs of the people.

6. South Africa shall pursue peaceful and cooperative relations with neighbouring states.

7. The Defence Force shall be bound by the principles of :

- a. Civil supremacy.
- b. Constitutional accountability.
- c. Public scrutiny and open debate in as far as national security considerations will permit.

8. Equal opportunities to all members of the future Defence Force, that will entail, inter alia, the following :

- a. The Defence Force shall be representative of the national composition of SA society without compromising the effectiveness of the organisation. Bridging training programs to this effect, where required, shall be implemented.
- b. No discrimination on the grounds of colour, race, religion or gender.

9. The future Defence Force shall be accountable and answerable to the public through a democratically elected parliament.

10. The future Defence Force shall respect and defend human rights and democracy and

shall not discriminate in any manner in its actions towards the citizenry.

11. The future Defence Force shall be politically non-partisan.

12. Nothing in these terms of reference or the operations of the Sub-Council shall be construed as detracting in any way from the responsibility of governments and other participants of the TEC to ensure compliance with the Code of Conduct and otherwise conduct themselves in a manner conducive to the fulfillment of the mandate of the TEC.

RESEARCH

13. The SCD may (within its budget) do research into :

- a. Political control over :
 - i. The (present) SADF and other governmental defence forces (ie the TBVC defence forces).
 - ii. Non-governmental military forces.
 - iii. The future Defence Force.
- b. Parliamentary control over the future Defence Force.
- c. The relationship between the Executive Authority and the future Defence Force.
- d. The composition and organisation of the future Defence Force.
- e. The executive military command over the future Defence Force and the Reserve.
- f. National Service.
- g. Exemption, exemption boards and boards for conscientious objection.
- h. Manpower policy, including (but not restricted to) aspects like standards, recruiting, selection, training, promotion, equal opportunity, conscription and voluntary service etc. Wrt standards : in cases of conflict of viewpoint, universally-accepted norms should be strived at.
- i. Participation in political activities.
- j. The raison d'être of unofficial military organisations and activities.

INFORMATION

14. Be kept informed of, ask for and be entitled to receive information from all armed forces on military related matters that may impact on the levelling of the political playing field and on free political participation.

LEGISLATION

15. Wrt legislation on military matters, the SCD shall have the following functions :

- a. Research.
- b. Review.
- c. Pronounce on.
- d. Propose amendment, review, suspension.

16. Legislation researched, reviewed and/or proposed by the SCD is to be drafted by departmental legal draughtsmen.

INVESTIGATION

17. If, after thorough investigation by an independent body, vested with the necessary jurisdiction, the SCD is of the opinion that any member of a military force or a military force as such, is guilty of serious misconduct, it may promote appropriate disciplinary measures. Serious misconduct by members of a military organisation shall include the instigation or commission of unlawful violence, the obstruction of the operation of the SCD or TEC, a violation of the Code of Conduct, or any other activity intended to undermine free political participation or the transition to democracy. The SCD may recommend that appropriate disciplinary or criminal court action, be instituted against the member concerned.

CODE OF CONDUCT

18. SCD is to formulate, ratify, promote and monitor the application and implementation of a code of conduct for all military forces under its control.

MONITORING OF FORCE PREPARATION AND -DEPLOYMENT

19. The SCD will be entitled to monitor force preparation and deployment. This entails oversight wrt all armed forces so far as such activities of these would impact on the political process leading up to and during the elections. In case of emergency tactical deployment of SADF elements, the SCD should be advised thereof as soon as possible.

20. The aforementioned monitoring of the armed forces would not imply joint management of the SADF and the other armed forces.

21. The SCD will be entitled to create and manage interaction mechanisms between the SCD, governmental defence forces, non-governmental defence forces and military forces still to be established, in order to inform such forces of the activities, views, findings, pronouncements etc of the SCD.

MEDIA

22. The SCD shall do monitoring of media reporting on defence-related matters, make announcements on behalf of the SCD and liaise with the media. It will also initiate action against media trespassers in cases of malicious reporting etc, especially in cases where such reporting might lead to wrong perceptions wrt the role of the military force/personnel concerned into levelling of the political playing field.