

FOR ATTENTION: Marlene

11/2/88

(please pass on to Theuns Eloff)

FAX:

397 - 2211

Theuns,

Bob E. werk nog steeds aan die computers, so ek gaan nou my hand gebruik om van dié goed ontslae te raak.

Check asseblief alle detail - van opskrifte tot teks. Maak veranderinge net soos jy goed dink. Soora ek dié van jon terugkry, sal ek dit begin ontwerp sodat jy dit het voor die volgende aanbieding.

homin  
—

PROBLEM:

1. Ek is onseker oor waar "interim arrangements" presies inpas.
2. Ditto oor die Bill of Rights. Waar bestaan inligting daaroor, of is dit die "Fundamental Rights" in hoofstuk 3 van die voorgestelde grondwet?
3. Die voorgestelde grondwet is inkonsekwent met die gebruik van die titel "president". Is dit "State President" (executive) en "President" (Senate)?
4. Colin se streeks-ding het ek nog nie weer van gehoor nie.
5. Kan jy "flashpoints" op dié teks aandui?

## CONTENTS

1. The negotiations process until the election.
2. Post-election national structures and processes.
3. The constitution-making process after the election.
4. Deadlock-breaking mechanisms.
5. Post-election regional structures and processes.
6. SPR constitution-making process.
7. Commission on SPR Government.
8. Financial and Fiscal Commission.
9. Interim arrangements.



# 2) POST-ELECTION NATIONAL STRUCTURES AND PROCESSES

## EXECUTIVE

P.4

**IGNU**  
State President  
and  
Cabinet

## LEGISLATURE

PARLIAMENT	
NA	Senate
<ul style="list-style-type: none"> <li>Speaker</li> <li>Members: 200 National, 200 Regional</li> <li>Quorum: One-third</li> </ul>	<ul style="list-style-type: none"> <li>President</li> <li>Members: 10 from each of ? regions</li> <li>Quorum: One-third</li> </ul>



## JUDICIARY

**CONSTITUTIONAL COURT**  

- Must certify that new constitution complies with constitutional principles

**APPEAL COURT**

**SUPREME COURTS**

**OMBUD**  

- Impartial, independent

**HUMAN RIGHTS COMMISSION**

**CONSTITUTIONAL ASSEMBLY**

Public access to sessions

- President or Speaker presides.
- Must adopt new constitution within two years of first session of Parliament.
- Two-thirds of its members must approve new constitution.

**INDEPENDENT ADVISORY PANEL**  

- Five constitutional experts.
- Members approved by two-thirds of CA.

AUG 16 '93 12:49PM C B M HEAD OFFICE

### 3) THE CONSTITUTION-MAKING PROCESS AFTER THE ELECTION

---

- CA convened within seven days of first sittings of National Assembly and Senate.
- CA elects member to preside at meetings.
- Adopt new constitution in compliance with constitutional principles agreed by Negotiating Council.
- Final constitution adopted within two years of first session of Parliament.
- One-third of CA may petition President of Senate to refer a constitutional proposal to the Constitutional Court.
- New constitution approved by two-thirds of CA.
- Constitutional Court must certify that new constitution is in line with constitutional principles.

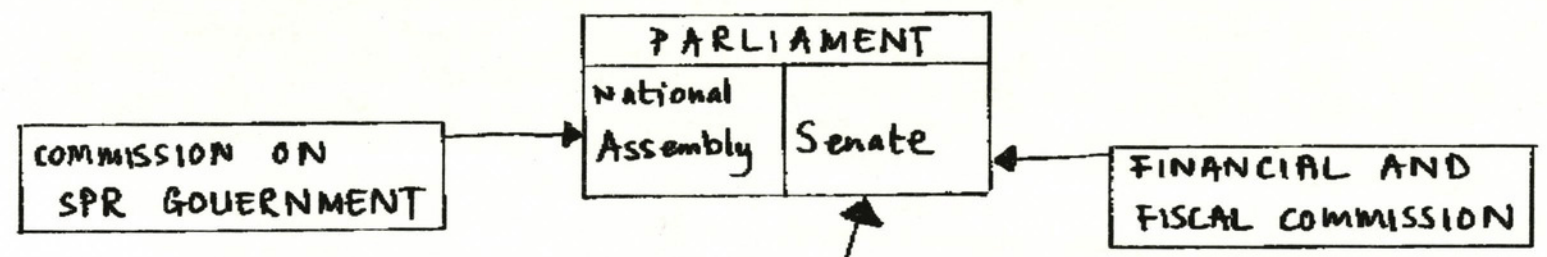
4)

## DEADLOCK - BREAKING MECHANISMS

What happens if the new constitution is not supported by two-thirds of the CA?

- If a majority supports it, the draft constitution will be referred to a panel of experts, which will give its advice within 30 days.
- If the panel does not advise within 30 days, or should a draft prepared in accordance with its advice not be approved by two-thirds of the CA, a constitution may be accepted by a majority in the CA.
- If this happens, a national referendum will be held after the Constitutional Court has certified that the draft is in line with the constitutional principles adopted by the Negotiating Council.
- The referendum question will be acceptance or rejection of the draft constitution.
- If it is accepted by 60% of the electorate, the draft will become the Constitution of South Africa.
- If it is not accepted, Parliament dissolves and a general election is held.
- The new CA will then pass the final constitution within one year by an ordinary majority.

# POST-ELECTION REGIONAL STRUCTURES AND PROCESSES.



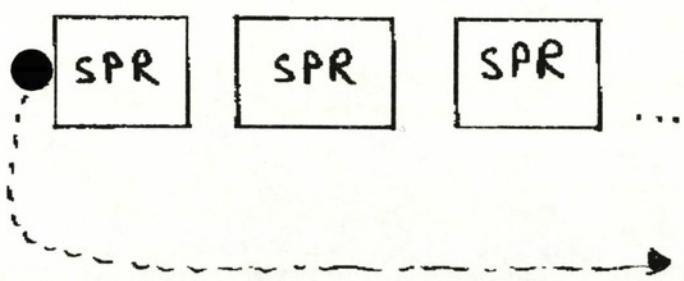
**SPR REVENUE FUND**  
 ■ All revenues raised by or accruing to an SPR to be paid into this

**SPR EXECUTIVE**

- Ten members, elected by SPR Legislature on system of proportional representation.
- Members of executive elect a premier.

**SPR LEGISLATURE**

- Continues until Parliament dissolves after deadlock on adoption of new constitution.
- TEC appoints provisional secretary for each SPR.
- Chairperson presides over meetings.
- Members elected on system of proportional representation.
- Number of SPRs still to be decided.
- Number of seats = total number of votes cast in each SPR ÷ 50 000. But: no less than 30, no more than 100.
- First meetings within seven days after election.
- Public must have access to meetings.



b)

## SPR CONSTITUTION - MAKING PROCESS

- SPR constitution must be adopted by two-thirds of SPR Legislature,
- SPR constitution cannot be inconsistent with constitutional principles or new Constitution of South Africa.
- SPR constitution developed in consultation with Commission on SPR Government.
- An SPR constitution adopted before the adoption of the Constitution of South Africa must be approved by two-thirds of the CA.
- Such an SPR constitution may be referred to the Constitutional Court at the request of one-third of the CA to ascertain whether it conforms with the constitutional principles.
- An SPR constitution must be approved and come into operation in terms of the Constitution of South Africa.



- Appointed by President within 30 days of interim constitution coming into operation.
- Not less than 10, no more than 15 fulltime members.
- Must have at least one member from each SPR.
- Will advise national and SPR governments on establishment and consolidation of administrative institutions and structures in SPRs.
- Will make recommendations on:
  - Final number and boundaries of SPRs.
  - Constitutional dispensation of SPRs and measures for the phasing in of this.
  - Delimitation of powers and functions between national and SPR governments.
  - Fiscal arrangements between institutions of national and SPR governments.
  - Powers and functions of local governments.

# 8) FINANCIAL AND FISCAL COMMISSION

- Will make recommendations to Parliament regarding equitable fiscal and financial allocations to the SPRs from revenue accrued nationally.
- In doing so, it will take into account:
  - The national interest.
  - That SPRs are entitled to an equitable share of national revenue to enable it and the local governments to provide basic services, and to execute their functions and powers.
  - Economic disparities between SPRs.
  - Population and developmental needs.
  - Administrative responsibilities of SPRs.
  - Other legitimate interests of SPRs.

9)

## INTERIM ARRANGEMENTS

- Administrative institutions and structures of present provinces, self-governing territories and the TBVC states continue.
- Personnel in these remain in their posts, without changes to their remuneration.
- SPR governments take control of the exclusive functional areas given them in terms of the interim constitution.
- National and SPR governments must:
  - Cooperate with each other.
  - Rationalise the administrative institutions and structures of the present provinces, self-governing territories and TBVC states.
- If the national government and SPR governments disagree on this rationalisation, they must have regard to the advice and recommendations of the Commission on SPR Government.