

Macdonald-114-3-10

global, clear:

of forefront of CMB -
no voice, no influence.

- Principles:
- 1) Objective
 - 2) Achieved - least pain/disruption ^{costs/pensions}
 - 3) No reprisals / job security ^{for the staff}
 - 4) Phased re-integr - starting ^{at/with} security ^{end of}
 - 5) Meanwhile: full partic. ^{exclusion/legit}
 - 6) Goal - develop

The Reincorporation of the South African Homelands

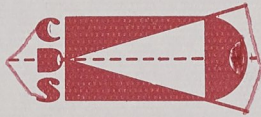
Conference hosted by

The University of Fort Hare



&

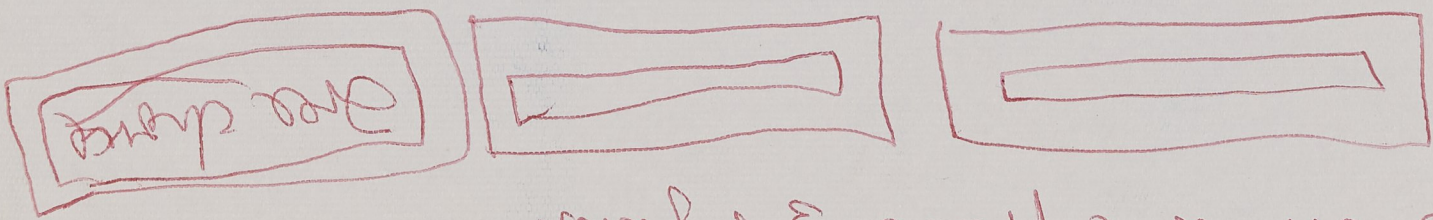
Centre for Development Studies (CDS)
(University of the Western Cape)



Fort Hare University
2-3 May 1992

Silent

mean



- ① Enquiry - parties
② CA - well: mental - 2/3 regions
③ Area change
④ Create problems

Reinforce

Citizenship

Bilateral

Testing of will

Evolutionary process - de-scaling

effective part of TBVC
- states in const making
process.

Common citizenship

De-scaling

Finance - implications

Civil society - trad. leaders / elites / burial societies, etc.

Boundary question

Constit implications - debt

Admin. & practical implications

for service / army / Pensions etc. etc.

- 1). Fund purpose - undivided SA [all parties except
BOP]
- 2). Meaningful & dem. of all the
people in the process of - new const.
- 3). The principle of reinc - none objected
- 4). The structure of CODESA

No acceptance

~~Regions~~
~~Voting~~

Pik

Reg. TBVC - Upon us.

Breakthrough

CA - Body -

Price: 2 -

Interim Constit.

Regul / Natl. lists.

Package

Participate

Phased trans:
acknow. existing st.

Rto Development
to Development

Consult.

Affected.

Unrepresented

Intl. recognised as citizens.
- passport.

Time frame.

Demarcate: temporary regns.
Not ANC.

TBVC consulted

$\frac{2}{3}$

Votes

Consult. Existing - problematic

$\frac{2}{3}$

Reintegr.

Demarcate.

Declaration -
Trans. ans.



AN OPENING ADDRESS AT A TWO DAY CONFERENCE OF THE REGIONS
OF THE ANC HELD AT THE UNIVERSITY OF FORT HARE ON 02-5-92
TO CONSIDER THE RE-INCORPORATION OF THE TBVC STATES INTO
SOUTH AFRICA
BY GOVAN MBEKI

COMRADE CHAIR, COMRADES

IT APPEARS STRANGE THAT WE SHOULD BE MEETING HERE TO DISCUSS THE QUESTION OF THE RE-INCORPORATION OF THE TRANSKEI, BOPUTHATSWANA, VENDA AND CISKEI WHICH HAD "FANAKALO INDEPENDENCE" IMPOSED ON THEM BY THE APARTHEID REGIME. WHEN FUTURE GENERATIONS READ THIS THEY WOULD FIND IT DIFFICULT TO EXPLAIN WHY IT SHOULD HAVE BEEN NECESSARY FOR US TO CORRECT SUCH AN OBVIOUS INJUSTICE.

IN EXAMINING THE PROBLEM BEFORE US IT IS NECESSARY TO FIND OUT THE CIRCUMSTANCES WHICH GAVE RISE TO THESE BANTUSTANS BEING CUT OFF FROM SOUTH AFRICA BECAUSE THAT WILL ENABLE US TO UNDERSTAND WHY THE GOVERNMENT THAT PROFFERED THESE AREAS " APARTHEID INDEPENDENCE" SHOULD TODAY WANT TO USE ALL SORTS OF STRATAGEMS TO DENY THEM THE OPPORTUNITY TO RE-UNITE WITH SOUTH AFRICA.

WHEN THE NATIONALIST PARTY WON THE ELECTIONS IN 1948 BY PROMISING THE WHITES THAT THEY WOULD BRING ABOUT APARTHEID TO ENSURE THAT THEY WOULD DRIVE THE AFRICANS OUT OF "WHITE

SOUTH AFRICA" INTO THE BANTUSTANS, THEY HAD NOT AT THE TIME WORKED OUT HOW THAT COULD BE DONE. IT WAS ONLY TWO YEARS AFTER THEY HAD BEEN IN POWER THAT DR. HENDRIK VERWOED THE CHIEF ARCHITECT OF APARTHEID FORGED THE BANTU AUTHORITIES ACT. THE TWO MAIN FEATURES OF THIS ACT WERE:

A) TO REVIVE CHIEFTAINSHIP WHICH HAD BEEN SYSTEMATICALLY DESTROYED TOWARDS THE END OF THE 19TH CENTURY; NOT FAR FROM WHERE WE ARE MEETING - AT KING WILLIAM'S TOWN - SIR HARRY SMITH HAD BROUGHT ALL THE CHIEFS WHO HAD LED THE STRUGGLE AGAINST DISPOSSESSION TOGETHER AT THE MARKET SQUARE. A LITTLE DISTANCE FROM WHERE HE ADDRESSED THE CHIEFS HAD STOOD A WAGON UNDER WHICH WERE CHARGES OF EXPLOSIVES. HE TOLD THE CHIEFS THAT IF THEY CONTINUED TO RESIST THE BRITISH COLONIAL RULE HE WOULD BLOW THEM INTO PIECES, AND TO ILLUSTRATE TO THEM WHAT WOULD HAPPEN HE ORDERED THE EXPLOSIVES UNDER THE WAGON TO BE SET ALIGHT. AS THE WAGON WAS BLOWN INTO PIECES, SIR HARRY SMITH SAID TO THE CHIEFS: THAT IS WHAT WILL HAPPEN TO YOU AND IT DID HAPPEN. THAT WAS DONE TO THE CHIEFS THROUGHOUT THE COUNTRY EVEN IF THE MESSAGE WAS NOT DRIVEN HOME IN SUCH A DRAMATIC WAY AS SIR HARRY SMITH HAD DONE.

FROM THE END OF THE WARS OF DISPOSSESSION THROUGH TO 1950 THE COLONIAL ADMINISTRATIONS AS WELL AS THE SOUTH AFRICAN GOVERNMENT AFTER THE FORMATION OF THE UNION SET UP A DEPARTMENT OF NATIVE ADMINISTRATION WHICH RULED THE AFRICANS

DIRECTLY THROUGH THE NATIVE COMMISSIONERS.

B) TO REPLACE THE DIRECT FORM OF RULE WITH INDIRECT RULE WHICH HAD BEEN EMPLOYED BY THE BRITISH GOVERNMENT IN ITS COLONIES ON THE AFRICAN CONTINENT. THE EFFECT OF EMPLOYING THIS FORM OF RULE WAS THAT THE RULING AUTHORITY WOULD MAKE USE OF THE CHIEFS BY REMOTE CONTROL TO CARRY OUT THE POLICIES OF THE GOVERNMENT AMONGST THE OPPRESSED PEOPLES.

THE PURPOSE OF THE ACT WAS NOT ONLY TO CREATE A SPECIAL FORM OF ADMINISTRATION WHICH WOULD APPLY ONLY TO AFRICANS BUT ALSO TO OPEN THE WAY FOR DIVISIONS AND CONFLICTS AMONGST ETHNIC OR TRIBAL GROUPINGS AMONGST THEM, I.E. THE AFRICANS. IT WAS AN APPLICATION OF A CLASSIC PRINCIPLE ENUNCIATED MORE THAN 2 000 YEARS AGO BY THE ROMAN GENERAL JULIUS CAESAR. AS HIS ARMIES RAVAGED EUROPE HE ORDERED HIS COMMANDERS THUS: "DIVIDE ET IMPERA" WHICH MEANS DIVIDE AND RULE. THE AFRICANS WHOM THE NATIONALIST PARTY GOVERNMENT REGARDED AS THEIR MAIN ENEMY - THE FEAR OF WHOM THEY SUMMED UP IN THE SLOGAN "DIE SWART GEVÁAR" HAD TO BE DIVIDED SO THAT THEY COULD NOT SPEAK WITH ONE VOICE IN ORDER TO ENABLE THE NATIONALIST PARTY GOVERNMENT TO RULE THEM. A CLASSIC EXAMPLE OF THE TACTICS OF DIVIDE AND RULE IS ILLUSTRATED GRAPHICALLY IN THIS VERY REGION WHERE ONE PEOPLE WHO SPEAK THE SAME LANGUAGE WERE DIVIDED ALONG THE KEI RIVER INTO TWO "NATIONS" AS THE RACIST REGIME UNDERSTANDS THE CONCEPT NATION. IT THEN PROCEEDED

TO IMPOSE ON THE XHOSA SPEAKING PEOPLE ON EITHER SIDE OF THE GREAT KEI RIVER "APARTHEID INDEPENDENCE". WE ARE WITNESSING TO THIS DAY A CONFLICT BETWEEN THE BANTUSTAN ADMINISTRATIONS OF THE TWO "APARTHEID NATIONS" WHICH ARE SEEKING TO DRAW THE PEOPLES OF THESE AREAS INTO A FIGHT OVER A BONE, WHILE THE APARTHEID RACIST REGIME SITS AT A DISTANCE AND WATCHES THEM WRANGLING OVER A MAKE-BELIEF SOVEREIGNTY.

BUT NOW THAT THE NATIONALIST PARTY GOVERNMENT HAS BEEN FORCED TO ACCEPT THE FACT THAT A PEACEFUL SOLUTION OF THE PROBLEM OF THIS COUNTRY MUST BE SOUGHT, WHY SHOULD THERE BE STILL A PROBLEM ABOUT THE RE-INTEGRATION OF THE TBVC STATES? THE PROBLEM ARISES FROM THE FACT THAT OVER THE FORTY ODD YEARS WHEN THE POLICIES OF THE NATIONALIST PARTY GOVERNMENT WERE GUIDED BY APARTHEID STANDARDS AND VALUES, THE WHITES IN THE COUNTRY ENJOYED UNEARNED PRIVILEGES WHICH THE NATIONALIST PARTY GOVERNMENT IS STILL SEEKING TO PROTECT AND HAVE ENTRENCHED EVEN AFTER A DEMOCRATIC CONSTITUTION FOR A NEW SOUTH AFRICA WILL HAVE BEEN DRAWN UP. IT IS HOWEVER IMPORTANT TO REMEMBER THAT APARTHEID COULD NOT HAVE BEEN SUCCESSFULLY IMPLEMENTED AMONGST THE OPPRESSED AND EXPLOITED PEOPLE OF THIS COUNTRY BUT FOR THE FACT THAT THERE WERE SOME SECTIONS FROM THE RANKS OF THE OPPRESSED WHO ALLOWED THEMSELVES TO BE USED TO LURE THEIR FELLOW OPPRESSED INTO AGREEING TO ACCEPT THE IMPLEMENTATION OF THE APARTHEID POLICIES, OR TO BUILD ACCORDING TO SPECIFICATIONS PROVIDED BY THEIR RACIST MASTERS MACHINERY TO SUBDUE THE PEOPLE BY

FORCE. THESE SECTIONS AMONGST THE RANKS OF THE OPPRESSED ALSO ENJOYED UNEARNED PRIVILEGES FROM APARTHEID. LIKE BUZZARDS THAT LEAD THE VULTURES TO A CARCASS HOPING TO GET PIECES OF FLESH THAT DROPPED AS THE VULTURES TORE INTO THE LIFELESS CARCASS OF A HORSE, THESE SPIED ON THE ACTIVITIES OF ANTI-APARTHEID FORCES IN THEIR COMMUNITIES. FOR DOING THE DIRTY WORK FOR THE RACIST REGIME THEY WERE GIVEN A FREE HAND TO ENGAGE IN CORRUPTION TO ENRICH THEMSELVES. THEY TOO WOULD LIKE TO PUT OFF THE DAY WHEN DEMOCRACY CAN BE A REALITY FOR ALL THE PEOPLE OF THIS COUNTRY.

ONLY A FEW DAYS AGO THREE OF THE BANTUSTANS LEADERS OF BOPUTHATSWANA, CISKEI, AND KVAZULU, MET PRESIDENT DE KLERK IN CAPE TOWN TO COMPLAIN THAT THE PACE AT CODESA TO BRING ABOUT A UNITED, NON-RACIAL, NON-SEXIST, DEMOCRATIC SOUTH AFRICA WAS TOO FAST. THE FOUR PARTIES CALLED FOR A SLOWING DOWN OF THE TRANSITIONAL PROCESS FROM APARTHEID TO A DEMOCRATIC SOUTH AFRICA.

THE QUESTION THEN ARISES : WHOM DO THEY REPRESENT? AT CODESA THEY CLAIM TO BE REPRESENTING THE PEOPLE IN THEIR VARIOUS BANTUSTANS BUT AT THE PEOPLE'S ASSEMBLY A FEW WEEKS BACK HERE AT KING WILLIAM'S TOWN THE PEOPLE OF THE CISKEI SHOWED IN NO UNCERTAIN TERMS THAT BANTUSTAN ADMINISTRATION COULD ONLY KEEP ITSELF IN POSITIONS OF POWER BY THE USE OF MACHINE GUNS.

BY A STRANGE TWIST OF LOGIC IT IS THE BANTUSTAN ADMINISTRATIONS THAT ARE REPRESENTED AT CODESA EXCEPT IN THE CASE OF THE TRANSKEI. THIS CONFERENCE THEREFORE AFFORDS THE PEOPLE OF THESE AREAS AS WELL AS OTHER REGIONS AN OPPORTUNITY TO GIVE OUR REPRESENTATIVES AT CODESA A CLEAR MANDATE WITH REGARD TO THE INCORPORATION OF THE TBVC "INDEPENDENT STATES".

THE NATIONALIST PARTY GOVERNMENT WHICH GAVE RISE TO THESE STATES WITH A VIEW TO KEEPING THE PEOPLE OF THESE AREAS OUTSIDE THE BODY POLITIC STILL WISHES THAT SITUATION TO CONTINUE SO THAT THEY SHOULD EXCLUDE SOME TEN MILLION PEOPLE IN THESE AREAS FROM TAKING PART IN ELECTIONS TO DRAW UP A CONSTITUTION TO DETERMINE THE FUTURE OF THIS COUNTRY. NOW THAT THE DOORS ARE OPEN FOR RE-INCORPORATION OF THESE BANTUSTANS THE NATIONALIST PARTY GOVERNMENT USES LEGAL TECHNICALITIES TO KEEP THEM OUT. THEY SAY:

- A) THAT THE TBVC STATES ARE SOVEREIGN AND INDEPENDENT
- B) THAT THE INHABITANTS OF THESE AREAS ARE NOT CITIZENS OF SOUTH AFRICA AND THEREFORE FOREIGNERS
- C) THAT FOREIGNERS DO NOT HAVE THE RIGHT TO PARTICIPATE IN THE CONSTITUTION MAKING PROCESSES OR IN TRANSITIONAL ARRANGEMENTS IN A FOREIGN COUNTRY.
- D) THEY NOW SAY THAT THE PEOPLE WHOM THEY ROBBED UNDER DURESS OF THE SOUTH AFRICAN CITIZENSHIP SHOULD NOW GO THROUGH AN ELABORATE PROCESS IN ORDER TO ASCERTAIN WHETHER THEY WANT RE-INCORPORATION OR NOT; AND IF

THEY SHOULD VOTE FOR INCORPORATION THE SOUTH AFRICAN GOVERNMENT SAYS THAT THESE BANTUSTAN ADMINISTRATIONS WHOM THEY SET UP SHOULD THEN ENTER INTO NEGOTIATIONS WITH THE SOUTH AFRICAN GOVERNMENT FOR THE RE-INCORPORATION OF THESE AREAS

ONE WOULD HAVE TO GO A LONG WAY TO FIND ANYTHING TO MATCH THE CHICANERY. THIS APPROACH BY THE SOUTH AFRICAN GOVERNMENT HAS GIVEN THE BOPUTHATSWANA BANTUSTAN ADMINISTRATION AN OPPORTUNITY TO DELAY THE RE-INCORPORATION OF THAT AREA SO THAT THEY SHOULD CONTINUE TO ENJOY THE PRIVILEGES WHICH THE APARTHEID SYSTEM BESTOWED ON THEM. THE NATIONALIST PARTY GOVERNMENT HOPES THAT BY KEEPING OUT OF THE ELECTION PROCESS FOR THE DRAWING UP OF A DEMOCRATIC CONSTITUTION OF NEARLY A THIRD OF THE SOUTH AFRICAN POPULATION WHICH THEY HAD LOCKED UP IN THESE BANTUSTANS THEY WOULD BE ABLE TO REDUCE THE PERCENTAGE OF VOTERS SUPPORTING THE ANC; AND INVERSELY RAISE THE PERCENTAGE POLL IN THEIR FAVOUR.

IT SHOULD BE THE TASK OF THIS CONFERENCE TO CALL ON ALL THE PEOPLE WHO VALUE DEMOCRACY TO FRUSTRATE THE EFFORTS OF THE NATIONALIST PARTY GOVERNMENT TO DENY THE SOUTH AFRICANS WHO WERE FORCED AGAINST THEIR WILL TO BE CITIZENS OF A MAKE-BELIEF SOVEREIGN STATES.

I THANK YOU

20 July 1992

Dear Zola

Herewith the memorandum you asked for. Please note:

- 1 Section 37A of the Self-governing Territories Constitution Act empowers the State President to amend the scheduled powers of the self-governing legislatures by Proclamation in the gazette. They can be curtailed or increased in this way. This explains the provision contained in Section 34 of Schedule 3 to the memorandum.
- 2 The reference in Section 1 of Schedule 3 is to the administration of 'government departments' established by the self-governing territories for administrative purposes.
- 3 As far as fundamental rights are concerned it is better that they appear as independent rights and not as part of an amended constitution. It does not really matter whether they are introduced by the Transition to Democracy Act or through other 'CODESA legislation'.

Regards

Arthur

P.S. Please treat this as a first draft. There has been no time for discussion, proof-reading or checking.

TBVC STATES, SELF-GOVERNING TERRITORIES AND THE PROVINCES:

1 According to South African Law

- (a) The TBVC states are sovereign, independent states with full power to make laws within their territories. The South African parliament has no authority to make laws for the TBVC states or to repeal or amend any laws made by such states.

- (b) The self-governing territories are part of South Africa and are subject to the overriding authority of the South African parliament. The Self-governing Territories Constitution Act vests in the legislatures of these territories the power to appoint an executive and to make laws in respect of certain matters for the territories, and for 'citizens' of the territories whether they reside there or not. These powers can be increased, curtailed or repealed by the South African parliament, from whom the law making and executive authority was derived.

- (c) The Provinces are administrative regions, in which an administrator and executive committee appointed by the State President carry out functions allocated to them by the government or by legislation. They are answerable to the central government and have no independent authority.

2 There are a number of possible arrangements for the interim phase. They include -

(a) **Retaining the status quo**

- (i) The TBVC states, self-governing territories and provinces could continue to function as they are now doing. The transfer of power in the South African parliament to a democratically elected National Assembly would not affect existing structures and their powers, save that the Provincial Administrator and executive committee would have to act on instructions from the new executive and legislature, which would also have fiscal power over the TBVC and self-governing states, which depend on transfers from the central government.

(b) **Converting the TBVC and self-governing states into Provinces**

- (i) This would mean that there would be 14 Provinces. Boundaries and administrative structures of the TBVC states, self-governing states and Provinces as they exist today could be retained, and the 14 Provinces could be administered in terms of the existing provincial legislation - i.e. through administrators and executive committees appointed by the central government.
- (ii) An alternative system would be for the 14 Provinces to revert to the pre-1986 position - i.e. have elected provincial councils and executive committees and exercise legislative functions in specified areas subject to the proviso that ordinances may not

conflict with existing or future statutes. The elections could be held on the same day as the elections for the first new parliament and in this way a 'regional vote' could be introduced, not only for the constituent assembly/national assembly, but also for 'provincial government'. An advantage of this arrangement is that existing 'homelands' would disappear and in their place would come elected provincial governments, representative of the people living in the provinces, but subject to the authority of the Constituent Assembly/National Assembly. A disadvantage is that it would introduce the issue of provincial (regional) power into the debate.

(c) A combination of the status quo and provincial government

- (i) The TBVC states could retain their independence, or 'come back' as self-governing territories, with the same powers as other self-governing territories.
- (ii) The self-governing territories (either with or without the TBVC states) could continue to exist, but their powers could be curtailed and made subject to the provision that laws cannot be made in conflict with statutes of the central parliament.

3 Attached hereto is a memorandum on the legislative structures and powers of the Provinces (since 1910) and the 'self-governing' territories.

PROVINCIAL GOVERNMENT & SELF-GOVERNING TERRITORIES

PROVINCIAL GOVERNMENT

- 1 The South Africa Act of 1909 stipulated that the 4 colonies should become "Original Provinces of the Union" and made provision for provincial government.
- 2 Each province had a provincial council and elections for the provincial council were conducted on a constituency basis. Provincial councils functioned for 5 years at a time and could not be dissolved other than by effluxion of time.
- 3 Each provincial council elected an executive committee consisting of 4 members and an administrator who was appointed by the central government.
- 4 The administrator was the chief executive officer of the province, held office for the full 5 year term of the provincial council, had a casting vote in the executive committee, and could not be removed prior to the expiry of his or her term of office.
- 5 The powers of provincial councils were set out in the South Africa Act, and it was specifically provided that

"Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any act of parliament".
- 6 Ordinances required the consent of the head of state who was entitled to withhold assent or to reserve any proposed ordinance for further consideration.
- 7 The administrator represented the central government in the provinces in relation to matters which were not specifically reserved for or delegated to the provincial council, and was entitled to act in such matters without reference to other members of the executive committee. Otherwise, the executive committee was responsible for carrying on the administration of the province.
- 8 Between 1910 and 1961 certain powers were added to those contained in the South Africa Act, and provision was made for the elections of the executive committee to be conducted according to a form of proportional representation.
- 9 In 1961 the new republican constitution took over the form of provincial government as it existed in the past and that continued until 1986, when provincial councils were abolished, and provincial government was vested in administrators and executive committees appointed by the central government. They functioned purely as administrators and discharged functions allocated to them by the central government or by any law.

- 10 The powers which vested in the provincial councils prior to 1961 were incorporated into the Republic of South Africa Constitution Act of 1961 and are set out in schedule 1 attached to this memorandum. Subsequent to 1961 these powers were amended in certain respects, and the powers as they existed at the date of the repeal of the provincial councils are set out in the schedule 2.

SELF-GOVERNING TERRITORIES

- 11 The powers of the homelands are regulated by the Self-Governing Territories Constitution Act, 1971. This Act makes provision for the establishment of legislative assemblies, with the power to make laws in respect of any matter set out in schedule 3 to this memorandum. Laws have to be referred to the State President for assent. The State President has the power to withhold assent, or to refer a bill back to the legislative assembly for further consideration, but may not withhold assent unless the bill is inconsistent with the Self-Governing Territories Constitution Act, or unless it deals with matters beyond the legislative competence of the legislative assembly.
- 12 The powers of legislative assemblies of "self-governing territories" are more extensive than the powers of the old provincial councils, for they have specifically been vested with the power to "amend or repeal any law, including any Act of Parliament, in so far as it relates to" matters over which they have legislative power. In other words they can override the central parliament in their areas of legislative competence. Their legislative authority covers the area of the "homeland", and they also have legislative authority over "citizens" whether they reside in or outside the boundaries of the homeland.
- 13 The "self-governing territories" have their own courts, flags and anthems. Executive authority within the territory is vested in the Chief Minister and Cabinet for the territory, who are answerable to the elected legislative authority.
- 14 As the self-governing territories derive their authority from the South African parliament, that parliament can repeal or amend their powers, in the same way as it amended the powers of the Provincial Councils from time to time, and later abolished the Provincial Councils. Ultimately, therefore, the legislative powers of self-governing territories can be controlled by the central government if it chooses to do so.

SCHEDULE 1

Powers of Provincial Councils.

Powers of provincial councils.

84. (1) Subject to the provisions of this Act, the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945), and the assent of the State President as herein-after provided, a provincial council may make ordinances in relation to matters coming within the following classes of subjects, namely—

- (a) direct taxation within the province in order to raise revenue for provincial purposes;
- (b) the borrowing of money on the sole credit of the province with the consent of the State President and in accordance with regulations framed by Parliament;
- (c) education, other than higher education and Bantu education, until Parliament otherwise provides;
- (d) agriculture to the extent and subject to the conditions defined by Parliament;
- (e) the establishment, maintenance and management of hospitals and charitable institutions;
- (f)
 - (i) municipal institutions, divisional councils and other local institutions of a similar nature;
 - (ii) any institutions or bodies other than such institutions as are referred to in sub-paragraph (i), which have in respect of any one or more areas (whether contiguous or not) situated outside the area of jurisdiction of any such institution as is referred to in sub-paragraph (i), authority and functions similar to the authority and functions of such institutions as are referred to in the said sub-paragraph, or authority and functions in respect of the preservation of public health in any such area or areas, including any such body as is referred to in section seven of the Public Health Act, 1919 (Act No. 36 of 1919);
- (g) local works and undertakings within the province, other than railways and harbours, and other than such works as extend beyond the borders of the province and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise;
- (h) roads, outspans, ponts and bridges, other than bridges connecting two provinces;
- (i) markets and pounds;
- (j) fish and game preservation, subject to the provisions of section fourteen of the Sea Fisheries Act, 1940 (Act No. 10 of 1940);
- (k) the imposition of punishment by fine or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section;
- (l) generally all matters which, in the opinion of the State President are of a merely local or private nature in the province;
- (m) all other subjects in respect of which Parliament may by law delegate the power of making ordinances to the provincial council.

(2) An ordinance passed by a provincial council in relation to any matter referred to in paragraph (f) of sub-section (1), may provide for the appointment by the administrator of the province concerned, or any specified authority, of the members or any number of the members of any institution or body referred to in the said paragraph.

(3) The provisions of sub-sections (4), (5) and (6) of section twenty-four shall *mutatis mutandis* apply with reference to a provincial council, as if a reference therein to Parliament or the Senate or the House of Assembly were a reference to a provincial Council, and as if a reference therein to an Act of Parliament were a reference to an ordinance of a provincial council and a reference to a Bill which has been brought before the Senate or the House of Assembly were a reference to a draft ordinance which is before such a council.

SCHEDULE 3

STATUTES OF THE REPUBLIC OF SOUTH AFRICA — BLACKS
Self-governing Territories Constitution Act, No. 21 of 1971

Sch. 3

Sch. 3

1. The administration and control of departments established in terms of section 5 (2).
2. Education (excluding education provided by a university or a university college established by or in terms of any Act of Parliament).

[Note.—Subscribers are referred to Government Notice No. R.620 of 27 March, 1987, for date of commencement of item 2 in certain areas.]
3. In respect of Blacks, welfare services, including child welfare and social benefit schemes for and the payment of allowances to the aged, blind and indigent and those suffering from mental or physical disabilities, and the rehabilitation of persons who are dependent on dependence-producing substances as defined in the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971).
4. The establishment, maintenance, management and control of clinics and other institutions in connection with services and schemes referred to in item 3.
5. The control of business and trading undertakings, professions, trades and occupations, and the issue of licences for the carrying on and exercising thereof, excluding the issue of licences in connection with trading in arms and ammunition and explosives.
6. The planning, establishment, financing, co-ordination, execution and carrying on of industrial, trading, finance, mining and other business undertakings and projects.

[Note.—Subscribers are referred to Government Notice No. 1038 of 23 May, 1986, for date of commencement of item 6 in certain areas.]
- 6A. Development corporations and corporations, including the guarantee of loans raised by such corporations.

[Note.—Subscribers are referred to Government Notice No. 1038 of 23 May, 1986, for date of commencement of item 6A in certain areas.]
7. Agriculture, including soil and veld conservation, the eradication and control of noxious weeds, animal production, the combating of animal diseases, veterinary services, plant production, irrigation, forestry, agricultural extension services and agricultural training, but excluding control over the importation into or the exportation from the Republic of stock, exotic animals, poultry, birds, insects, agricultural or other products, plants, stock feeds, seeds, fertilizers, animal remedies, vaccines, biologicals or anything liable to spread disease or infection.

[Note.—Subscribers are referred to Government Notice No. R.1963 of 30 August, 1985, for date of commencement of item 7 in certain areas.]
- 7A. The provision of financial assistance to citizens of the area concerned carrying on or undertaking to carry on farming operations therein, and the exercising of control in respect of financial assistance provided.
- 7B. The levy and exemption of rental for and grazing fees on land, other than land situated in a proclaimed township, belonging to the South African Development Trust, established by section 4 of the Development Trust and Land Act, 1936 (Act 18 of 1936).

[Note.—Subscribers are referred to Government Notice No. 1038 of 23 May, 1986, for date of commencement of item 7B in certain areas.]
8. Nature conservation.

[Note.—Subscribers are referred to Government Notice No. R.1963 of 30 August, 1985, for date of commencement of item 8 in certain areas.]
9. The destruction of vermin.

[Note.—Subscribers are referred to Government Notice No. R.1963 of 30 August, 1985, for date of commencement of item 9 in certain areas.]
10. Public works and undertakings, roads, outspans, pons and bridges and any works considered necessary for purposes of sanitation or of securing satisfactory water supplies or of preventing or combating soil erosion, but not bridges between the area concerned and any other part of the Republic and roads which have been declared to be national roads or are under the control of a provincial administration.
11. Markets and pounds.
12. The establishment and administration of and the control over inferior courts and the administration of justice, including the exercise of civil and criminal jurisdiction in accordance with the law and customs observed by tribes and communities, and the trial by persons and bodies acting in terms of such law and customs, of persons for contraventions of or failure to comply with enactments of the legislative assembly.

[Note.—Subscribers are referred to Government Notice No. 1038 of 23 May, 1986, for date of commencement of item 12 in certain areas.]
13. Labour matters (excluding all matters dealt with in the Workmen's Compensation Act, 1941 (Act 30 of 1941), or the Unemployment Insurance Act, 1946 (Act 53 of 1946)).

[Note.—Subscribers are referred to Government Notice No. 1038 of 23 May, 1986, for date of commencement of item 13 in certain areas.]
14. The erection and maintenance of buildings and structures which the Government of the area may deem necessary for the exercise of its powers and the performance of its functions and duties.

[Note.—Subscribers are referred to Government Notice No. 1038 of 23 May, 1986, for date of commencement of item 14 in certain areas.]

15. A direct tax —
- (a) on —
 - (i) citizens or any particular category or group of citizens;
 - (ii) the income of citizens or any particular category or group of citizens, whether the citizens concerned are or reside in or outside the area, provided they are or reside within the Republic;
 - (b) on property situate in the area.
16. Fees payable for services rendered by a department referred to in section 5 (2) or a tribal or regional authority, and taxes payable by a specified category or group of persons in respect of services made available by any such department or authority.
17. Subject to the provisions of any proclamation issued in terms of section 2 —
- (a) the conditions of service of the members of the legislative assembly;
 - (b) the convening of a session of the legislative assembly and the quorum for and the procedure at such a session, including the procedure in the case of the absence of the person who is required to preside at such a session, the method according to which voting takes place at such a session and the exercise of a casting vote by any person presiding at such a session;
 - (c) the amendment of the proclamation issued by the State President in terms of section 2 (1).
- [Note.—Subscribers are referred to Government Notice No. 1038 of 23 May, 1986 for date of commencement of item 17 (c) in certain areas.]
18. The appointment, conditions of service, discipline, retirement, discharge and pensioning of and, subject to the concurrence of and conditions determined by the Minister of Education and Development Aid in consultation with the Minister of Finance of the Republic, the institution of pension schemes for officers and employees employed in connection with the departments referred to in section 5 (2).
- [Item 18 amended by Proclamation No. R.109 of 1988.]
19. Intoxicating liquor.
20. The appointment, powers, duties and functions of justices of the peace and commissioners of oaths.
- 20A. Civil defence.
- [Note.—Subscribers are referred to Government Notices No. R.2314 of 14 November, 1980, No. R.163 of 30 January, 1987 and No. R.584 of 20 March, 1987 for date of commencement of item 20A in certain areas.]
21. The protection of life, persons and property and the prevention of cruelty to animals.
- 21A. For the purpose of maintaining public safety, public peace, order or good government, the prohibition of any organization or membership of such an organization; the prohibition of the furtherance, in any manner, of the objects of such an organization; the restriction of the presence of any person to a particular place or area; the prohibition of the publication or dissemination of the contents of any speech, utterance, writing or statement, and the removal of any tribe, portion of a tribe, a community or a person from any place within the area of a legislative assembly to any other place in that area.
- [Note.—Subscribers are referred to Government Notice No. R.620 of 27 March, 1987 for date of commencement of item 21A in certain areas.]
- 21B. Subject to the conditions determined by the Minister of Police of the Republic, the establishment, control, organization and administration of a police force.
22. The control, organization and administration of such personnel or such part of the Police Force stationed in the area concerned as may have been transferred to the Government of a self-governing territory by the Minister of Police of the Republic, and charged with the maintenance of law and order, the investigation of any offence or alleged offence, the enforcement of any law and the prevention of crime in the area concerned to the extent and subject to such conditions as may be determined by the said Minister.
23. The administration of deceased estates, the execution of wills and matters relating to status, guardianship, inheritance and succession in respect of citizens.
- [Note.—Subscribers are referred to Government Notice No. R.3 of 2 January, 1981 for date of commencement of item 23 in certain areas.]
24. Registration of deeds and surveys, but excluding trigonometrical surveys.
- [Item 24 substituted by Proclamation No. R.109 of 1988.]
- [Note.—Subscribers are referred to Government Notice No. R.2412 of 2 December, 1988 for date of commencement of item 24 in certain areas.]
25. The regulation and control of road traffic, including the licensing and control of vehicles and the drivers of vehicles, but excluding, subject to the provisions of item 25A, all matters dealt with in the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930), or the Motor Vehicle Insurance Act, 1942 (Act No. 29 of 1942).

31E. Legal aid.

31F. Amusements or entertainment tax.

31G. The licensing, regulation and control of places of amusement and recreation, and the imposition of a duty upon the licensee in respect of the takings thereat or of a charge based upon the payment for admission thereto.

31H. Auction dues.

31I. The restriction, regulation and control of horse racing, the prohibition, restriction, regulation and control of other racing, the restriction, regulation and control of betting and wagering (whether as to circumstances, locality or premises), and the prohibition, regulation and control of dissemination of information as to betting.

31J. Licensing of totalisators and the imposition on the licensees of a duty in respect of the takings thereof, and licences, taxes and fees in connection with horses and other racing and betting and wagering, and the dissemination of information as to betting and wagering.

31K. The establishment, control and management of libraries and library services.

31L. The establishment, control and management of museums, art galleries, herbaria, botanic gardens and similar institutions, and zoological gardens, aquariums, oceanariums, snake parks and similar institutions where live animals are kept for exhibition.

31M. The establishment, control, management and regulation of cemeteries and crematoria and the regulation of matters relating to the removal or disposal of corpses, the exhumation of corpses and the moving of graves.

[Note.—Subscribers are referred to Government Notice No. R.1963 of 30 August, 1985 for date of commencement of item 31M in certain areas.]

31N. Housing schemes.

[Item 31N substituted by Proclamation No. R.109 of 1988.]

[Note.—Subscribers are referred to Government Notice No. R.2412 of 2 December, 1988 for date of commencement of item 31N in certain areas.]

31P. The reservation of places in the area concerned as places of public resort or of public recreation or of historical or scientific interest and of movable or immovable goods of historical or scientific interest and the control and management of such places or goods, whether so reserved before or after the commencement of this Act.

31Q. (i) The conclusion or ratification of conventions, treaties and agreements with the Government of the Republic or with any other government body or person in the Republic;

[Para. (i) substituted by Proclamation No. R.109 of 1988.]

[Note.—Subscribers are referred to Government Notice No. R.2412 of 2 December, 1988 for date of commencement of paragraph (i) in certain areas.]

(ii) the conclusion of contracts and agreements, inside or outside the self-governing territory but not outside the Republic, in order to give effect to powers granted to the government of the self-governing territory under this or any other act; and

(iii) the conclusion of agreements with the Government of the Republic extending the area of functions of a corporation or a development corporation which has been established by the government of a self-governing territory, outside such territory: Provided that the powers granted hereby do not validate any act of the legislative assembly, except an act which makes funds available for functions in accordance with such agreement, outside such territory.

[Note.—Subscribers are referred to Government Notice No. 1038 of 23 May, 1986 for date of commencement of item 31Q in certain areas.]

31R. The establishment of new districts and the modification of the boundaries of existing districts in the territory.

[Note.—Subscribers are referred to Government Notice No. 1038 of 23 May, 1986 for date of commencement of item 31R in certain areas.]

31S. Sport and recreation.

31T. The registration of citizens and the issue of documents contemplated in section 3 (1)*bis* (c) of the Blacks (Abolition of Passes and Co-ordination of Documents) Act, 1952 (Act 67 of 1952): Provided that the powers conferred by this item shall not empower the legislative assembly to amend or repeal any Act of Parliament in respect of this matter, and shall not detract from the power or authority granted any person by law to compile and maintain a population register or to issue under any law any document to a Black who is not in possession of a document contemplated in said section 3 (1)*bis* (c).

31U. Conservation of the environment.

[Note.—Subscribers are referred to Government Notice No. R.1963 of 30 August, 1985 for date of commencement of item 31U in certain areas.]

31V. The establishment, control, organisation and administration of a law commission.

[Note.—Subscribers are referred to Government Notice No. R.1963 of 30 August, 1985 for date of commencement of item 31V in certain areas.]

31W. Control over entrance into the territory by citizens of the Republic of South Africa who are not also citizens of the territory concerned in terms of the National States Citizenship Act, 1970 (Act 26 of 1970).

31X. The establishment of a state attorney's office.

31Y. The establishment of pension funds for, and the pensioning of, any persons other than officers and employees referred to in item 18.

31Z. Land and mineral matters.

[Note.—Subscribers are referred to Government Notice No. R.2751 of 31 December, 1986 for date of commencement of item 31Z in certain areas.]

32. With effect from a date and subject to such conditions as the Minister of Economic Affairs and Technology of the Republic may determine the provision and distribution of electricity.

[Note.—Subscribers are referred to Government Notices Nos. R.2708 of 11 December, 1987 and R.2170 of 28 October, 1988 for date of commencement of item 32 in certain areas.]

32A. Meteorological services.

33. The imposition of penalties for a contravention of or failure to comply with any law made by the legislative assembly.

34. Any matter which by virtue of the provisions of section 37A falls within the power of the legislative assembly.

continued on page 1879

SCHEDULE 2

Powers of Provincial Councils.

85. Powers of Provincial Councils.—Subject to the provisions of this Act and the assent of the Governor-General-in-Council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects (that is to say):—

- (i) Direct taxation within the province in order to raise a revenue for provincial purposes:
- (ii) The borrowing of money on the sole credit of the province with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament:
- (iii) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides:
- (iv) Agriculture to the extent and subject to the conditions to be defined by Parliament:
- (v) The establishment, maintenance, and management of hospitals and charitable institutions:
- [(vi) (a) Municipal institutions, divisional councils and other local institutions of a similar nature;
(b) Any institutions or bodies other than such institutions as are referred to in sub-paragraph (a), which have in respect of any one or more areas (whether contiguous or not) situated outside the area of jurisdiction of any such institution as are referred to in sub-paragraph (a), authority and functions similar to the authority and functions of such institutions as are referred to in the said sub-paragraph, or authority and functions in respect of the preservation of public health in any such area or areas, including any such body as is referred to in section seven of the Public Health Act, 1919 (Act No. 36 of 1919)]:
- (vii) Local works and undertakings within the province, other than railways and harbours and other than such works as extend beyond the borders of the province, and subject to the power of parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise:
- (viii) Roads, outspans, ponts, and bridges, other than bridges connecting two provinces:
- (ix) Markets and pounds:
- (x) Fish and game preservation:

This paragraph was repealed by s. 14 (1) of the Sea Fisheries Act, No. 10 of 1940 (see the title FISHERIES), in so far as it relates to fish in respect of which that Act applies, and subject to the provisions of s. 13 thereof.

By s. 4 of the Dongola Wild Life Sanctuary Act, No. 6 of 1947, it is provided that the powers possessed by the Transvaal Provincial Council under this paragraph shall, as from the date of commencement of the Act, cease and determine in respect of the area included in the sanctuary, and the provisions of any Ordinance passed by the Provincial Council under the said powers and any proclamation issued or regulation framed thereunder shall thereafter cease to be of force within that area.
- (xi) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section:
- (xii) Generally all matters which, in the opinion of the Governor-General-in-Council, are of a merely local or private nature in the province:
- (xiii) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the provincial council.

Para. (vi) was substituted by s. 1 of the Provincial Powers Extension Act, No. 41 of 1947. This paragraph had been amended by s. 1 (1) of the Local Government (Provincial Powers) Act, No. 1 of 1926.

ROLE OF REGIONAL GOVERNMENT (ASSUMING A UNITARY SYSTEM)

A unitary state with strong regions but the final word is at the centre.

The following list of functions is based on the assumption that regional functions are those which remain after national and metropolitan/local authority functions have been allocated. We have assumed that the Provinces are done away with.

1. POSSIBLE FUNCTIONS WHICH WOULD BE APPROPRIATE AT METROPOLITAN LEVEL: We have assumed that a range of functions will be undertaken at a lower tier within metropolitan areas).

Metropolitan planning and urban management

Housing and urbanisation

Metropolitan level of services (water, electricity, sewerage)

Collection of all metropolitan revenue

Metropolitan amenities and facilities eg libraries, parks and sports facilities

Metropolitan economic growth and job creation

Primary health care, primary education'

Fire and ambulance services

Culture

Transport planning

2. POSSIBLE NATIONAL FUNCTIONS

Economic development and job-creation

Defence, police, foreign affairs

Tertiary education, health

Agriculture

Sport

National development planning and management

National assets

Environmental policy (including coastal management)

Forestry

Housing

Rural development

Water, electricity (grid)

Redistribution (spatial and sectoral)

Budget

Co-ordination of restructuring and reconstruction

Legal Framework

Boundaries

Minimum standards

SOME POINTS TO CONSIDER WHEN DEEFINING REGIONS:

WHY DO WE WANT REGIONS? SHOULD THEY BE FEDERAL OR UNITARY?

To do the development planning for the region, including economic development and settlement structure and provision of infrastructure, to which both metropolitan and non-metropolitan areas must conform.

With regard to the non-metropolitan areas of the region, to give assistance to and co-ordinate and rationalise the provision of services and facilities in the rural areas, including smaller local authorities

To ensure equitable redistribution between rural and urban areas within the region.

To manage nature reserves, biosphere reserves and conservation

To undertake reconstruction based on national guidelines

To administer central government grants/redistribute funds

* The need for accountability - central government is very remote.

* The need to consider sectoral authorities - eg health and education - with regard to what level of service should be provided at what level of government.

* The need to ensure that the powers of regional government

are not constitutionally entrenched, because we may need to change them if they don't work well.

FEDERALISM Vs UNITARY.

The current South African system of governance is highly centralised.

The Provincial Councils which gave South Africa an element of heterogeneous federalism has been abolished and the provinces are merely extensions of the central government department of Provincial Affairs. However the Regional Services Councils (RCSs) which were created to facilitate the delivery of services to the racially segregated municipal councils report to the provincial administrators who are appointed by central government.

Similarly the establishment of the State Security Council under P.W. Botha also contributed to the centralisation process. The municipal police and other local security structures became centralised. As Horowitz puts it these institutions which represented the apartheid establishment will have to be replaced.

The notion of federalism in the South African context has also been associated with the ethnic based so-called self-governing states. This is further exacerbated by the right wing demand for a boerestaat. As a result the whole debate around federalism tends to be defined within this narrow conception of federalism.

Given the desire to unite the country and build a stable community which is capable of redressing the apartheid historical imbalances it might be necessary to examine the purpose or functions which would be served by federalism and compare those with unitarism.

It is evident from the debate on federalism so far that the oppressed communities reject any system of government which is based on homogeneous ethnic population groups modelled on the bantustans system. It is not possible in the South African context to choose between a federal system of a symmetrical kind (see Breytenbach 1986 p.10) units such as the United States, West Germany, Austria where the proportional plurality is the same as that of the federal state. And the asymmetrical federal type system like that of India, But it is possible to create regions which are not

REGIONAL ADMINISTRATION AND REPRESENTATION

1. There should be both a governor and an administrator of the region. The present Provincial Administrator's role could be split into two: - political and administrative roles.

Should there be an elected governor or an appointed governor in addition to an administrator? In order to make a decision on this it is necessary to first establish what the functions of a Governor would be. The governor as a

unifying person with political The governor could be a unifying force within a region - with broad appeal to the different sections of the community. However, neither elections nor appointment guarantees this, albeit, for purposes of unifying the country . The governor should chair the Regional Council. Appointment by central government would have the advantage of giving him direct access to Ministers and Cabinet.

The Regional Administrator should be a political appointment, rather than a purely a merit based appointment. Merit based appointments will favour the current bureaucrats, who will tend to reproduce the current system.

Both governor and administrator should be appointed by the same level of government, preferably by central government, in order to minimise conflict.

2. Should the Regional Council be elected directly or should it be an indirectly elected body -- including representation by local authorities, womens and youth, unions, business, etc?

SHOULD REGIONAL GOVERNMENT HAVE TAXATION POWERS?

1. Powers of taxation confer a degree of autonomy on regional government. Is this desirable?
2. Taxation is the source of redistribution finance. With the regional disparities in this country, would it not be more desirable to undertake redistribution nationally, rather than within regions?
3. Funds for redistribution should be allocated to regions by central government.

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REPORT OF THE SUB-COMMITTEE ON THE FUTURE OF THE TBVC-STATES
TO THE BILATERAL BETWEEN THE SA GOVERNMENT AND ANC ON
23 FEBRUARIE 1993 AT THE WORLD TRADE CENTRE.

1. The constitutional process cannot proceed without the full unconditional participation of the TBVC states. Therefore such structures as are visualised for the period preceeding the elections, should have as much effect on the TBVC states as on the rest of South Africa.
2. The South African Government favours the reincorporation of the TBVC states.
- ③ The South African Government will revisit the issue with regard to the restoration of citizenship, to the people of the TBVC states.
- ④ The South African Government will in its revisiting of the question of citizenship also consider the consequence of this restoration on the timing of reincorporation of the TBVC states.
5. The South African Government will speedily proceed with its bilateral discussions with the Bophuthatswana Government and that during those discussions they will seek to promote acceptance by Bophuthatswana of the proposal that the issue of Regional Government should in the first instance be dealt with by a Commission on Regional Government and that all parties should make their submissions to such a Commission.
6. The ANC would also speedily proceed with its own bilateral discussions with the Bophuthatswana Administration in pursuit of the same objectives mentioned in 5 above.
- ⑦ The South African Government should give notice of revision of the Customs Union Agreement to all members of the Union with a view to formulate a more favourable formula for South Africa.
- ⑧ Should it not be possible to resolve the future of the TBVC states satisfactorily on a bilateral basis, this matter should then be submitted to a multiparty forum for a final decision. ?
9. A one-on-one meeting, time still to be confirmed, has been arranged between Minister RF (Pik) Botha and Mr Thabo Mbeki for Friday 26 February 1993 in Cape Town in order to prepare a report on the terms of reference of a TEC Sub-Council on Foreign Affairs.
10. Feed back from Principals with regard to the Sub-Committee's report on the future of the TBVC states submitted to the bilateral between the South African Government and the ANC at the World Trade Centre on 23 February 1993, is also anticipated during the 26 February 1993 meeting.

REPORT OF THE SUB-COMMITTEE TO THE CHANNEL MEETING BETWEEN THE SOUTH AFRICAN GOVERNMENT AND THE AFRICAN NATIONAL CONGRESS ON WEDNESDAY 3 MARCH 1993 REGARDING A SUB-COUNCIL ON FOREIGN AFFAIRS OF THE TRANSITIONAL EXECUTIVE COUNCIL

INTRODUCTION

1. Working Group 3 of Codesa decided that there should be established a Transitional Executive Council with various Sub-Councils to carry out various tasks during the period preceding the elections.
2. The broad task of these structures was said to be, "... to prepare for and to facilitate the transition to a democratic constitution to which Codesa is committed and in particular, the achievement of a level playing field and a climate favourable to free political participation and the holding of free and fair elections."
3. One of these structures was identified as a "Sub-Council on Foreign Affairs".
4. The Working Group, however, recognised that the area of foreign affairs was in a category different from the areas of government relevant to the other Sub-Councils.
5. Accordingly, it pointed "to the unique character of the Sub-Council" and called for broader discussion concerning it.
6. In keeping with the decisions of Working Group 3, which stated that "there is a need for a multiparty Transitional Executive Structure to function in conjunction with existing legislative and executive structures ...", this Sub-Council should be set up and function in a manner not intended to replace these existing structures.

AGREED TERMS OF REFERENCE OF THE SUB-COUNCIL ON FOREIGN AFFAIRS

1. The Sub-Council shall be set up as a body which will work with existing legislative and executive structures with the aim of achieving progressively the broadest possible consensus on matters affecting the country's international interests, particularly its long term interests.
2. The Sub-Council should assist with regard to securing agreements with the international community concerning any contribution that this community may make to assist in the peaceful transition to democracy.
3. The Sub-Council should assist in generating such international resources as may be available to help the country to address the socio-economic needs of the people as a whole.
4. As agreed at Codesa, the Sub-Council will report to the Transitional Executive Council.

THE FUTURE OF THE TBVC STATES: SUB-COMMITTEE REPORT TO THE CHANNEL MEETING BETWEEN THE SOUTH AFRICAN GOVERNMENT AND THE AFRICAN NATIONAL CONGRESS ON WEDNESDAY 3 MARCH 1993

1. The TBVC states should become part of a new South Africa.
2. The restoration of South African citizenship to the citizens of the TBVC states should take place simultaneously with the reincorporation of such states. This process is essential for the unconditional participation in the transitional phase.
3. The Sub-Committee fully subscribes to the consensus of Working Group Four to Codesa II, that the TBVC states will participate in transitional arrangements as proposed by Working Groups 3 and 4, on the understanding that these arrangements, including participation in elections, should mutatis mutandis impact on the TBVC Governments in the same way as they impact on the South African government.
4. South African citizenship should be restored to citizens of any of the TBVC states whose Government might at any time request such restoration of citizenship.
5. The Sub-Committee noted the agreement on the establishment of a Joint Committee between the South African Government and the Government of Bophuthatswana whose task it is to consider various constitutional options.
6. It was also noted that the African National Congress will speedily proceed with their bilateral meeting with the Bophuthatswana Administration in order to pursue the same objective as recorded in "5" above.
7. The South African Government indicated that notice will be given to members of the Customs Union for meetings to take place to consider revision of the formula with a view to a more equitable distribution of revenue.

THE FUTURE OF THE TBVC STATES: SUB-COMMITTEE REPORT TO THE CHANNEL MEETING BETWEEN THE SOUTH AFRICAN GOVERNMENT AND THE AFRICAN NATIONAL CONGRESS ON WEDNESDAY 3 MARCH 1993

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7. The South African Government indicated that notice will be given to members of the Customs Union for meetings to take place to consider revision of the formula with a view to a more equitable distribution of revenue.

ⓐ No conditional participation in Codesa
ⓑ If Bop. is out, we are free to embark
on Campaigns

THE REGIONAL BOUNDARIES DISPUTE

LEAD-IN PAPER FOR IDASA THINK TANK WORKING GROUP

26 March 1992

Laurine Platzky

Development Action Group

There would be no regional boundary disputes if people and resources were evenly distributed over a territory. But as neither the nature nor history have allowed us to live in peace happily ever after, we have to find ways of solving the complex problems of uneven development. Politically there is a strident demand for one person one vote in a unitary South Africa, precisely because the division of land and resources has been so skewed in this country. The majority of South Africans believe that if they all have a vote in an undivided country, they will have some say over how the resources in this well-endowed land are to be shared.

To redress the effects of the legacy of apartheid, the political economy has to be restructured. That restructuring has to be undertaken by newly elected and by employed agents within areas of jurisdiction that reflect the new priorities of the majority, rather than of a minority (which had invented the most sophisticated social engineering systems in the world to maintain power and privilege under its control).

However, the process of restructuring is enormously complex. It is much more complex than deciding what powers should be devolved to which levels of government, and where the boundaries should be. Hence the dispute.

Boundaries reflect political processes. They come as a result of conflict and negotiation. Think for a moment of the major redrawing of the borders in post-World War 2 Europe or the Middle East, and the various recent changes such as the unification of Germany or the splitting of Eritrea from Ethiopia.

Boundaries reflect more than political processes only because in turn, politics is about control and distribution of resources and power. So economic and social processes underlie politics and the drawing of boundaries.

Let us take a step closer to home. According to the South African Law Commission report (p60), the following criteria were taken into account in drawing up the A-H boundaries:

- ◆ most important nodes and their spheres of influence
- ◆ geographical distribution of the population
- ◆ natural resources
- ◆ existing infrastructure
- ◆ physical features and topographical features in particular
- ◆ economic activities
- ◆ statistical and political boundaries
- ◆ homogeneity as regards development needs, development potential and physical features
- ◆ functional relationships

This is a fine set of criteria. Then the politicians of the day got to work and changed the boundaries. As a result we have the nine A-J regions, rather than the eight which were originally delineated. The process going on now is similar, except that this is the "new South Africa" so we should have new criteria for future development which is accountable to the majority, rather than the more short-term criteria of reintegrating the homelands and ease of transition of administration using the 1910 provincial borders.

Looked at another way, the nine regions are not functional entities when it comes to regional development planning. To date no planning has been possible at this level. Yes, statistics have been collected and reports written, but the moment planning is undertaken, one has to drop down to a scale well below the A-J regions. When, for example, the RDAs examine 'regions', the border change depending on the nature of the problem, or the criteria used for definition.

Let us consider reversing the powerful processes of uneven development which were set in motion through the particular path that the industrial, mining and agricultural sectors have taken in this country. Let us accept the 1910 outer borders but examine carefully the internal 1910 provincial boundaries. They reflect Boer-Brit conflicts and the struggle for control of the diamond and gold fields. They had and still have little to do with the struggles of the majority of South Africans.

Rather let us look at the whole country afresh and ask what goes on in different parts to differentiate on 'region' from another. What makes Namaqualand different from the Boland, or the Natal Midlands from the

Namaqualand different from the Boland, or the Natal Midlands form the eastern Free State? In one had to ask the people who live around the country to define the regions in which they live, one would much more likely hear of 'Gold Fields' and the Lowveld rather than Region C or G. Let people define their own regions through common problems and opportunities, through where they work and shop and relax.

Development is a combination of bottom-up and top-down processes: bottom-up identification of issues and priorities plus appropriate strategies for the implementation of programmes; these must combine with the national redistribution of funds and skills to do the job in cooperation with other such areas, all doing their own version of the improvement of standards and quality of living.

Not only regional statistics on poverty or agricultural output or rainfall vary, but the ways in which people have organised the strategies they have used and the way national and international forces have impacted on them; these make for regional variation. So why not devote some energy to examining:

the historical (and current) processes leading to the present uneven distribution of people and resources and what people have done and are doing to redress that imbalance? (Even in the light of seemingly overwhelming odds, some communities have tackled problems of unemployment, crime, environmental degradation, housing and education shortages)

Also let us not ignore earlier delimitations. Maybe some of them such as the RSCs and metro areas could be adapted to serve the new majority defined development criteria, if they reflect similarity of process more than differences.

One way forward could be a regional delimitation commission that travel round the country to take evidence both from residents and 'the experts'. The results could be brought to CODESA for national debate. It is clear that at the moment there is little agreement on the powers to be devolved. Maybe taking another approach, to examine the processes going on in the regions would help focus on development issues rather than on stale federal/homeland debates.

At least let us focus strongly on development issues in the regions rather than on more nebulous concepts of bringing government closer to the people (and vice versa). There is a major advantage of operating between national and local: On one hand, unlike the national level, there is a weak history of political parties at the regional level. And on the other,

regional government could more quickly overcome the inherited local government divisions formed by Group Areas. If a more functional level than the nine/ten regions or the four provinces is adopted, a regional level of government could provide the structure to implement desperately need development policies to raise the quality of life for the majority of the future electorate.

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Conference on Reincorporation of South Africa's Homelands

FRIDAY, 1 MAY 1992

Conference Opening

18H00- 21H00 **Registration & Dinner Opening**

SATURDAY, 2 MAY 1992

Papers & Discussion

08H30 -09H15 **Welcoming Address**
Rector of the Univ. of Fort Hare

Opening Address
Dr. Govan Mbeki

09H15- 11H00 **Process of Re-incorporation**
Perspectives: Inputs by various parties
Questions & Clarification
A. Nzo - ANC Spokesperson

11H00-11H15 **TEA**

11H15-13H00 **Report by Rapporteurs-**
Identification of key discussion areas

Discussion

13H00-14H00 **LUNCH**

14H00-16H00 **S.A.T.B.V.C. States
& Interim Government**
Joel Netshitendze

Discussion

16H00-17H30 **Civil Service, Judiciary
& Security Forces**

Discussion

17H30-19H00 **Economic & Financial Implications
of Reincorporation**

Discussion

19H00 **COCKTAIL DINNER**
Hosted by Fort Hare University

SUNDAY, 3 MAY 1992

Papers & Discussion

08H30-10H00 **Constitutional Implications
of Reincorporation**

*-National
-Regional & Local*

Discussion

10H00-10H3 **TEA**

10H30-11H30 **Harmonization:
Legislation, taxation etc.**

Discussion

11H30-12H45 **Constitution-making Body & Process**

Discussion

12H45 **Conclusion**

Conference Hosts

University of Fort Hare
&
Centre for Development Studies
(University of the Western Cape)

Conference Notes



Please read the following carefully.

1. All hotel arrangements cater exclusively for accommodation. All meals will be served at the University of Fort Hare.
2. Transport leaves in the morning from the Hotels at 07H15 sharp.
3. All extra costs such as telephone calls, room service and pub facilities will be borne by the delegate.
4. In extreme emergencies the following people may be contacted:

Vuyo V Duba	Univ. Fort Hare	
Randi Erentzen	CDS	Hogsback Inn
Yusuf Gabru	CLC	Hogsback Inn
Theresa Booysen	CDS	Hogsback Inn

The following numbers may be used to contact delegates and organisers at their hotels:

Hogsback Inn	0020 ask for #6
King's Lodge Hotel	0020 ask for #24
Savoy Hotel	0435-31146
Deanes Hotel	0435-31151
