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FAX COVER SHEET

DATE : 17 JUNE 1993

TO : ANC NEGOTIATIONS COMMISSION
FAX NO: 011-3307119

ATTENTION : MADUNA/ HASSEN EBRAHIM

SUBJECT : 5TH REPORT OF TECHNICAL COMMITTEE
ON CONSTITUTIONAL ISSUES

FROM : ALBIE SACHS

TOTAL NUMBER OF PAGES (INCLUDING THIS PAGE): 2

Dear Maduna/ Hassen

I have just received the fifth report of the Technical Committee on Constitutional Issues and make the following brief and general comments.

1. **Re the Senate:**
We really must oppose having a second chamber at this stage. It will require separate voting and complicate everything at a time when we need simple structures functioning in a way that everybody can understand. There is no reason why separate votes cannot be taken in the National Assembly. On matters affecting the regions directly there could be a two-thirds majority of the regional reps required. This was agreed to long ago. If I remember correctly, the Government is bound by the Record of Understanding. This Record of Understanding did not finally exclude a Senate but it opted clearly for one round of voting for national and regional lists. It seems that the other side are reneging on this. It also seems that they are trying to make a complete and permanent parliamentary structure which can only be amended with difficulty. One of the problems is that we have not thought the matter through. The whole question of regions, the Senate, the voting system and the role of the Constitutional Court will have to be seen as a whole. It would be a great mistake to tackle to question in an improvised, bits and pieces way.
2. With regard to the Executive, the report does not bring out sharply that the main problem is how decisions should be made. I personally feel we should explore the idea of a broad programme of reconstruction, transformation and reconciliation being agreed to in advance, and then perhaps revised on an annual basis, according to some agreed procedure (for example, a 60 percent majority in Parliament). The cabinet would then function on the basis of informed debate and discussion like any cabinet within the framework of the agreed programme. It would be disastrous if every decision about every detail of government became the basis for bitter disputes starting in the cabinet and leaking out to the general public.

3. We must insist on a proper Constitutional Court that comes into being with the new dispensation and that is seen as part of the new democratic South Africa. The Constitutional Court could form the apex of the existing court structure and could include members of the existing judiciary. It is vital that if such a court in future upholds the constitution whether for or against the government at that time, it be seen to reflect the judicial wisdom and life experiences of all South Africans and not just one group. It is also important to be able to draw on distinguished law professors, persons who have refused to go on to the Bench and distinguished judges with a human rights sensitivity, who are not in the Appellate Division. I feel we must be quite insistent on the special position of a special Constitutional Court, making it clear that the procedures for choosing its members must be consistent with international experience and designed to give the broad sense of confidence that the South African public as a whole would want.

Yours

Albie

African National Congress

5, Vicini Street
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NEGOTIATIONS COMMISSION

TO : Constitutional Committee

FROM : HASEN EBRAHIM
(Administrator)

Contact Dullah.
HOLIDAY INN GARDEN COURT

DATE : October 15, 1993

SUBJECT: NATIONAL NEGOTIATIONS CONSULTATIVE FORUM

Kindly be advised that the next forum will take place on the 23rd and 24th October 1993, in Johannesburg. The venue will be Garden Court Hotel.

Kindly send two representatives to this meeting.

The People Shall Govern!



AFRICAN NATIONAL CONGRESS

Negotiations Commission

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51 Plain Street, Johannesburg

Fax Cover Sheet

Att: ALBIE SACHS & KADER ASMAL

Fax no.: _____

From: HASSEN EBRAHIM

Date: 14/06/93.

Sending 20 pages, incl. cover

Message: Herewith a copy of the Tech. Committee

Report on Fundamental Rights.

1. Please peruse, and
2. Communicate your comments
to Zac Yacoob directly, and
3. Forward your memorandum
to us by tomorrow.- Please.

fax - 031.
306 8429

Regards + Thanks.

100 31 45 1 350 1111 011 1117

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MEMORANDUM

To : Professor Albert Sachs

From : P. Maduna
Secretariat, Negotiations Commissions

Date : 30 January 1992.

The Negotiations Commission has scheduled a meeting for all the ANC teams on the CODESA Working Groups for Wednesday 05/02/92 at 14h00. The meeting, which is to finalise preparations for the meetings of the CODESA Working Groups which commence on the following day, will be held at the ANC HQ. Your attendance will be highly appreciated.

Kindly make your travel arrangements with Club Travel,
Tel: (021) 439-9062, Fax: (021) 439 0701.

make bookings

Regards

Legal Resources Centre

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FAX TO: A - N - C
 FAX NO: _____ PAGE: 1 OF: 17
 ATTENTION OF: V. MOOSA (NEGOTIATIONS)
 FROM: ARTHUR CHASKALSON DATE: 11/01/93
 COMPANY: L. R. C.
 FAX NO: 836-8680 Post-it Note from 3M

Your Reference

AC/MS

11 January 1993

Negotiations Commission,
Johannesburg

Fax No. 330-7119

Valli Moosa
Attention: ~~ARTHUR CHASKALSON~~

Dear Hassan,

I enclose a first draft of a Legislative Framework for a Transitional Executive Council. It could be a chapter of the Transition to Democracy Act, or could be enacted independently. In either event, provision will have to be made for legislation dealing with the Independent Election Commission and the Independent Media Commission.

The draft can serve as the basis for the discussion on Tuesday. It may be necessary to add more details, and to refine the language. We should consider on Tuesday where the draft needs to be strengthened, what new provisions are necessary, and what changes in language would be appropriate.

Two points which need to be discussed are:

1. How will the budget for the Transitional Executive Council and its sub-councils be fixed?
2. What type of infrastructure will be necessary in regard to offices, motor vehicles, equipment and staff, and from a practical point of view, how will these decisions be made and paid for.

Yours sincerely,

Arthur Chaskalson
Arthur Chaskalson.

National Office: A Chaskalson (National Director) G M Budlender (Deputy National Director) C Cilliers (Consultant) F N Konrads D B Reid
 At Cape Town: W R Karlsen (Director) L J Borzak A Andrews S P Kahanovitz Y S Meer W A Ngqo H J Smith M L Walton
 At Durban: R M Lytster (Director) M A Mkhledle R J Purshotam P Ruzoh M Vamey
 At Grahamstown: C M Pooket (Director) G Bloom P R Hathorn
 At Johannesburg: M B Neves (Director) T A Bailey M R Chetty S J Francis D N Gelewa/Ruys M M Hathorn I. Modise N D B Orlov M M Segal D R Terblanche
 At Port Elizabeth: D F Miles (Director) Y J Brereton L. Lupondwana (Botswana) S Moodlar J W Pienaar
 At Pretoria: H N Vally (Director) D Gillilan C P Kimble M B Monama The Man J J Tengeve C C (Consultant)