



ANC

Negotiations Bulletin

Number 35

18 August, 1993

Focus on the Transitional Executive Council (TEC)

The Technical Committee on the Transitional Executive Authority (TEC) has produced a report in the form of a draft Bill. This report is being discussed in the Negotiating Council.

The Bill upon agreement will be placed before the Tricameral Parliament when it reconvenes in September to be passed.

A summary of the report is as follows:-

Objects of the TEC

The objects of the Council shall be to promote the preparation for a transition to a democratic order in South Africa by -

1. Creating and promoting a climate for free political participation by endeavouring to:-
 - * eliminate any obstacle to legitimate political activities;
 - * eliminate any form of intimidation;
 - * ensure that all political parties are free to canvass support from voters, to organise and hold meetings and to have access to all voters;
 - * ensure that no Government or administration exercises any of its powers in such a way so as to advantage or prejudice any political party;
2. Creating and promoting conditions conducive to the holding of free and fair elections;
3. Performing such functions as may be assigned to it.

Constitution of Council

Each Government, party or organisation which is represented in the Multi-Party Negotiations Process and -

- * commits itself to the objects of the Council;
- * undertakes to be bound by and to implement the decisions of the Council; and
- * renounces violence as a means of achieving political objects;

Contents

- * *Objects of the TEC;*
- * *Constitution of the Council;*
- * *General Powers of the Council;*
- * *Sub Councils*
 - *Constitution of the Sub Councils;*
 - *General Powers of the Sub Councils;*
- * *Regional and Local Government;*
- * *Law and Order, Stability & Security;*
- * *Defence*
 - *National Peacekeeping force*
- * *Finance*
- * *Foreign Affairs*
- * *Status of Women*
- * *General*
- * *The Way Forward*

shall be a participant in the Council and be entitled to be represented by one member on the Council.

General Powers of Council

The Council shall, for purposes of achieving its objects, have the power to:-

- * request and obtain all such information, including records, as may be necessary;
- * direct a sub council to enquire into and to advise the Council on any matter in connection with the functions of the Council;
- * initiate or participate in negotiations relating to its functions and objects;

The Council may delegate to a Sub Council any of its powers, but it shall not be divested of a power so delegated.

Sub councils

Provision has been made for the establishment of the following Sub Councils:-

- * Regional and Local Government;
- * Law and Order, Stability and Security;
- * Defence;
- * Finance;
- * Foreign Affairs;
- * Status of Women.

Constitution of Sub councils

- * The members of Sub Councils shall be appointed by the Council;
- * Each Sub Council shall not exceed 6 and shall not be restricted to members of the Council;
- * No party, government or organisation shall have more than one representative on a particular Sub Council.

General Powers of Sub Councils

The sub councils shall have the power to -

- * request and obtain all such information

including records as may be necessary for the purpose of performing its functions;

- * initiate or participate in negotiations relating to its functions and objects;
- * appoint a person or body to investigate any matter relating to the Council's functions.

The powers and duties in regard to the various sub councils are as follows:-

Regional and Local Government

- * To acquaint itself with and monitor developments, policy objectives and targets in relation to regional and local government for the period of the transition;
- * To propose amendment, repeal or enactment of legislation, including subordinate legislation;
- * To promote the objects of the Council in regard to regional and local government elections and to educate the public on the electoral processes;
- * To liaise with all organisations and structures, including the Local Government Negotiating Forum, Regional Governments, the Electrification Forum, the National Peace Secretariat, Demarcation Boards or Commissions, the Independent Electoral Commission and the National Housing Forum;
- * To be advised of and make proposals regarding -
 - regional and local government budgets,
 - powers, duties and functions, and
 - restructuring and rationalisation of regional and local government administrations,
 - interim local government structures, and
 - the demarcation of boundaries;
- * To monitor, make recommendations and render assistance, where practical, regarding the collapse of services and shortfall of finances in local government;
- * To request and obtain information regarding the disposal of provincial, regional and local government assets and intended loans by any local government;
- * To make recommendations on legislative and executive measures which may affect traditional leaders and free and fair political participation in the areas of

traditional leaders.

Law and Order

- To establish a national inspectorate comprised of policemen and policewomen or other persons to investigate and monitor all policing agencies;
- To establish a national independent complaints mechanism under the control of a civilian, which shall be tasked with the receipt and investigation of complaints lodged by members of the public concerning alleged police misconduct;
- to request and obtain any information or crime intelligence reports compiled by any policing agency;
- to establish a committee of local experts or including international experts to evaluate or monitor any police action, conduct or reform which relates to the objects of the Council;
- to call for a report on and evaluate the impact of any steps taken by any policing agency to prevent political violence;
- to recommend steps to improve the effectiveness of and community co-operation with policing agencies;
- to receive all recommendations of the Police Board;
- to make recommendations regarding effective and co-ordinated control of policing agencies;
- A Minister who has the authority to declare a state of emergency or an unrest area and to promulgate emergency regulations, shall only do so in consultation with the Sub Council on Law and Order.

Defence

- To be kept informed by each military force regarding the planning, preparation and execution of any action by such military force;
- To be kept informed by any Government or administration of any proposed legislation and internal directive or regulations regarding the conduct and deployment of any military force;
- To investigate through an independent body any member or unit of a military force which may be in breach of any code of conduct or disciplinary code;

- To recommend appropriate disciplinary or criminal proceedings and order, in consultation with the commander of the military force concerned, the confinement or suspension, on full pay, of any member or members of the military force concerned pending such proceedings;
- To formulate and monitor the application and implementation of a code of conduct which shall be made binding on all members of all military forces;
- To undertake or commission research into relevant matter including the parliamentary control, composition, manpower policy, organisation and executive command of a future South African Defence Force, the policy towards unofficial military and para-military organisations, and, the future of the arms and related matters;
- To oversee any planning, preparation and training of a future defence force;
- To establish a co-ordinating council comprised of the commanders or such other persons appointed by the commanders of each military force which will be tasked with liaising with the structures of all military forces;
- To budget for and receive resources for the daily maintenance and administration of all non-governmental military forces which are governed by and accept the supervision of the Council;
- A defence force may be deployed, with the approval of the appropriate Minister or Commander, in crime prevention and peacekeeping operations under specific conditions and in terms of regulations specifically promulgated by the Sub Council;

National Peacekeeping Force

- The Sub Council on Defence shall establish monitoring mechanisms to ensure that its directives are complied with and that the activities of any military force have no negative impact on the creation of the conditions for free and fair elections and may further establish any mechanism to ensure appropriate interaction between itself, the various military forces, the National Peacekeeping Force (NPF), policing agencies and any other relevant agency at national, regional or local level;
- The Sub Council on Defence shall have the necessary responsibility to ensure the safekeeping, the audit and effective supervision of the arms and, the identification of the personnel of any military forces;

- The Sub Council shall budget for an be allocated the necessary resources to establish and maintain the NPF which force shall be comprised of elements of all military forces and policing agencies which fall under the authority and control of the participants in the Council which wish to contribute to such force.
- The Sub Council shall for these purposes establish a NPF Command Centre comprised of representatives of all the military forces and policing agencies which participate in the NPF;
- The Sub Council, in consultation with the NPF Command Centre, shall be responsible for the training, recruitment, philosophy, control over and discipline of the NPF.
- The SADF shall be responsible for supplying the NPF with the necessary agreed upon uniforms, transport, accommodation, equipment and logistical support.

Finance

- To be informed of recent economic developments, economic policy objectives and targets for the medium-term and more particularly, for the fiscal year of (1994/1995);
- To be represented on all function and budgeting committees with a view to ensuring that funds are not applied in a manner favouring one or other political party;
- To approve any measures designed to rationalise Treasury functions in the process of realignment of governmental structures during the transition;
- To advise the relevant departments concerning the privatisation or tendering out of functions currently performed by relevant departments of state;
- To investigate or require the investigation of allegations of general or specific corruption and inefficiency;
- To make recommendations regarding the prevention of wasteful expenditure;
- To monitor any expenditure of public funds;
- The views of the Sub Council shall, in the course of the preparation of the 1994/1995 government budgets, be taken into account;
- The Sub Council shall be informed of the creation of any new post in the public service of any government, of the filling of

vacant posts and of any deviation from the rules and regulations applicable to retirement;

- The Sub Council shall be provided with all details concerning any new international financial agreement which is being negotiated.

Foreign Affairs

The Sub Council shall liaise, monitor, make recommendations and, where it consider it necessary, assist with a view to:

- achieving progressively the broadest possible consensus on matters affecting international interests;
- securing appropriate agreements with the international community regarding the contribution to a peaceful transition to democracy;
- securing international assistance to address socio-economic needs of the people;
- promoting such international relations including trade, finance, culture and sports relations to the benefit of the country.

Status of Women

The focus of the powers and duties of this Sub Council is to ensure the full and equal participation of women in the preparation for the implementation of and the transition to a free and democratic order in South Africa, at national, regional and local levels.

General

- Decisions in the Council shall be taken by consensus. Should no consensus be possible, a majority of 80% would be necessary.
- Where there is a dispute in the Council, the matter shall be referred to the Election Adjudication Directorate with the right of a final appeal to the Independent Electoral Commission.

The Way Forward

The matter is presently being debated in the Negotiating Council. A final agreement is expected shortly. This will be reported in due course.