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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

Our Reference AC/ma

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.

National Office: A Chaskalson S C (National Director) G M Budender (Deputy National Director) C Cilliers (Consultant) P N Kontridgs D B Reid
 At Cape Town: W R Kerfoot(Director) L J Bozalek A Andrews S P Kahanovitz Y S Meer W A Mgeof H J Smith M L Walton
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 At Grahamstown: C M Peckel (Director) G Bloem P R Hathorn
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 At Port Elizabeth: D F Nias (Director) V J Brereton L Lupondwana (Botswana) S Moodlar J W Penser
 At Pretoria: H N Vally (Director) D Giffilan C P Kimble M B Monama The Men J J Tregrove O C (Consultant)

Draft/3
11 January 1993

LEGISLATIVE FRAMEWORK FOR A TRANSITIONAL EXECUTIVE COUNCIL

1. **A Transitional Executive Council shall be constituted with executive powers for the following purposes:**
 - (i) **to prepare for and to facilitate the transition to a democratic order in South Africa;**
 - (ii) **to endeavour to create a climate favourable to free political participation in which there will be no intimidation, and political parties and organisations will as far as practicable be placed on an equal footing with each other;**
 - (iii) **to promote conditions conducive to the holding of free and fair elections in accordance with the provisions of (the Transition to Democracy Act).**

2. **(a) Notwithstanding the provisions of any other law, executive authority, including discretions vested in the State President, Ministers or any other person by any law, which may have an impact on any of the purposes referred to in section 1, and which relate to -**
 - (i) **regional and local government;**
 - (ii) **law, order, stability and security;**

(iv) any aspect of finance referred to in section ;

(v) any other matter assigned to the Transitional Executive Council by the State President;

shall be exercised by the State President, Minister or person vested with such authority or discretion, jointly with the Transitional Executive Council, or if such function has been delegated by the Transitional Executive Council to a sub-council, jointly with such sub-council.

(b) All Proclamations, regulations and government notices dealing with matters referred to in sub-section (a) shall be signed by the State President, Minister or other person concern, and countersigned by a member of the Transitional Executive council.

3. In addition to the executive power referred to in section 2, and the other powers referred to in this Act, the Transitional Executive Council will have the following powers:

(a) to request information from, and to have access to all records of, any government, administration or participant in the Transitional Executive Council, insofar as such information or access to such record, is reasonably required by it for the purpose of exercising its functions;

(b) to delegate the exercise of any of its powers and functions to its sub-councils;

- (c) to receive reports from and to confirm or amend decisions made by any of its sub-councils;
 - (d) to initiate or participate in negotiations with any government, administration, persons or bodies of persons in relation to any matter which in its opinion may be relevant to any of the purposes referred to in section 1;
 - (e) any other power reasonably needed by it to enable it to achieve its purposes and to carry out its functions.
- 4.
- (a) The Transitional Executive Council will be kept informed of, and will be provided with copies of all proposed legislation, including proclamations, bills and regulations of governments or administrations that may be relevant to the purposes referred to in section 1.
 - (b) If the Transitional Executive Council has reason to believe that any proposed legislation, including bills, proclamations, or regulations, will have an adverse impact upon any of the purposes referred to in section 1, and that the achievement of such purpose would be facilitated if such legislation were not to be enacted, it may, after taking into account the necessity for such legislation, require the government or administration concerned not to proceed therewith.
 - (c) If the government or administration concerned is of the opinion that the proposed legislation will not have such adverse impact, or that the necessity for the proposed legislation in its area of application outweighs its adverse impact, the question whether the legislation

should be enacted or not, may be referred by such government or administration to the Independent Election Commission for a decision upon this issue.

- (d) A decision by the Independent Election Commission on a matter referred to it in terms of sub-section (c) shall be final and binding, and shall not be subject to appeal or review in any court of law.
5. (a) The Transitional Executive Council will be kept informed of, and will be entitled to ask for and to receive, information in regard to proposed executive actions by any government or administration, or contemplated actions on the part of any other participant in the Transitional Executive Council, that may have an impact on any of the matters referred to in section 1.
- (b) If the Transitional Executive Council has reason to believe that the implementation of such executive or other action will have an adverse impact upon the purposes referred to in section 1, and that the achievement of such purposes would be facilitated if such action were not to be taken, it may, after taking into account the necessity for such action as far as such government, administration or participant is concerned, require the government, administration or participant not to proceed therewith.