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CONSULTATIVE BUSINESS MOVEMENT
 KONSULTATIEWE SAKEBEWEGING

Dear CBM Member

AIDE MEMOIRE ON CONSTITUTIONAL NEGOTIATIONS

June 25th has been set as the target date for a package of agreements to be formally accepted and embraced as the foundation for the appointment of the Transitional Executive Council (TEC). The Multi Party Negotiation Process (MPNP) is also due to decide on June 15th on a date for the election, *provisionally* set for April 27 1994. What are the prospects for an *inclusive* agreement?

CBM's recent "shuttle diplomacy" efforts geared towards encouraging quick movement towards an inclusive agreement in the interest of the economy and the country has given some significant insight into these prospects. CBM met with the ANC, COSAG (including CP, IFP, AW and the Ciskei, Bop, KwaZulu and QwaQwa governments), DP and Government in the course of last week. Several pointers are identifiable from these talks, as confirmed by developments in the MPNP, as follows:

- The fundamental difference on the *mode of transition* (between the ANC/Govt on the one hand who argued the constitution should be drafted by an elected Constitution Making Body (CMB), and the COSAG groupings on the other who have proposed that the constitution is written at the MPNP and put to the nation in the form of a referendum) could be bridged by the compromise resolution passed this week (with reservation from some parties) by the Negotiation Council. This resolution envisages agreements at the MPNP on:
 - * Constitutional principles
 - * Allocation of powers to different levels of Government
 - * A transitional Constitution drafted in accordance with these constitutional principles, allocation of powers, a set of justiciable fundamental rights and procedures for the drafting and adoption of a constitution by an *elected* CMB.

The whole of next week will be devoted to technical committees working out detailed proposals on the above, leading to meetings of the Negotiating Council from June 15th until the Negotiating Forum meets on June 25th.

- Whether the IFP accepts the package which emerges will be critical. This *olive branch* resolution hopefully provides the basis for them to do so. It stretches, in particular, the ANC's negotiating mandate to its limit, as the ANC by endorsing the above resolution has agreed to both a transitional constitution and the negotiation of regional government by the MPNP. The technical committee on Constitutional matters has in its report to the Negotiation Council practically embraced all the proposals on the powers and functions of regions emerging from the CBM facilitated Constitutional Options document. It appears that when the resolution was taken back to principals for discussion, concerns were raised in the COSAG camp.

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COSAG = Homebased S.A. Group: Inkatha, Bop, Ciskei etc + Right U

These concerns made the question of an election date difficult to resolve. The need to encourage parties and the IFP in particular to stay on board and to "go with the compromise" in the next weeks will be paramount.

- Constituency pressures on all parties make it imperative that forward movement is tangible, lest the process lose credibility. This is therefore, the last chance for an inclusive settlement. After June 25 preparations for elections will begin in earnest.

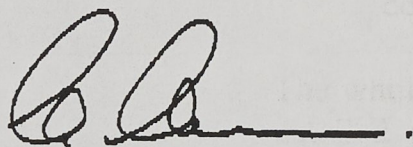
In sum, CBM's talks may have helped to win more time for an inclusive agreement. But June 25th will, in all likelihood, be the last opportunity for an inclusive and binding agreement to be reached on a package including constitutional principles, detailed framework of regional and central government powers, the TEC and its related Independent Electoral Commission and an election date. The package under consideration, we believe, does provide sufficient security for minorities while protecting the sovereignty of the Constitution Making Body. Parliament, which is due to close end June, would pass enabling legislation on these matters before closing. While the process has taken a positive turn, in the balance hangs the preparedness of elements of the COSAG group accepting this process. With the IFP the key to this group, their decisions in the next weeks could determine a smooth or bumpy road forward.

Hopefully, all parties, including the IFP, ANC and Government, will go into the election contesting each other through the ballot box rather than fighting the legitimacy of that election.

CBM will continue to facilitate tangible movement in the negotiations where required.

The challenge of supporting a free and fair election will follow closely on these agreements emerging from the MPNP. This will be part and parcel of our attempts to display confidence in South Africa's political and economic future.

Kind regards



COLIN COLEMAN
ACTING EXECUTIVE DIRECTOR

4 June 1993