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ANC

Negotiations Bulletin

Number - 20 9th February 1993

INTRODUCTION

The ANC held a series of bilateral meetings with the NP regime between 20 January and 4 February 1993. Most issues discussed are not yet resolved and the meetings will continue over the next one or two weeks.

This Bulletin provides an *interim* report of the issues under discussion, the ANC's positions on these issues as well as certain proposals that have been made. These proposals are not agreements but were drawn up for consideration and further discussion.

The discussions were divided into two parts. The first part dealt with matters relating to security and violence.

The second part dealt with the following issues relating to the transition:

- Elections
- Media
- Regional and local government
- IBVC states
- Transitional Constitution

**PART I:
SECURITY AND
VIOLENCE**

1. EVALUATION OF THE CURRENT SECURITY SITUATION

The ANC's perspective on violence

The ANC stated that we see the underlying causes of violence as both political and economic and a direct consequence of apartheid. Solving the violence therefore depends on a speedy democratic settlement. In the immediate term this means urgent agreement must be reached on a transitional government authority, i.e. the Transitional Executive Council (TEC) and its sub committees dealing with Law and Order and Security and Defence.

The ANC raised concern over the role of the security forces in the on going violence. In particular, concern was expressed about the bias of the security forces towards parties like the IFP and the poor relationship between the police and the community. The ANC's efforts to improve the security situation - for example the recent ANC/IFP and ANC/Bop talks - were outlined to the meeting.

**SECURITY AND
VIOLENCE
(continued)**

2. EXISTING BILATERAL AND MULTILATERAL AGREEMENTS

Many agreements not implemented

The ANC raised the problem that a large number of bilateral and multilateral agreements have still not been implemented:

- a) A number of agreements in the National Peace Accord
- b) The Record of Understanding agreements relating to dangerous weapons, covert operations and hostels
- c) Agreements made in the Codasa Working Group 1 which deal with improving the negative perceptions of the police

Implementation of agreements must be strengthened

The ANC also called for:

- a) The recommendations of the Goldstone Commission to be enforced. The ANC made various proposals for how to do this.
- b) Better ways of enforcing the Code of Conduct in the National Peace Accord.
- c) A progress report on matters concerning the hostels that were agreed to in the Record of Understanding.

3. CODE OF CONDUCT FOR POLITICAL PARTIES AND ORGANISATIONS

There was a lot of discussion about the Code of Conduct itself. A sub-committee was established to look into ways of strengthening the National Peace Accord and the Code of Conduct.

Liberation movement status

The NP regime questioned the ANC's status as a liberation movement and wanted to know when the ANC would become a political party. In response, the ANC outlined its historical development and strategies and goals as a liberation movement and confirmed that it would not change its status until a new constitution is adopted.

4. ARMED FORMATIONS

The NP regime expressed concern that a large number of MK cadres have been involved in violent incidents, since the signing of the Pretoria Minute. They claim that the continued existence of MK has caused the greater activity among right-wing paramilitary groups and the formation of new ones.

NP proposal for controls over MK

The regime proposed that controls over MK and the integration of MK into the security forces should take place in two separate phases. Controls over MK such as controls over cadres, weapons and ending recruitment - should be implemented before a TEC is established. These controls would be the result of a bilateral agreement. The second phase would involve the accommodation of cadres within the security forces, on the basis of a multi-party process.

ANC response: All armed formations must be included

The ANC responded to the proposal by stating that whatever measures are taken relating to MK should apply to all armed formations including the SADF, SAP and the defence forces of the TBVC states.

SECURITY AND VIOLENCE (continued)

as audited lists of personnel and weapons could then be in place before the TEC begins to operate. According to the ANC proposal, the TEC would then establish joint control over all the security forces. The formation of a new and integrated structure of security forces would take place after democratic elections, during the Interim Government phase.

Recent arrests of alleged MK cadres

The arrest on 1 February of three people alleged to be MK members in connection with smuggling arms through Swaziland, led the regime to further stress control over MK. The ANC gave an undertaking that neither the NEC nor the command structures of MK are involved in any decisions to infiltrate arms. The ANC also undertook to investigate the matter and inform the regime of its findings.

However, in general, the ANC also stated that a solution to the problems raised by the NP, lies in speedy progress towards the TEC and democratic elections

PART 2: ISSUES RELATED TO THE TRANSITION

1. ELECTIONS

Proposals for an Independent Electoral Commission (IEC)

Arising from the bilateral meetings, proposals concerning an Independent Electoral Commission (IEC) to facilitate democratic elections have been drawn up for further discussion. It is suggested that the IEC be composed of a small number of full-time people (no more than 11). Political parties will not be represented on the IEC.

The IEC and its terms of reference will be established by the Electoral Act. One of the first tasks of a multi-party forum is to draw up such electoral law and to nominate candidates for the IEC.

Terms of Reference of the IEC

Adjudicate disputes

The proposal outlines that the IEC will act as adjudicator and arbitrator on matters related to the elections that are referred to it by political parties, organisations, the general public and/or the TEC. This means that the IEC will have the power to pass judgements and decide on election-related issues that are in dispute between different parties.

Monitor the elections

The IEC will monitor the election process to ensure that elections are free and fair. In doing this, it can make use of local and international observers. It will announce whether the elections were free and fair.

Run the elections

The IEC will have responsibility for administering and conducting the elections and will be able to make use of the most knowledgeable, experienced, professional and effective person and organisations to facilitate the process.

It was proposed that the above are accepted as the terms of reference for the IEC. Below is a more detailed list of the possible functions that would fall to the IEC.

continued

- be made to the citizenship laws
- To comment on electoral legislation
- To arbitrate or decide over claims or disputes submitted to it
- To ensure fair and reasonable access to broadcasting by all parties
- To determine and supervise campaign funds and election expenditure
- To make rules and regulations concerning political advertising
- To educate the public about the electoral process through voter education programmes using radio, television and other means
- To formulate a Code of Conduct for political parties, that all parties commit themselves to
- To investigate breaches of the Code of Conduct, complaints of electoral irregularities, and complaints concerning access to venues, to voters or about intimidation.
- To regulate the registration of parties
- To take steps to prevent intimidation
- To appoint staff, set up offices and administer and account for its budget which will be provided for

MEDIA

A new Board for the SABC

Agreement was reached on the process to appoint a new SABC Board by 31 March. It was agreed that the process must be transparent and participatory and independent of the government.

Independent Media Commission (IMC)

As outlined in the Codesa II agreements, the function of the IMC will be to monitor the media during the period of the IEC. The regime proposed that discussion around the IMC be postponed since they had not yet formulated their proposals. No discussion took place.

Independent Telecommunications Authority

It was agreed that the Codesa agreement is a sufficient basis to draft new legislation concerning access to broadcasting frequencies.

THE FUTURE OF THE TBVC STATES

Reincorporation of the TBVC states

It was agreed - in keeping with Codesa II - that the TBVC states should be reincorporated and thus should participate in the transitional arrangements, including the TEC arrangements and elections. Participation by the people of the TBVC states in the national election will be arranged in such a way that their votes will also indicate whether they support or reject reincorporation. Once this has been tested, full reincorporation will take place after the national election, and South African citizenship will be restored to all who lost it due to the homelands system.

Bophuthatswana and non-reincorporation

At Codesa II, the Bophuthatswana Government indicated their opposition to reincorporation. The bilateral meeting looked both at the effects of reincorporation and those of non-reincorporation. Non-reincorporation by Bophuthatswana could lead a future South African government to review the numerous existing agreements between the two governments and have serious consequences for Bophuthatswana.

CONSTITUENT ASSEMBLY & INTERIM GOVERNMENT

The following issues are under discussion:

- Composition of the Constituent Assembly
- Decision-making in the Constituent Assembly
- Time frames for the Constituent Assembly
- Deadlock-breaking mechanisms
- Constitutional Principles
- The Transition to Democracy Act/Transitional Constitution
- Composition and structure/s of the Interim Government of National Unity
- Decision-making in the Interim Government of National Unity
- Time frames for the Interim Government of National Unity
- Role of Government during the transition

SECURITY AND VIOLENCE (continued)

A moratorium or stop to recruitment for all armed formations as well as audited lists of personnel and weapons could then be in place before the TEC begins to operate. According to the ANC proposal, the TEC would then establish joint control over all the security forces. The formation of a new and integrated structure of security forces would take place after democratic elections, during the Interim Government phase.

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ELECTIONS continued

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- To arbitrate or decide over claims or disputes submitted to it
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- Time frames for the Interim Government of National Unity
- Regime of Government during the transition