

SUBMISSION ON TRANSITIONAL ARRANGEMENTS

1. On 23 March 1992 Proposals for Transitional Arrangements were submitted. It was indicated that proposals for a transitional constitution would be made available in the form of draft legislation towards the end of April. Furthermore proposals for arrangements for the preparatory phase were tabled for negotiation and it was said that a draft bill thereon would be presented for discussion of the details.
2. Such draft is now attached in a document under the heading "*Framework for Legislation on the Establishment of Preparatory Councils*". The Councils have been renamed so as better to describe their functions. In the preparation of the document, the discussions of the proposals on 23 and 24 March 1992 were taken into account. It is a framework because the result of the negotiations will have to be redrafted into a technically correct form.
3. The bill has a preamble and 6 clauses:

Preamble: A general description of the aims of the bill and of the functions of the proposed Councils.

Clause 1:

It is proposed that five Preparatory Councils be established initially. In addition to the four originally mentioned, a Preparatory Council for Housing and Urbanisation is proposed. Many other factors obstructing the reform process and relationships can be traced back to problems in the area of housing and urbanisation. Provision is made for the establishment of further councils by way of proclamation.

Every Council has seven members of whom six are nominated by CODESA and one appointed by the Government securing continuous linkage with the Cabinet.

The total membership of all Councils is limited to 30. Thus the Joint Preparatory Council referred to in sub-clause (9) will have thirty members.

Provision is made for the remuneration of members of Preparatory Councils. It is proposed that CODESA should make recommendations in this regard.

The permanent or temporary substitution of members is provided for.

A Preparatory Council can adopt resolutions and can itself decide on matters of procedure and chairmanship.

Clauses 2 to 5:

The functions of the five proposed Councils are described in broad terms. Detail was avoided as in the enumeration of items vital aspects are often inadvertently omitted.

3. Progress in the negotiation of transitional arrangements is of necessity dependent on progress made towards the creation of a climate for free political participation being the assignment of Working Group 1. These terms of reference for Working Group 1 were to address issues such as political intimidation, the termination of use of military and/or violent means, or the threat thereof for promoting the objectives or views of a political party or organisation and the successful implementation of the National Peace Accord. The National Peace Accord in particular forbids private armies. What transitional structures should look like, who should participate in these and what their functions should be, are

some of the issues directly related to the level of political violence and intimidation and the state of the climate for free political participation.

4. Dates have been decided upon for CODESA to meet in plenary session for a second time. CODESA 2 is scheduled for 15 and 16 May 1992. In the meantime very little if any progress has been made towards attaining the goals of Working Group 1 in regard to the level of political violence and a climate for free political participation, whereas progress towards a solution of problems relating to bilateral agreements, *inter alia* those in the Pretoria Minute and the D F Malan Accord has been most disappointing. The matters are not raised for discussion in Working Group 3, but the Government delegation wishes to state that meaningful discussions on transitional arrangements are becoming difficult because of the lack of satisfactory progress being made regarding the issues concerned.
5. Preparatory Councils for Law and Order and for Defence were also mentioned in our original proposals. These are vital areas to be dealt with but the institution of such councils can also only be negotiated in tandem with progress made in Working Group 1 and bilaterally. It is very difficult to foresee the successful negotiation of such councils while participating parties are still committed to armed action.
6. We are all anxious to proceed as fast as possible on the road towards a new democratic constitution. It is sincerely hoped that solutions will be found in Working Group 1 and bilaterally to ensure that progress is not retarded.

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FRAMEWORK FOR LEGISLATION ON THE ESTABLISHMENT OF PREPARATORY COUNCILS

To provide for the establishment and functions of Preparatory Councils to do planning and preparation for the implementation of a transitional constitution.

ESTABLISHMENT AND COMPOSITION OF PREPARATORY COUNCILS

1. (1) The following Preparatory Councils composed of seven members each, six of whom are designated by the Management Committee of CODESA and appointed by the State President, and one member appointed by the State President as representative of the Government of the Republic of South Africa, are hereby established:
 - (a) The Preparatory Council for Elections
 - (b) The Preparatory Council for Regional Government
 - (c) The Preparatory Council for Local Government
 - (d) The Preparatory Council for Government Finances
 - (e) The Preparatory Council for Housing and Urbanization
- (2) The State President may establish further Preparatory Councils and determine their functions by proclamation in the *Government Gazette* at the request of the Management Committee of CODESA or of a Joint Preparatory Council referred to in sub-section (9) of this section.
- (3) A person may be appointed as a member of more than one Preparatory Council and at no time may the number of persons who are members of Preparatory Councils, exceed thirty.

- (4) A person who is a Minister or Deputy Minister in the South African Government or the Government of a Selfgoverning Territory or a member of the Executive Council of a Province, may also be appointed as a member of a Preparatory Council.
- (5) On the recommendation of the Management Committee of CODESA or of the Preparatory Council involved, the State President may terminate the appointment of any member of any Preparatory Council and appoint someone else in his place. The State President may appoint a member of another Preparatory Council in the same manner to act for a member of a Preparatory Council who is temporarily indisposed or who is for any other reason not able to attend meetings of that Preparatory Council.
- (6) A Preparatory Council may adopt resolutions by consensus among all its members concerning any matter relating to its activities, and decide itself on matters such as chairmanship and procedure.
- (7) A Preparatory Council must initiate and co-ordinate such negotiations as may in its judgment be necessary for the purposes of its activities.
- (8) Two or more of all the Preparatory Councils may meet together to discuss matters of common interest or of interest to any specific Preparatory Council or in general concerning the transitional process towards a new democratic constitution.
- (9) When all Preparatory Councils meet together, that body is known as the Joint Preparatory Council.
- (10) Members of Preparatory Councils receive the remuneration and benefits that the State President, acting on the advice of the Management Committee of CODESA, may determine by regulation.
- (11) A person who is a member of more than one Preparatory Council, is for the purposes of sub-section (10) of this section considered to be a member of only one and a person who holds an office referred to in sub-section (4) of this section, is not entitled to receive remuneration or benefits in respect of such an office and of his membership of a Preparatory Council.

PREPARATORY COUNCIL FOR ELECTIONS

2. The Preparatory Council for Elections must plan and make preparations for elections to take place in terms of a transitional constitution and to ensure that such elections will be free and fair.

PREPARATORY COUNCIL FOR REGIONAL GOVERNMENT

3. (1) The Preparatory Council for Regional Government must, having regard to existing provincial boundaries as well as political, geographic, demographic and economic determinants and after consulting existing authorities as well as informed persons and institutions, formulate resolutions on the delimitation of the territory of the Republic in as many provinces or federal component states as may be politically and economically justifiable.
- (2) Furthermore the Council must, having regard to the proposed boundaries of provinces or component states as intended in sub-section (1), the boundaries of local government areas as well as geographic, demographic and economic determinants and after consulting existing authorities as well as informed persons and institutions, formulate resolutions on the delimitation of every proposed province or component state into constituencies for the purposes of the composition of national structures of government in such a manner that no constituency will fall in more than one province or component state.
- (3) The consent of existing government institutions is a prerequisite for the implementation of resolutions that may be applicable to them.

PREPARATORY COUNCIL FOR LOCAL GOVERNMENT

4. The Preparatory Council for Local Government must, taking provincial and constituent state boundaries that may be proposed by the Preparatory Council for Regional Government and of the boundaries of existing local government areas as well as the geographic, demographic and economic determinants into account and after consulting existing government institutions as well as informed persons and institutions, formulate resolutions on the delimitation of local government

areas in such a manner that no local government area falls in more than one province or constituent state.

PREPARATORY COUNCIL FOR GOVERNMENT FINANCES

5. The Preparatory Council for Government Finances must undertake planning and preparation concerning the conduct of government finances in a transitional dispensation and must initiate and co-ordinate such negotiations as may in its judgment be necessary for its activities, and specifically concerning inter-governmental financing.

TRANSITIONAL COUNCIL FOR HOUSING AND URBANIZATION

6. The Transitional Council for Housing and Urbanization must undertake planning and preparation regarding a housing and urbanisation policy in a transitional dispensation.