

WORKING GROUP 4

REPORT ON THE ADMINISTRATIVE, FINANCIAL AND PRACTICAL EFFECTS OF REINCORPORATION

1. INTRODUCTION

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Discussions were conducted on the contents of the position papers and the Rapporteur was subsequently asked to compile a synopsis of the positions with a view to identifying areas of commonality as well as points of divergence. This report is an endeavour to present to the Working Group the recommendations of the subgroup in respect of those areas where there has been consensus in regard to the terms of reference. It needs also to be mentioned that the report represents the work done to date by the Subgroup.

2. REINCORPORATION

Eighteen parties share the view that reincorporation of the TBVC States into the new South Africa is desirable. However, Bophuthatswana reiterates its preference for non-reincorporation, but states that every option which promises a better future or a future at least as good as its present position will be regarded as a feasible and realistic option for consideration.

The demarcation of functions and responsibilities on the first, second and third levels of government have not yet been clarified. Where reference is made to future government responsibilities, it should be regarded as being in accordance with the constitutional proposals and interim government arrangements formulated by Working Groups 2 and 3.

3. RETENTION OF BUSINESS CONFIDENCE AND TAXATION

The parties are unanimous that the process of reincorporation should be conducted in such a way that it ensures retention of business confidence. The Subgroup recommends that:

- 3.1. Where there is a conflict between RSA legislation and that of the respective TBVC states, temporary exemptions be granted until the new legal system is in place, the details of which will be considered by a commission (see 11 below.)
- 3.2. The harmonization of labour legislation throughout South Africa including stipulations on a stable relationship with unions is needed to boost business confidence.
- 3.3. The Subgroup is unanimous that there should be harmonisation of the taxation regime. The tax system of the TBVC states should be brought in line with the applicable tax laws in the

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- 3.4. A formal statement of intent be issued by Codesa 2, by which businesses are informed of the proposed harmonisation of legislation, specifically tax and labour legislation.

4. LAND TRANSFERS

The Subgroup has reached sufficient consensus on this matter that:

- 4.1. No further attempts be made to identify new land for transfer to the TBVC governments.
- 4.2. Land currently in possession of the South African Development Trust should remain in the hands of the Trust until its dissolution, whereafter it will be transferred to the SA Government (successor in title.)
- 4.3. The moratorium should apply to all land in the Schedule to the Borders of Particular States Extension Act 2 of 1980 which has not yet been excised from South Africa.
- 4.4. This moratorium will apply to all TBVC States.

Reservation

Bophuthatswana indicates that such a moratorium could be perceived as a negative implication to be considered carefully.

Ciskei states that the moratorium should not apply to the transfer of land to individual communities who have not as yet received the land promised.

The meeting also notes the concern of the SA Government and the National Party about certain legal and contractual obligations which have to be fulfilled as well as land purchased from individual South African citizens which has not yet been transferred.

5. DISPOSAL/TRANSFER OF ASSETS AND LIABILITIES

The parties share a common view that the assets and liabilities of these states should be transferred to the new government on reincorporation.

Addendum A

The following people signed the attendance register:

ANC	M Manzini
Ciskei Government	SN Sonjica
Democratic Party	G Noero
Dikwankwetla Party	K Ngwenya
Inkatha Freedom Party	ZC Kumalo
Intando Yesizwe Party	FT Sithole
Inyandza National Movement	FS Baloi
Labour Party	MYK Bassier
NIC/TIC	H Narsi
National Party	FE Boonzaaier
National People's Party	A Rambarren
Solidarity Party	M Reddy
South African Communist Party	Z Kota-Mthimunye
South African Government	A Routier
Transkei Government	LN Jajula
United People's Front	MM Chueu
Ximoko Progressive Party	LB Kubay

Chairperson: J Hunter

Secretary: T Chikane

Minute-Taker: M Sachs

FUNCTIONS OF THE STEERING COMMITTEE AND RAPPORTEURS

A Function of the Steering Committee

1. Prepare Agendas
2. Formulate media strategy
3. Establish programme to be discussed
4. Additional guidelines with regard to need for a rapporteur
5. Nominate chairperson for work group meetings
6. Handling of submissions
7. Determine Procedures
8. Make Recommendations
9. Identify any other function which must be addressed

Functions of the Rapporteur

1. Present reports after every meeting
2. They are not scribes or minute takers
3. They have to have drafting ability: the ability to synthesize discussions and be creative in their writings.
4. The Steering Committee is responsible for submitting the report to the Management Committee and it is the work of the rapporteurs to prepare the report which the Steering Committee will discuss and then submit it to the GAC.
5. The report can be sensitive - rapporteurs must be elected by consensus.
6. The rapporteurs cannot write up a report on the basis of minutes - debates must be written up to give the flavour of the discussion - whether there was consensus arrived at.
7. Rapporteurs should be members of the Steering Committee.

RECOMMENDATIONS AND ADVISE AGREED UPON BY THE GAC AT THEIR MEETING ON 27, 28 AND 29 APRIL

1. The Free Political Participation of Women

- A) The rights of access of women to public facilities and meeting venues should be ensured, as should their right to meet with political organisations. This recommendation is necessary so that women can participate without fear and on an equal footing in the political process. The right of access of political organisations to public facilities, and their right to meet with potential voters, is meaningless if women are excluded from the venues and meetings whether by community or private oppression.
- B) That the roles mentioned here (Item 1.1.4 (o) of the Terms of Reference of Working Group 1) concerning educative and informative campaigns should be broadened to include specific educational campaigns informing women of, inter alia, their right to vote, particularly in areas where women are unlikely to be reached by usual media.

2. The Funding of Programmes for Women

The GAC urges that Working Group 3 reach an agreement on the principle of funding and programmes to ensure the meaningful participation in, and education about the democratic electoral process. In order that women be timeously informed about the franchise, and thus enabled to participate in interim elections without fear of pressure or intimidation, it is suggested that such agreement be expeditiously concluded.

3. Gender Discriminatory Legislation

The GAC recommends the repeal of all legislation in South Africa and the TBVC states which discriminates on the basis of race, creed or gender which circumscribe and impede free political, economic or social activity. We suggest that this be attended to by a general law asserting certain basic civil and political rights, combined with an omnibus law repealing all legislation in accordance with a schedule of Acts to be provided by the GAC. We advise Working Groups 1, 2, 3, 4 and 5 to assist in the identification of such legislation.

4. Women and Local Government

The GAC advises that special mechanisms be created to promote the participation and representation of women in local government structures, so that these structures more closely reflect the gender composition of the populace. Any projects undertaken during the life of CODESA and the Interim or Future Governments should be aimed at the interests of all groups in local communities including women.

5. The Technical Report to the Steering Committee of Working Group 3

The GAC advises the Technical Committee, Working Group 3 and its Steering Committee on the following points concerning the Technical Committee's recommendations:

5.1 In addition to Item 7.1 of the report:

"* Shall include women in its composition."

5.2 Item 10 of the report should state:

"The transitional executive structure will be constituted by legislation agreed to by Codesa, will have a multi-party character, including women and be . . ."

5.3 The reference to "persons" in line 14 of Item 10 of the report should be replaced by a reference to "men and women".

5.4 Line 5 of Item 14 of the report should read:

"Save for agreement that the TEC must have multi-party character, including women, the precise criteria . . ."

5.5 It is also recommended that the proposed TEC should include a Gender Structure, the exact nature of which is still to be determined.

6. On the composition and role of the security forces

6.1 The many acts of violence committed against women allegedly by the security forces are a source of grave concern. In this regard the GAC recommends that:

6.1.1 any such crime be immediately investigated;

6.1.2 violent crime against women be treated with stricter and more stringent disciplinary action;

6.1.3 when searches of homes are conducted, women police must accompany male police;

6.1.4 the position of high ranking officers who are unable or unwilling to maintain adequate control over their forces be urgently reviewed;

6.1.5 any peace keeping force should include women within their structures at all levels;

6.1.6 the gender sensitivity of these forces (as in item 6.4.1.5) be monitored;

6.1.7 all individuals be informed of their rights with regard to the role and functions of these forces (as in 6.4.1.5);

6.1.8 these forces (as in 6.4.1.5) be trained to be gender sensitive and to ensure that they do not violate the rights of women.

6.2 It is also recommended that any Security Force established in the country, including the TBVC states, must begin to immediately redress race and gender imbalances both in their composition and functioning at all levels and introduce a Code of Conduct and norms which will create confidence among all the people of South Africa.

7 Non-Sexist Language in CODESA documentation

The GAC recommends that CODESA documents should explicitly define the word "person" as referring to both men and women.

8. Political Intimidation and Women

8.1 With regard to the agreement reached by sub group 2 of Working Group 1 on the Definition of Political Intimidation, the meeting recommended that the following additions be made to the activities which would, as per the aforesaid agreement, be considered, in particular, as forms of political intimidation (refer to Item 4.2 of the Minutes of the meeting of Sub-Group 2 of Working Group 1, 2 March):

8.1.1 To compel women, both within and outside the home, by virtue of the "power" vested in men with whom they may associate, to adopt a particular political position; or to similarly prevent women from engaging in free political activity.

8.1.2 To use political patronage in any form that threatens or denies an individuals political, social and economic rights, especially noting that women are frequently the victims of such practices.

8.1.3 To sexually harass any individual and thereby prevent him/her from the freedom of the right of expression/opinion, association and movement.

8.2 With regards to agreements reached by Sub-Group 2 of Working Group 1 about the implementation and interpretation of the National Peace Accord, the meeting recommended that the following additions be made (refer to Item 6.1.6 and Item 6.4.1, respectively, of the minutes of Sub-Group 2 of Working Group 1, on 7 April):

8.2.1 That the reference to "Business representatives" in clause 7.4.4.3 of the NPA be interpreted to include representatives from professional and women's organisations.

8.2.2 The NPA make special efforts to include representatives of relevant local and tribal authorities as well as local women's structures into all RDRC and LDRC structures.

8.3 With regards to item 8.2.2. above (and with specific reference to items 6.1.6, 6.3.2, 6.4.2, 6.5.2, 6.6.2, 6.6.3 and 6.8 of the minutes of the meeting of WG1 SG2,7 April) it was recommended that as part of its input on the interpretation and implementation of the NPA Working Group 1 recommend that women be included in all structures created by the NPA, RDRC's and LDRC's to ensure that gender implications of all decisions and functions of these structures, are considered.

9. Women and the Foreign Service

Noting that South Africa's foreign relations have mainly been conducted by men, in the future period

women should be trained, employed, promoted and recognised on an equal basis with men within the diplomatic service. Any existing discriminatory regulations and practices with respect to gender and race in South Africa's foreign service need to be removed.

Addendum E

DEFINITION OF SEXUAL HARASSMENT

(As adapted from C Sutherland and S Brazilli;Raven Press;1991;p197)

Unwelcome sexual advances, requests for sexual favours , and other verbal or physical conduct of a sexual nature ... when:

- * submission to such conduct is made, either explicitly or implicitly, a term or condition of an individuals employment;
- * submission to or rejection of such conduct by an individual is used as the basis for employment on a daily basis;or
- * such conduct has the purpose or effect of unreasonably interfering with and individuals performance or daily life creating and intimidating, hostile or offensive environment.

REPORT FROM THE JOINT STEERING COMMITTEE MEETING ON 28 APRIL BY J HUNTER

1. Liaison with Working Groups

It was noted that the GAC would be allowed to attend Working Group meetings. Working Group 5, in particular, invited the GAC to attend one of its meetings the following week.

2. Delegates to the GAC

The Management Committee reported that it had accepted the recommendation that the GAC could be composed of one delegate and one advisor for each participating administrations/organisations/parties.

3. Rapporteurs Reports

It was noted that Rapporteurs reports from the five Working Groups would be made available to the GAC.

4 Representation of Women at Codesa II

The Management Committee reported that it had acted on the GAC's recommendation and sent a circular to all administrations/organisations/parties urging them to include more women in their delegations to the plenary of CODESA II and, in particular include their delegates to the GAC in their delegations.

5. Progress in Working Groups

A general discussion was held regarding the progress made in the Working Groups. All Working Groups indicated that they would be able to submit reports outlining the areas of disagreement and those issues on which consensus was reached, by the following week. It was noted that every Working Group should make recommendations to the DMC/MC with regards to the workload facing them. It was suggested that , in this regard, a team of experts be compiled. It was noted that each Working Group was required to report to CODESA II about their position and make recommendations.

5.1 Sub-Group 2 of Working Group 1

Sub-Group 2 of Working Group 1 reported that it would divide their submission into the following three areas:

- * Areas of Agreement
- * Areas of no Agreement
- * Areas of Firm Consensus

5.2 Working Group 2

It was noted that reports from Working Group 2 would be submitted to the GAC. The reports would cover:

- * General Constitutional Principles

*** A Constitution Making Body**

5.3 Working Group 5

Working Group 5 noted its concern about the lack of progress made. Sub group 2 of Working Group 5 noted the importance of producing an electoral act before elections could take place.

6. The Future of the GAC

The way forward after Codesa II was discussed and it was noted that, due to the large amount of unfinished business facing the GAC, the GAC could possibly continue to function after the plenary session.

7. Next Meeting

The GAC was invited to attend the next joint Steering Committee meeting on Tuesday 5 May at 13H00.

The GAC of the MC at CODESA has met frequently over the last three weeks. GAC's role is to advise working groups and the Management Committee on issues that will arise in the process of transition with regards to gender implications, Consensus was reached by the GAC on a number of issues;

- (a) That all Gender discriminatory legislation in South Africa should be repealed in order that all women will be able to participate fully in the process of change and transition.
- (b) When the Interim Government is formed, the GAC recommends that women should be included in its composition and have their concerns addressed by this Interim body, as well as by the future constitution and Bill of Rights.
- (c) GAC is concerned about incidents of violence against women, both generally, and also where this violence is used to prevent women from participating in the political process other recommendations made by the GAC concerning women and sexual harassment and the image of women in the public media.
- (d) Members of the GAC will be included in certain of the delegations to CODESA 2.

SUBGROUP 3 OF WORKING GROUP 4

(still under discussion)

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5. DISPOSAL/TRANSFER OF ASSETS

The parties share a common view that the assets of these states should be transferred to the new government on reincorporation.

6. OPTIMAL USE OF EXISTING INFRASTRUCTURE

The Subgroup reached an agreement that due care should be taken in ensuring that existing structures are optimally used during transition and after reincorporation.

6.1. It is recommended that all structures and functional operations such as education, health, unemployment insurance etc. should continue functioning during transition, until they are replaced by rationalized structures and operations.

6.2. Existing financial arrangements and transfers should continue uninterrupted until they are replaced by new arrangements.

7. REVIEW OF DEVELOPMENT PROJECT PRIORITIES

On reincorporation, prioritisation of development projects should form part of the national/regional prioritisation programme. The Development Bank of Southern Africa which has been closely linked with the development projects in these states could provide a useful service in this regard.

8. GOOD ADMINISTRATION DURING TRANSITION

Efficient and accountable administration should be maintained during transition. The current administration should remain in place until orderly rationalisation takes place as a result of absorption into a non-racial national/regional service. The Subgroup proposes that:

- 8.1. Administration be reorganised around existing structures.
- 8.2. A single non-racial administration be created from existing "own" and "general" affairs as well as self-governing states as a starting point. On reincorporation, personnel from the TBVC states should be absorbed into the national/regional structure.
- 8.3. The TBVC Administration should operate under the supervision of the Interim Government during transition. Bophuthatswana reiterates that this is only applicable once a decision in favour of reincorporation is taken.
- 8.4. Certain basic services will have to continue uninterrupted during transition. These are:
 - 8.4.1. The administration of justice
 - 8.4.2. Civil service
 - 8.4.3. Parastatals
 - 8.4.4. Security and other public services.

9. FUTURE OF THE CIVIL SERVICE

Civil servants should retain their existing salaries, benefits, conditions of service, etc. Any adjustment in the conditions of service should be occasioned by a process of rationalisation as a result of absorption into a non-racial national/regional service. It is recommended that:

- 9.1. There should be no retrenchment of workers in these administrations as a result of reincorporation prior to an extensive rationalisation programme in the new South African civil service.

10. SERVICING AND REPAYMENT OF TBVC DEBTS

The servicing and repayment of TBVC debts should be the responsibility of the new national/regional government as soon as the states have been reincorporated. The Subgroup notes that a new government will have to consider how to deal with debt irregularities, if any.

11. PROPOSED APPOINTMENT OF COMMISSIONS

The Subgroup is unanimous that two commissions be appointed to conduct investigations into various aspects as will be indicated in each case.

Composition of Commissions

Each commission should be a nine-member multi-party commission consisting of:

- a. five representatives, one from each of the SATBVC administrations.
- b. four representatives nominated by the remaining parties at Codesa.

Terms of Reference of the Commissions

11.1. A commission on the retention of business confidence and use of existing infrastructure will be tasked to investigate and make recommendations to the relevant parties on the following:

- 11.1.1. Harmonisation of tax regime.
- 11.1.2. Harmonisation of labour legislation.
- 11.1.3. Possibility of granting temporary exemptions from tax.
- 11.1.4. Introduction of export and other investment incentives.
- 11.1.5. Protection of existing tax concessions for a reasonable period.
- 11.1.6. Consideration of retention of Schedule 3 concessions under the Regional Industrial Development Programme.
- 11.1.7. Protection of existing investments.
- 11.1.8. Investigation of the causes and effects of mass action on business confidence.

The ANC expressed its concern that this should not prejudice its right to undertake mass action in general.

- 11.1.9. Whether the process of harmonisation should be implemented incrementally.

- 11.1.10. Whether, where prejudices arise, exemptions should be granted for a definite period
- 11.1.11. Whether the granting of exemptions should be fairly automatic up to a certain date.
- 11.1.12. A close study of the taxation system to be undertaken.
- 11.1.13. The whole question of optimal use of existing infrastructure during transition and after reincorporation.
- 11.1.14. Any other matters relevant to the above issues.

11.2. A commission to look into the question of good administration during transition and the future of the civil service with particular regard to the following:

11.2.1. Reorganisation of administration around the existing structures.

11.2.2. Establishment of a single non-racial administration from existing "own" and "general" affairs as well as self-governing structures. The subsequent absorption of TBVC personnel on reincorporation.

11.2.3. The following questions in regard to the civil service, security service, parastatals etc.

- uniformity of salaries and conditions of service.

- security and transferability of pension benefits.

- assimilation and training of skilled staff.

- appointment on merit i.e. qualifications, experience and ability irrespective of race, colour, creed or sex.

- strict adherence to the IMF norm that the total civil service remuneration should not exceed 30% of the national/regional income.

- rationalisation of excessive bureaucracy on a humane basis.

- 11.2.4. An extensive rationalisation programme of the public services involving the SATBVC states.
- 11.2.5. The appointment of a non-partisan body to implement the process of rationalisation.
- 11.2.6. Any other matters relevant to the above issues.

12. PRACTICAL IMPLICATIONS

The following will be the practical implications of reincorporation:

- 12.1. The reincorporated state will again fall under the geographic jurisdiction of the RSA.
- 12.2. That state's people will *be citizens of SA* ~~resume their South African citizenship.~~
- 12.3. That state will become subject to the authority of the government of South Africa under the new constitution. *X*
- 12.4. The reincorporation process will have to be formally legislated through the relevant legislative bodies.
- 12.5. The "international" boundaries between that state and the RSA will fall away.
- 12.6. The need for diplomatic ties between the RSA and those states will fall away.
- 12.7. If all four TBVC states are reincorporated, South Africa would once more be undivided, thus achieving one of the main objectives of the Declaration of Intent signed by the parties to Codesa.

12.8. It is as well to mention that if any TBVC state were to decide not to be reincorporated, it would have to seriously consider the effects that decision would have on that state.

* 12.9. The Bophuthatswana Government reconfirmed its position that, in the event of non-reincorporation, all existing bilateral agreements should continue to be in operation.

R. ...

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REINCORPORATION**

1. INTRODUCTION

Subgroup 3 was appointed by Working Group 4 to investigate the administrative, financial and practical implications of reincorporation or otherwise of the TBVC states. The Subgroup resolved to establish terms of reference which served as a useful guide during deliberations. The parties were requested to prepare position papers on items contained in the terms of reference. Eighteen of the nineteen parties provided position papers. The South African Government indicated that it is not in a position to submit a statement regarding the administrative, financial and practical effects of the reincorporation since a number of important matters regarding reincorporation have not been finalized in the plenary of Working Group 4. This position should be read in conjunction with the SA Government's position statement submitted to the plenary of Working Group 4 on 21 April 1992 and specifically paragraph 4 thereof.

Discussions were conducted on the contents of the position papers and the Rapporteur was subsequently asked to compile a synopsis of the positions with a view to identifying areas of commonality as well as points of divergence. This report is an endeavour to present to the Working Group the recommendations of the subgroup in respect of those areas where there has been consensus in regard to the terms of reference. It needs also to be mentioned that the report represents the work done to date by the Subgroup.

2. REINCORPORATION

Eighteen parties share the view that reincorporation of the TBVC States into the new South Africa is desirable. However, Bophuthatswana reiterates its preference for non-reincorporation, but states that every option which promises a better future or a future at least as good as its present position will be regarded as a feasible and realistic option for consideration.

The demarcation of functions and responsibilities on the first, second and third levels of government have not yet been clarified. Where reference is made to future government responsibilities, it should be regarded as being in accordance with the constitutional proposals and interim

government arrangements formulated by Working Groups 2 and 3.

3. RETENTION OF BUSINESS CONFIDENCE AND TAXATION

The parties are unanimous that the process of reincorporation should be conducted in such a way that it ensures retention of business confidence. The Subgroup recommends that:

- 3.1. Where there is a conflict between RSA legislation and that of the respective TBVC states, temporary exemptions be granted until the new legal system is in place, the details of which will be considered by a commission (see 11 below.)
- 3.2. The harmonization of labour legislation throughout South Africa including stipulations on a stable relationship with unions is needed to boost business confidence.
- 3.3. The Subgroup is unanimous that there should be harmonisation of the taxation regime. The tax system of the TBVC states should be brought in line with the applicable tax laws in the RSA. This process should apply to all forms of tax structures e.g. company tax, personal tax etc. The question of tax concessions may be considered in relation to regional development issues.
- 3.4. A formal statement of intent be issued by Codesa 2, by which businesses are informed of the proposed harmonisation of legislation, specifically tax and labour legislation.

4. LAND TRANSFERS

The Subgroup has reached sufficient consensus on this matter that:

- 4.1. No further attempts be made to identify new land for transfer to the TBVC governments.
- 4.2. Land currently in possession of the South African Development Trust should remain in the hands of the Trust until its dissolution, whereafter it will be transferred to the SA Government (successor in title.)
- 4.3. The moratorium should apply to all land in the Schedule to the Borders of Particular States Extension Act 2 of 1980 which has not yet been excised from South Africa.

4.4. This moratorium will apply to all TBVC States.

Reservation

Bophuthatswana indicates that such a moratorium could be perceived as a negative implication to be considered carefully.

Ciskei states that the moratorium should not apply to the transfer of land to individual communities who have not as yet received the land promised.

The meeting also notes the concern of the SA Government and the National Party about certain legal and contractual obligations which have to be fulfilled as well as land purchased from individual South African citizens which has not yet been transferred.

5. DISPOSAL/TRANSFER OF ASSETS AND LIABILITIES

The parties share a common view that the assets and liabilities of these states should be transferred to the new government on reincorporation.

6. OPTIMAL USE OF EXISTING INFRASTRUCTURE

The Subgroup reached an agreement that due care should be taken in ensuring that existing structures are optimally used during transition and after reincorporation.

6.1. It is recommended that all structures and functional operations such as education, health, unemployment insurance etc. should continue functioning during transition, until they are replaced by rationalized structures and operations.

6.2. Existing financial arrangements and transfers should continue uninterrupted until they are replaced by new arrangements.

7. REVIEW OF DEVELOPMENT PROJECT PRIORITIES

On reincorporation, prioritisation of development projects should form part of the national/regional prioritisation programme. The Development Bank of Southern Africa which has been closely linked with the development projects in these states could provide a useful service in this regard.

8. GOOD ADMINISTRATION DURING TRANSITION

Efficient and accountable administration should be maintained during transition. The current administration should remain in place until orderly rationalisation takes place as a result of absorption into a non-racial national/regional service. The Subgroup proposes that:

- 8.1. Administration be reorganised around existing structures.
- 8.2. The TBVC Administration should operate under the supervision of the Interim Government during transition.

Reservation

Bophuthatswana reiterates that this is only applicable once a decision in favour of reincorporation is taken.

- 8.4. Certain basic services will have to continue uninterrupted during transition. These are:
 - 8.4.1. The administration of justice
 - 8.4.2. Civil service
 - 8.4.3. Parastatals
 - 8.4.4. Security and other public services.

9. FUTURE OF THE CIVIL SERVICE

Civil servants should retain their existing salaries, benefits, conditions of service, etc. Any adjustment in the conditions of service should be occasioned by a process of rationalisation as a result of absorption into a non-racial national/regional service. It is recommended that:

- 9.1. There should be no retrenchment of workers in these administrations as a result of reincorporation prior to an extensive rationalisation programme in the new South African civil service.

10. SERVICING AND REPAYMENT OF TBVC DEBTS

The servicing and repayment of TBVC debts should be the responsibility of the new national/regional government as soon as the states have been reincorporated. The Subgroup notes that a new government will have to consider how to deal with debt irregularities, if any.

11. PROPOSED APPOINTMENT OF COMMISSIONS

The Subgroup is unanimous that two commissions be appointed to conduct investigations and to undertake consultation with concerned parties into various aspects as will be indicated in each case.

Composition of Commissions

Each commission should be a nine-member multi-party commission consisting of:

- a. five representatives, one from each of the SATBVC administrations.
- b. four representatives nominated by the remaining parties at Codesa.

Terms of Reference of the Commissions

11.1. A commission on the retention of business confidence and use of existing infrastructure will be tasked to investigate and make recommendations to the relevant parties on the following:

- 11.1.1. Harmonisation of tax regime.
- 11.1.2. Harmonisation of labour legislation.
- 11.1.3. Possibility of granting temporary exemptions from tax.
- 11.1.4. Introduction of export and other investment incentives.
- 11.1.5. Protection of existing tax concessions for a reasonable period.
- 11.1.6. Consideration of retention of Schedule 3 concessions under the Regional Industrial Development Programme.
- 11.1.7. Protection of existing investments.
- 11.1.8. Investigation of the causes and effects of mass action on business confidence.

Reservation

The ANC expressed its concern that this should not prejudice its right to undertake mass action in general.

- 11.1.9. Whether the process of harmonisation should be implemented incrementally.
 - 11.1.10. Whether, where prejudices arise, exemptions should be granted for a definite period
 - 11.1.11. Whether the granting of exemptions should be fairly automatic up to a certain date.
 - 11.1.12. A close study of the taxation system to be undertaken.
 - 11.1.13. The whole question of optimal use of existing infrastructure during transition and after reincorporation.
 - 11.1.14. Any other matters relevant to the above issues.
- 11.2. A commission to look into the question of good administration during transition and the future of the civil service with particular regard to the following:
- 11.2.1. Reorganisation of administration around the existing structures.
 - 11.2.2. The following questions in regard to the civil service, security service, parastatals etc.
 - uniformity of salaries and conditions of service.
 - security and transferability of pension benefits.
 - assimilation and training of skilled staff.
 - appointment on merit i.e. qualifications, experience and ability irrespective of race, colour, creed or sex.
 - strict adherence to the IMF norm that the total civil service remuneration should not exceed 30% of the national/regional income.
 - rationalisation of excessive bureaucracy on a humane basis.

- 11.2.3. An extensive rationalisation programme of the public services involving the SATBVC states.
- 11.2.4. The appointment of a non-partisan body to implement the process of rationalisation.
- 11.2.5. Any other matters relevant to the above issues.

12. PRACTICAL IMPLICATIONS

The following will be the practical implications of reincorporation:

- 12.1. The reincorporated state will again fall under the geographic jurisdiction of the RSA.
- 12.2. That state's people will be South African citizens.
- 12.3. That state will become subject to the authority of the government of South Africa under the new constitution, interim or final.
- 12.4. The reincorporation process will have to be formally legislated through the relevant legislative bodies.
- 12.5. The "international" boundaries between that state and the RSA will fall away.
- 12.6. The need for diplomatic ties between the RSA and those states will fall away.
- 12.7. If all four TBVC states are reincorporated, South Africa would once more be undivided, thus achieving one of the main objectives of the Declaration of Intent signed by the parties to Codesa.
- 12.8. It is as well to mention that if any TBVC state were to decide not to be reincorporated, it would have to seriously consider the effects that decision would have on that state.

Reservation

The Bophuthatswana Government reconfirmed its position that, in the event of non-reincorporation, all existing bilateral agreements should continue to be in operation.

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**WORKING GROUP 4, SUBGROUP 3: ADMINISTRATIVE, PRACTICAL AND FINANCIAL
EFFECTS OF THE REINCORPORATION OF THE TBVC STATES**

RAPPORTEUR'S REPORT, 21 APRIL 1992

SECTION A

Introduction

The subgroup has, in pursuit of its stated task, called on all the participants to provide position papers addressing various topics as contained in the Terms of Reference. All the participants, excepting three (3), have submitted their position papers. The papers so far received reflect commonalities and points of divergence. There is need to engage in discussions, especially in respect of those areas where there is divergence, with a view to reaching a compromise/mutual understanding. A suggested list of issues requiring debate forms part of this report.

1. Reincorporation

Fifteen of the sixteen position papers share the view that the TBVC states should be reincorporated into South Africa. However, Bophuthatswana reiterates its preference for non-incorporation, but states that every option which promises a better future or a future at least as good as its present position will be regarded as a feasible and realistic option for consideration. A detailed schedule of effects on which assurances and clarity is needed are included in Bophuthatswana's position paper.

Since the demarcation of functions and responsibilities on the first, second and third levels of government have not yet been clarified, where reference is made to future government responsibilities, it should be in accordance with the constitutional proposals formulated by Working Group 2.

2. Retention of business confidence

The parties are unanimous that the process of reincorporation should be conducted in such a manner that it ensures retention of business confidence. Various recommendations in regard to this subject form part of the list to be presented for discussion.

3. Land transfers

The sub-committee has reached consensus on this matter that:

- 3.1 No further attempts be made to identify new land for transfer to the TBVC governments.
- 3.2 Land currently in possession of the South African Development Trust should remain in the hands of the Trust until its dissolution, whereafter it will be transferred to the SA Government (successor in title).
- 3.3 The moratorium should apply to all land in the Schedule to the Borders of Particular States Extension Act 2 of 1980 which has not yet been excised from South Africa.
- 3.4 This moratorium will apply to all TBVC states.

Bophuthatswana indicates that such a moratorium could be perceived as a negative implication to be considered carefully.

Ciskei states that the moratorium should not apply to the transfer of land areas to individual

communities who have been promised compensatory land by the RSA and who have not as yet received the land promised.

The meeting also notes the concern of the South African Government and National Party delegations about certain legal and contractual obligations which have to be fulfilled as well as land purchased by the SA Development Trust from individual South African citizens which has not yet been transferred.

4. Disposal/Transfer of assets

The parties share a common view that the assets of these states should be transferred to the new government on reincorporation. The proposals contained in the position papers will form part of the debate material included in the suggested list.

5. Optimal use of existing infrastructure

The position papers reflect unanimity on the fact that due care should be taken in ensuring that the existing structures are optimally used during transition and after reincorporation.

6. Review of development project priorities

On reincorporation, prioritisation of development projects should form part of the national regional prioritisation strategy. The Development Bank of Southern Africa which has been closely linked with the development projects in these states could provide a useful service in this regard.

7. Good administration during transition

Efficient and accountable administration should be maintained during transition. The current administration should remain in place until orderly rationalisation takes place. Suggestions by various parties in regard to this subject have been enlisted for discussion with a view to reaching consensus.

8. Future of the civil service

Civil servants should retain their existing salaries, benefits, conditions of service, etc. Any adjustment in the conditions of service should be occasioned by a process of rationalisation as a result of absorption into a non-racial national/regional service. A wide range of recommendations have been made on this topic.

9. Taxation

The parties are unanimous that there should be harmonisation of the taxation regime. The tax systems of the TBVC states should be brought in line with the applicable tax laws in South Africa. This process should apply to all forms of tax structures, eg: company tax, personal tax, etc. The question of tax concessions may be considered in relation to identifiable geographical disadvantages.

10. Servicing and repayment of TBVC debts

The servicing and repayment of TBVC debts should be the responsibility of the new administration, as soon as the states have been reincorporated.

SECTION B

The proposals/recommendations made by the parties in their position papers need further crystallisation and synchronisation with a view to reaching consensus on common recommendations to be included in the final report to the Working Group. The subgroup may, as it deems in the best interest, refine, support or reject the proposals. The recommendations have been extracted from the position papers after a thorough scrutiny of all the papers. Where an omission is noticed, an apology is herewith tendered in advance, but there is no intention that there be such.

The pattern adopted in the previous submission, ie, to use the topics as contained in the Terms of Reference, will be followed. However, in this case, not all topics are affected.

1. Retention of business confidence

- 1.1 Where there is a conflict between RSA legislation and that of the respective TBVC states, eg: legislation relating to casinos, temporary exemptions should be granted until the new legal system is in place.
- 1.2 The harmonisation of labour legislation, including stipulation on stable relationship with the unions, is needed to boost business confidence.
- 1.3 Existing tax concessions should be guaranteed for a reasonable period of, say, ten years.
- 1.4 Introduction of export incentives.
- 1.5 Consideration of retention of Schedule 3 concessions (ie, transport and housing).
- 1.6 Protection of existing casino investments.
- 1.7 Mass action of any sort should be suspended, pending the outcome of the negotiations at Codesa.
- 1.8 A formal statement of intent should be issued by Codesa 2, by which businesses are informed of the proposed harmonisation of legislation in regard to tax.
- 1.9 A multilateral commission to be set up by Codesa 2 to attend to the question of tax harmonisation and regulation environment.
- 1.10 The process of harmonisation could be implemented incrementally and revenue could accrue to the TBVC states in the interim.
- 1.11 In cases where prejudices should arise, exemptions should be granted for a defined period from South African laws and regulations.
- 1.12 Except where completely impractical, the granting of exemptions should be fairly automatic up to a certain date, which should be the deadline for harmonisation.
- 1.13 A close study of the taxation system will have to be undertaken by experts before a uniform tax system is legislated.
- 1.14 An independent Commission needs to be appointed to work out harmonisation.

2. Optimal use of existing infrastructure

Public and welfare structures such as education, health, unemployment insurance, etc, should continue

functioning during transition, until they are replaced by rationalised infrastructures.

3. Good administration during transition

- 3.1 Administration be reorganised around existing structures.
- 3.2 A single non-racial administration be created from existing "own" and "general" affairs, as well as self-governing states as a starting point. On reincorporation, personnel from the TBVC states should be absorbed into the national/regional structure.
- 3.3 The TBVC administration should operate under the supervision of the Interim Government during transition.
- 3.4 These states should be left under the control of the present rulers during transition.
- 3.5 An independent commission should be appointed to attend to the question of rationalisation/reintegration.
- 3.6 Certain basic services will have to continue uninterrupted during transition and these are:
 - 3.6.1 The administration of justice - SA authorities to consult with relevant authorities in the TBVC states.
 - 3.6.2 Civil services - SA Government and TBVC states desirous of reincorporation to pay attention to:
 - + uniformity of salaries and conditions of service
 - + security and transferability of pension benefits
 - + assimilation and training of skilled staff
 - + appointment on merit, ie, qualifications, experience and ability, irrespective of race, colour, creed or sex
 - + strict adherence to IMF norm, that the total remuneration of the civil service should not exceed 30% of the national/regional income
 - + rationalisation of excessive bureaucracy on human basis.
 - 3.6.3 Parastatals - an in-depth investigation with a view to strict rationalisation of duplicated institutions.
 - 3.6.4 Security forces - TBVC forces to be assimilated into the SA force.
 - 3.6.5 Other public services - services such as health, education, etc, must not be interrupted.

4. Future of the civil service

- 4.1 TBVC Departments of Foreign Affairs will disappear on reincorporation and personnel from these departments should be absorbed into other departments.
- 4.2 Personnel from these departments have acquired a lot of experience in foreign relations which could be of value to the future national Department of Foreign Affairs. Such personnel should therefore be absorbed into the national Department of Foreign Affairs on merit.
- 4.3 There should be no retrenchment of workers in these administrations.
- 4.4 There should be no forced retirements, but appropriate inducements to encourage retirements could be put into place.

- 4.5 The armed forces, eg: Defence, Police and Prisons should be integrated.
- 4.6 Other departments, eg: Health, Education, Local Government, etc, should form part of the proposed regional structures under national departments.
- 4.7 A legitimate and non-partisan body, whose working should be negotiated, should be established to implement the process of rationalisation.

LIST OF POSITION PAPERS RECEIVED AS AT 21 APRIL 1992

1. African National Congress
2. Bophuthatswana Government
3. Ciskei Government
4. Democratic Party
5. Dikwankwetla Party
6. Inkatha Freedom Party
7. Inyandza National Movement
8. Labour Party
9. National Party
10. National People's Party
11. Solidarity Party
12. South African Communist Party
13. Transkei Government
14. United People's Front
15. Venda Government
16. Ximoko Progressive Party

Outstanding

1. Intando Yesizwe Party
2. Natal Indian Congress/Transvaal Indian Congress
3. South African Government



WORKING GROUP 4

**REPORT ON THE ADMINISTRATIVE, FINANCIAL AND PRACTICAL EFFECTS OF
REINCORPORATION**

1. INTRODUCTION

Subgroup 3 was appointed by Working Group 4 to investigate the administrative, financial and practical implications of reincorporation or otherwise of the TBVC states. The Subgroup resolved to establish terms of reference which served as a useful guide during deliberations. The parties were requested to prepare position papers on items contained in the terms of reference. Eighteen of the nineteen parties provided position papers. The South African Government indicated that it is not in a position to submit a statement regarding the administrative, financial and practical effects of the reincorporation since a number of important matters regarding reincorporation have not been finalized in the plenary of Working Group 4. This position should be read in conjunction with the SA Government's position statement submitted to the plenary of Working Group 4 on 21 April 1992 and specifically paragraph 4 thereof.

Discussions were conducted on the contents of the position papers and the Rapporteur was subsequently asked to compile a synopsis of the positions with a view to identifying areas of commonality as well as points of divergence. This report is an endeavour to present to the Working Group the recommendations of the subgroup in respect of those areas where there has been consensus in regard to the terms of reference. It needs also to be mentioned that the report represents the work done to date by the Subgroup.

2. REINCORPORATION

Eighteen parties share the view that reincorporation of the TBVC States into the new South Africa is desirable. However, Bophuthatswana reiterates its preference for non-reincorporation, but states that every option which promises a better future or a future at least as good as its present position will be regarded as a feasible and realistic option for consideration.

The demarcation of functions and responsibilities on the first, second and third levels of government have not yet been clarified. Where reference is made to future government responsibilities, it should be regarded as being in accordance with the constitutional proposals and interim government arrangements formulated by Working Groups 2 and 3.

3. RETENTION OF BUSINESS CONFIDENCE AND TAXATION

The parties are unanimous that the process of reincorporation should be conducted in such a way that it ensures retention of business confidence. The Subgroup recommends that:

- 3.1. Where there is a conflict between RSA legislation and that of the respective TBVC states, temporary exemptions be granted until the new legal system is in place, the details of which will be considered by a commission (see 11 below.)
- 3.2. The harmonization of labour legislation throughout South Africa including stipulations on a stable relationship with unions is needed to boost business confidence.
- 3.3. The Subgroup is unanimous that there should be harmonisation of the taxation regime. The tax system of the TBVC states should be brought in line with the applicable tax laws in the RSA. This process should apply to all forms of tax structures e.g. company tax, personal tax etc. The question of tax concessions may be considered in relation to regional development issues.
- 3.4. A formal statement of intent be issued by Codesa 2, by which businesses are informed of the proposed harmonisation of legislation, specifically tax and labour legislation.

4. LAND TRANSFERS

The Subgroup has reached sufficient consensus on this matter that:

- 4.1. No further attempts be made to identify new land for transfer to the TBVC governments.
- 4.2. Land currently in possession of the South African Development Trust should remain in the hands of the Trust until its dissolution, whereafter it will be transferred to the SA Government (successor in title.)
- 4.3. The moratorium should apply to all land in the Schedule to the Borders of Particular States Extension Act 2 of 1980 which has not yet been excised from South Africa.
- 4.4. This moratorium will apply to all TBVC States.

Reservation

Bophuthatswana indicates that such a moratorium could be perceived as a negative implication to be considered carefully.

Ciskei states that the moratorium should not apply to

the transfer of land to individual communities who have not as yet received the land promised.

The meeting also notes the concern of the SA Government and the National Party about certain legal and contractual obligations which have to be fulfilled as well as land purchased from individual South African citizens which has not yet been transferred.

5. DISPOSAL/TRANSFER OF ASSETS AND LIABILITIES

The parties share a common view that the assets and liabilities of these states should be transferred to the new government on reincorporation.

6. OPTIMAL USE OF EXISTING INFRASTRUCTURE

The Subgroup reached an agreement that due care should be taken in ensuring that existing structures are optimally used during transition and after reincorporation.

6.1. It is recommended that all structures and functional operations such as education, health, unemployment insurance etc. should continue functioning during transition, until they are replaced by rationalized structures and operations.

6.2. Existing financial arrangements and transfers should continue uninterrupted until they are replaced by new arrangements.

7. REVIEW OF DEVELOPMENT PROJECT PRIORITIES

On reincorporation, prioritisation of development projects should form part of the national/regional prioritisation programme. The Development Bank of Southern Africa which has been closely linked with the development projects in these states could provide a useful service in this regard.

8. GOOD ADMINISTRATION DURING TRANSITION

Efficient and accountable administration should be maintained during transition. The current administration should remain in place until orderly rationalisation takes place as a result of absorption into a non-racial national/regional service. The Subgroup proposes that:

8.1. Administration be reorganised around existing structures.

8.2. The TBVC Administration should operate under the supervision of the Interim Government during transition.

Reservation

Bophuthatswana reiterates that this is only applicable once a decision in favour of reincorporation is taken.

8.4. Certain basic services will have to continue uninterrupted during transition. These are:

- 8.4.1. The administration of justice
- 8.4.2. Civil service
- 8.4.3. Parastatals
- 8.4.4. Security and other public services.

9. FUTURE OF THE CIVIL SERVICE

Civil servants should retain their existing salaries, benefits, conditions of service, etc. Any adjustment in the conditions of service should be occasioned by a process of rationalisation as a result of absorption into a non-racial national/regional service. It is recommended that:

9.1. There should be no retrenchment of workers in these administrations as a result of reincorporation prior to an extensive rationalisation programme in the new South African civil service.

10. SERVICING AND REPAYMENT OF TBVC DEBTS

The servicing and repayment of TBVC debts should be the responsibility of the new national/regional government as soon as the states have been reincorporated. The Subgroup notes that a new government will have to consider how to deal with debt irregularities, if any.

11. PROPOSED APPOINTMENT OF COMMISSIONS

The Subgroup is unanimous that two commissions be appointed to conduct investigations and to undertake consultation with concerned parties into various aspects as will be indicated in each case.

Composition of Commissions

Each commission should be a nine-member multi-party commission consisting of:

- a. five representatives, one from each of the SATBVC administrations.

- b. four representatives nominated by the remaining parties at Codesa.

Terms of Reference of the Commissions

11.1. A commission on the retention of business confidence and use of existing infrastructure will be tasked to investigate and make recommendations to the relevant parties on the following:

- 11.1.1. Harmonisation of tax regime.
- 11.1.2. Harmonisation of labour legislation.
- 11.1.3. Possibility of granting temporary exemptions from tax.
- 11.1.4. Introduction of export and other investment incentives.
- 11.1.5. Protection of existing tax concessions for a reasonable period.
- 11.1.6. Consideration of retention of Schedule 3 concessions under the Regional Industrial Development Programme.
- 11.1.7. Protection of existing investments.
- 11.1.8. Investigation of the causes and effects of mass action on business confidence.

Reservation

The ANC expressed its concern that this should not prejudice its right to undertake mass action in general.

- 11.1.9. Whether the process of harmonisation should be implemented incrementally.
- 11.1.10. Whether, where prejudices arise, exemptions should be granted for a definite period
- 11.1.11. Whether the granting of exemptions should be fairly automatic up to a certain date.
- 11.1.12. A close study of the taxation system to be undertaken.
- 11.1.13. The whole question of optimal use of existing infrastructure during transition and after reincorporation.

11.1.14. Any other matters relevant to the above issues.

11.2. A commission to look into the question of good administration during transition and the future of the civil service with particular regard to the following:

11.2.1. Reorganisation of administration around the existing structures.

11.2.2. The following questions in regard to the civil service, security service, parastatals etc.

- uniformity of salaries and conditions of service.

- security and transferability of pension benefits.

- assimilation and training of skilled staff.

- appointment on merit i.e. qualifications, experience and ability irrespective of race, colour, creed or sex.

- strict adherence to the IMF norm that the total civil service remuneration should not exceed 30% of the national/regional income.

- rationalisation of excessive bureaucracy on a humane basis.

11.2.3. An extensive rationalisation programme of the public services involving the SATBVC states.

11.2.4. The appointment of a non-partisan body to implement the process of rationalisation.

11.2.5. Any other matters relevant to the above issues.

12. PRACTICAL IMPLICATIONS

The following will be the practical implications of reincorporation:

- 12.1. The reincorporated state will again fall under the geographic jurisdiction of the RSA.
- 12.2. That state's people will be South African citizens.
- 12.3. That state will become subject to the authority of the government of South Africa under the new constitution, interim or final.
- 12.4. The reincorporation process will have to be formally legislated through the relevant legislative bodies.
- 12.5. The "international" boundaries between that state and the RSA will fall away.
- 12.6. The need for diplomatic ties between the RSA and those states will fall away.
- 12.7. If all four TBVC states are reincorporated, South Africa would once more be undivided, thus achieving one of the main objectives of the Declaration of Intent signed by the parties to Codesa.
- 12.8. It is as well to mention that if any TBVC state were to decide not to be reincorporated, it would have to seriously consider the effects that decision would have on that state.

Reservation

The Bophuthatswana Government reconfirmed its position that, in the event of non-reincorporation, all existing bilateral agreements should continue to be in operation.

WORKING GROUP 4, SUB-GROUP 3

ADMINISTRATIVE AND FINANCIAL IMPLICATIONS OF REINCORPORATION

Introduction

The advisability of preparing a draft report was to some extent dispelled by the fact that some of the parties were not in a position to meet the deadline. However, a synopsis of the similarities and differences based on the available material has been drawn up. The synopsis seeks to highlight areas of common agreement as well as points of divergence which need to be debated. This exercise will allow the parties an opportunity to refine those areas in which they share common views and reach compromise/mutual understanding and those in which they differ. It has been considered appropriate and logical to adopt the pattern followed in the position papers ie deal with each topic individually.

1. Reincorporation

The position papers so far received reflect that all twelve parties are in favour of reincorporation. Eight of them viz ANC, Ciskei Government, IFP, NPP, SACP, Transkei Government and Venda Government share a common view that the idea of reincorporation is closely linked to the idea of regionalisation. The other four, namely Inyandza, Labour Party, Solidarity and Ximoko have not expressed any view on the question of linkage with regionalism. Only three of the twelve parties expressly touched on the question of when these states should be reincorporated and they are the ANC, Inyandza and SACP. They have indicated that they are in favour of reincorporation at Interim Government stage. The IFP, Labour Party, Solidarity and Ximoko are supportive of each other in that the will of the affected communities should be tested. Ciskei raises a question of constitutional proposal which seems to have a bearing on the when. The issues raised above do not directly point to any differences as such but constitute important aspects in regard to reincorporation in respect of which the parties need to reach consensus.

2. Retention of Business Confidence

The parties are unanimous that the process of reincorporation should be conducted in such a manner that it ensures retention of business confidence. Some of the parties have made recommendations as to how business confidence can be retained in these states. These recommendations which will be listed as proposed by the respective parties, should provide a useful guide to the meeting.

- 2.1 ANC
 - 2.1.1 Where there is a conflict between RSA legislation and that of the respective TBVC countries eg legislation relating to casinos, temporary exemptions should be granted until the new legal system is in place.
- 2.2 Ciskei Government
 - 2.2.1 Existing tax concessions should be guaranteed for a reasonable period, of say ten years.
 - 2.2.2 Introduction of export incentives.
 - 2.2.3 Consideration of the retention of Schedule 3 concessions (ie transport and housing).
 - 2.2.4 Protection of existing casino investments.
- 2.3 Inkatha Freedom Party
 - 2.3.1 A suitable mechanism of briefing business people in the affected areas should be discussed.
- 2.4 SA Communist Party
 - 2.4.1 A formal statement of intent should be issued by Codesa 2, by which businesses are informed of the proposed harmonisation of legislation in regard to tax.
 - 2.4.2 A multilateral commission to be set up by Codesa 2 to attend to the question of the tax harmonisation and regulation environments.
 - 2.4.3 The process of harmonisation could be implemented incrementally and revenue could accrue to the TBVC states in the interim.
 - 2.4.4 In cases where prejudices should arise, exemptions should be granted for a defined period from South African laws and regulations.
 - 2.4.5 Except where completely impractical, the granting of exceptions should be fairly automatic up to a certain date, which would be the deadline for harmonisation.

2.5 Ciskei Government

- 2.5.1 A close study of the taxation system will have to be undertaken by experts before a uniform tax system is legislated.

3. Land Transfers

At its meeting held on 23 March 1992, the subgroup reached consensus on this matter that :

- 3.1 No further attempts be made to identify new land for transfer to the TBVC governments.
- 3.2 Land currently in the possession of the South African Development Trust should remain in the hands of the Trust until its dissolution, whereafter it will be transferred to the SA Government (successor in title).
- 3.3 The moratorium should apply to all land in the Schedule to the Borders of Particular States Extensions Act 2 of 1980 which has not yet been excised from South Africa.
- 3.4 This moratorium will apply to all TBVC states.

However, the meeting notes the concern of the South African Government and National Party delegations about certain legal and contractual obligations which have to be fulfilled as well as land purchased by the SA Development Trust from individual South African citizens which has not yet been transferred.

4. Disposal/Transfer of Assets

The parties are in agreement that the assets of these states should be transferred to the new government on reincorporation. Five positions ie ANC, Solidarity, SACP and Transkei Government propose a moratorium on the sale, privatisation or commercialisation of all state assets pending reincorporation. Three positions viz Labour Party, Inyandza and Venda Government propose that an inventory of the assets be provided. The SACP further recommends that land registered in the name of the TBVC governments or held in trust by a government official in his official capacity, should also be transferred.

5. Optimal use of Existing Infrastructure

The positions reflect unanimity on the fact that due care should be taken in ensuring that the existing infrastructure is optimally used during transition and after reincorporation. The subgroup may need to furnish recommendations on the mechanisms of achieving this objective.

6. Review of Development Project Priorities

On reincorporation, prioritisation of development projects in these areas should form part of the national prioritisation strategy. The Development of Southern Africa which has been closely linked with the development projects in these states could provide a useful service in this regard.

7. Good Administration During Transition

Efficient and accountable administration should be maintained during transition. The current administration should remain in place until orderly rationalisation takes place. The following proposals which need further consideration and refinement have been made :

- 7.1 Administration be reorganised around existing structures (SACP).
- 7.2 A single non-racial administration be created out of existing "own" and "general" affairs as well as self-governing structures as a starting point. On reincorporation, personnel from the TBVC administrations would be absorbed into the central structure (SACP).
- 7.3 The TBVC administrations must operate under the supervision of the Interim Government during transition (ANC, Inyandza, Solidarity and Venda Government).
- 7.4 There is unanimity of the proposal that there should be no disruption in the payment of pensions and other welfare benefits.

8. Future of the Civil Service

Civil servants should retain their existing salaries, benefits, conditions of service etc. Any adjustment in the conditions of service should be occasioned by a process of rationalisation as a result of absorption into a non-racial national civil service. A wide range of suggestions have been made concerning the future of civil servants, namely :

- 8.1 TBVC Departments of Foreign Affairs will disappear on reincorporation and personnel from these departments should be absorbed into other departments.
- 8.2 Personnel from these departments have acquired a lot of experience in foreign relations which could be of value to the future national Department of Foreign Affairs. Such personnel should therefore be absorbed into the national Department of Foreign Affairs on merit (Transkei and Venda Governments).
- 8.3 There should be no retrenchment of workers from these administrations.
- 8.4 There should be no forced retirements, but appropriate inducements to encourage retirements could be put in place (Venda Government).
- 8.5 The armed forces eg Defence, Police and Prisons should be integrated under one national department (DP, ANC and SACP).
- 8.6 Other departments eg health, education and local government should form part of the proposed new regional structures under national departments.
- 8.7 A legitimate, non-partisan body whose working should be negotiated, must be established to implement the process of rationalisation (SACP).

9. Taxation

There is need for harmonisation of the taxation regime with the result that the tax systems of the TBVC states be brought in line with the applicable tax laws in South Africa. This process should apply to all forms of tax structures eg company tax, personal tax, etc. This harmonisation process could form part of the Terms of Reference of the proposed tax commission.

10. Servicing and Repayment of TBVC Debts

The servicing and repayment of TBVC debts should be the responsibility of the new central administration as soon as the states have been reincorporated.