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DEPARTMENT OF COUNCIL OF STATE
PRIVATE BAG X 0016
BISHO
REPUBLIC OF CISKEI

TELEFAX NUMBER : 91375

FACSIMILE TRANSMISSION

TO : CODESA

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FROM : G F GODDEN

DEPT OF THE COUNCIL OF STATE

CISKEI

DATE : 18.3.92

NO. OF PAGES INCLUDING THIS ONE : 19

MESSAGE :

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A MEMORANDUM PREPARED BY THE CISKEI DELEGATION TO CODESA ON THE IDENTIFICATION OF PROBLEMS AND ACTIONS REQUIRED IF RE-INTEGRATION OF THE REPUBLIC OF CISKEI INTO REPUBLIC OF SOUTH AFRICA IS REQUIRED AND POSSIBLE SOLUTIONS TO SOME OF THE PROBLEMS.

 INTRODUCTION AND HISTORICAL BACKGROUND TO THE REPUBLIC OF CISKEI.

It will be recalled that the Ciskei delegate serving on Sub-Committee 4 of Working Group 4 reserved the right to table a historical background to the Ciskei profile document which was presented on March 1992. The Ciskei delegation to Codesa would wish the Sub-Committee 4 of Working Group 4 to take note of the circumstances which applied to the Ciskei people in the 18th and 19th centuries in seeking to retain and defend their heritage. It should be relatively easily understood why the Ciskeian people of today are not persuaded to give over their hard won independence to any unproved popular political movement without hard cold facts being placed on the table relating to constitutional dispensation and safeguards.

The descriptive narrative which follows is fact based on written historical fact and is testimony to a courageous and noble people who sacrificed everything in their desperate bid to save their national heritage. To attribute Ciskei's independence to the evils of "apartheid" is to do the people and leaders of Ciskei a gross injustice and insult. They struggled for restitution, they were an independent and free people and they have no wish to fall into further bondage to the new emancipators of Southern Africa.

HISTORICAL BACKGROUND

For centuries prior to the intrusion of the white man into the Eastern Cape the Ciskeian people enjoyed their freedom, their land, their traditional society and government. In their own way they were blessed with the essential requirements of life and were content. There are records describing the experiences of shipwrecked Portuguese sailors in the 16th and 17th centuries who were cared for by these people and who passed through this land en route to the Cape of Good Hope; all speak in glowing terms of the warm hospitality and friendliness of the communities who received them and cared for them. While the white man came in peace as a visitor he was well received; when he arrived on the scene in 1772 in the vicinity of the Gamtoos river in the Mossel Bay district bearing arms with the intent of occupying the land, this attitude changed to one of complete hostility and the stage was set for continuous conflict which was to last for more than a hundred years.

There is no doubt that the clash that followed between black and white on the Eastern Frontier greatly influenced the history of South Africa. It fashioned certain attitudes on the part of Boer and Briton towards British colonial authorities and the black man himself. As examples of dogged, tenacious defence and resistance to the invasion of their fatherland, the courageous campaigns waged by the great warrior forefathers for a period of more than a hundred years are without parallel in the annals of history. It was in this theatre of warfare that the leaders and people of the Ciskei gave birth to African nationalism, which is today a force to be reckoned with in the shaping of the future of Southern Africa. For two hundred years the Ciskei has been a symbol in the minds of the African nationalist. It is a spiritual heartland for warriors fighting for freedom and redemption.

It can truly be claimed that the country and the people enjoy a special place in the history of Southern Africa. Donovan Williams said "the confrontation between black and white along the Eastern Frontier of the Cape Colony during the first half of the 19th century was crucial for later relations between the races". After the initial contact between white settlers and blacks on the Gamtoos river in 1772, the white settlers continued pushing eastward and by 1806 had extended the boundary of the Cape Colony to the Great Fish river. Behind their forward line they were busily engaged in occupying and settling into the Zuurveld. In 1811, with superior arms and mounted troops, they succeeded in pushing the great Ndlambe with some 20 000 followers, together with other sterling chiefs such as Ntinde, Dange, Mbalue and Ggunukwebe, across the Great Fish river and so came to occupy the whole of the Zuurveld.

Not content with the huge tract of country already occupied, some eight years later the British administrators of the Cape Colony with paternalistic arrogance declared the heartland of the Ciskei - the land between the Fish and Keiskamma rivers - to be a neutral territory. In other words, they conceded that by their own decree Ciskei would be permitted to continue to live in their own remaining land areas and that this area between the two rivers would be a sort of buffer zone to prevent further conflict and warfare. You can imagine with what dismay the people witnessed the entire occupation of the Zuurveld with the 1820 settlement in Albany of some 6 000 settlers from British Isles. This followed immediately after Makanda's attack on Grahamstown in 1819, seeking to drive out the settlers in the Zuurveld and re-occupy their former lands.

Even so, the colonial administrators were not content with the occupation and settlement of the Zuurveld. In 1817 Lord Charles Somerset finally abandoned the fiction of the "neutral territory" and permitted further incursions and settlement of colonialists beyond the Great Fish river.

As the consolidation of Albany had been achieved with the introduction of the British Settlers in 1820, so the need to

consolidate the occupation of British Kaffraria lay behind the British Government's decision in 1866 to establish a settlement of German immigrants between the Fish and Keiskamma rivers. Some 4 000 to 5 000 Germans were introduced into the very heartland of the Ciskei in 1857. Prior to this, in 1828, another area of the Ciskei, the Kat river valley, from which Ngqika's right-hand son, the great warrior Chief Macoma, had been evicted, was handed over to 250 coloured and Khoikhoi families. During the course of a hundred years, notably in 1822, 1854 and 1854, the frontier of white penetration shifted eastward as the whites sought ever more farmland; there is no doubt that the outbreak of wars can be linked to the insatiable desire on the part of the white farmers for more land in the better-watered western areas. After Ntinde, Dange, Mbalue, Gqunukwebe and Nalambe had been driven eastward over the Fish river, Ngqika's chiefdom was exposed to the frontier and the defence of the remaining Ciskei came to rest on the shoulders of his right-hand son, Macoma. Maclean describes this great man in these words "by all allowed to be the greatest politician, the best warrior in all Kaffraria in 1835". It was this great chief who came nearest to forming an effective military alliance against the whites but his capture by the British brought an end to his valiant resistance. He was banished to Robben Island by the British administration of the Cape Colony, where he was confined for 17 years and where he died in 1873.

By 1870 the present-day tribes of the Ciskei, alone among the Bantu-speaking people of Southern Africa, had a full century of continuous contact and conflict with the white invaders. They had suffered a series of defeats in which, time after time, their huts were burned, cattle captured and their fields devastated. Successive blocks of land were taken from them and turned into white-occupied farms. Whole communities had been expelled from their homes and shunted about the country. The cattle-killing and national suicide of 1857, which was motivated by their obsession to drive the whites into the sea, had been a shattering blow to them. Poverty had become endemic through the loss of their land and cattle. The only way they had to alleviate the situation was by going out to work for the white man. Thus, a century after they had first begun to interact with the white settlers in the Fish river areas, the Ciskeian were finally conquered. In the process they had lost most of the land they had occupied for centuries, south-east of the Great Fish river.

The prestige of Ciskeian chiefs had been seriously affected by a series of military defeats and the lamentable consequences of the cattle-killing and the national suicide. As a result the colonial magistrates were able to become the effective administrators of the various districts. Having borne the brunt of white pressures and modern influence for so long, the Ciskeians were beginning by the end of the 18th century to adapt to their role as a conquered people. At the time of the annexation of British Kaffraria in 1868, the High Commissioner Sir Phillip Wodehouse, was left in no doubt by the Secretary for the State for the Colonies about the policy he was to follow in

the administration of the Cape Colony. The Secretary of State wrote; "The welfare of our own civilised neighbours and, not least, the welfare of the colonialists require that the Kaffir tribes should no longer be left in possession of the independence they have so long enjoyed and abused". In this manner, the Ciskeians lost the greater part of their land to the white settlers. They fought bitterly to retain it but inequality in arms - most tribesmen fought with spears; all whites with firearms - the fact that the white were mounted whereas the tribes mostly fought on foot, and above all, the power of an organised state as opposed to fragmentary chiefdoms, outweighed superiority of numbers - 12 000 Ciskeian warriors crossed the Fish in 1834, but were defeated within five months. The frontier wars, however, differed from the raids described in oral tradition or early records, in that they were more prolonged and more devastating. The Ciskeians were fighting, not primarily for booty but for survival as an independent people. Such a history of dispossession on the frontier by the settlers, better armed and organised, is not unique; a trial of tears forms part of the history of many nations.

Before leaving the past and turning to the present, reference is made to one recorded interview between the Rev. Samuel Young, a Wesleyan missionary, and Chief Cungwa of the Gqunukwebe, which took place in 1845. The narrative proceeds; "Chief Cungwa called at my residence in Grahamstown to inform me that he wished to have some conversation with me on the subject of war, which was then going on between the British and the Kaffirs. Cungwa commenced by stating that the brothers Pato and Kama and himself greatly lamented the war then going on, but that they had no power to prevent it. I then asked him if he knew anything about it before it broke out and he replied; 'Yes, we were requested by Maqoma and Tyali to join in the war, but we had positively refused.' I then asked him to inform me what the messengers said when they came to request Pato's people to join them. Cungwa then stated that the different chiefs, viz. Maqoma, Tyali, Botman, Eno, Qasana and others, were talking of attacking the colony and that these messengers were particularly sent to inform Pato and his brothers to urge them to assist in the war, stating that they must have the help of the Gqunukwebe tribe. Cungwa then asked them: 'Why do you want to go to war with the English? Is it because they have been into the Kaffir country and taken away the cattle?' Answer: 'No.' 'Is it because of the late misunderstanding which took place with the young officer, Ensign Spargs, and the Kaffirs when he came after colonial cattle?' Answer: 'We were much grieved at that circumstance, but that is not the reason why we wish to go to war.' 'What then is the reason?' 'The great reason is the land (meaning the neutral or Ciskeian territory), for our children have increased and our cattle have increased and we must have the land, as it was formerly our country. We are determined to fight for it sooner than be without it any longer.'"

Although at one time during the governorship of Sir Harry Smith it appeared the sovereignty of the Ciskei might come to be

recognised - when the land between the Fish and the Keiskamma rivers was declared a neutral area and designated first the Province of Queen Adelaide and then British Kaffraria, and reserved exclusively for occupation by the Ciskeian people - this was not to be. Sir George Grey rejected the policy of territorial separation and in his speech opening the session of the Cape Parliament in March 1855 he advocated a paternalistic type of intergration in these words: "I propose we should dismiss from our minds the idea of attempting to establish or maintain a system of frontier policy based upon the idea of retaining a vacant tract of territory intervening between ourselves and the barbarous race beyond it, who are to be left in the existing state without any systematic efforts being made to train and civilise them." Sir George Grey's policy (which British administrators described as benevolent) brought some benefit to the Ciskeians, but effectively subordinated them to the white man and did not prove in the long run to resolve racial conflict, which revived around the parameters of white settlements in the Ciskei during the 1870s and early 1880s, thereby proclaiming the continued strength of the African tribal systems. The wars therefore continued and it was as a result of these wars that the power of the African tribal system was finally broken. Under these circumstances the black man ceased to be militarily dangerous to the whites and it was under these altered circumstances that white men could begin to advocate territorial separation of black and white without fear.

The following quotation from an article by Donovan Williams, entitled "African nationalism in South Africa, origins and problems", concisely summarises the situation: "The eastern frontier and its contiguous areas provide a strong traditional area of Ciskeian resistance and a spiritual home for African nationalists for whom the frontier seems to have acquired a mystical significance. This area had a unique blend of black-white confrontation and interaction involving both missionaries and military which generated certain attitudes among the Ciskeians. These attitudes were sustained with the help of the Christian church and are a powerful underlay to present thinking among African nationalists - a common factor in all these attitudes is the fear of the loss of land - from the time of the acquisition of the ceded territories in 1819 to the Bantu Land Act of 1913. During the last few decades this defensive attitude against further dispossession has given rise to an aggressive demand for possession of all the land."

The Ciskei today continues to make its contribution to the struggle for restitution and freedom in Southern Africa. From its institutes of learning, Lovedale College and the University of Port Hare, it is providing the nation and other African nations with political leaders raised in a truly spiritual environment. It is through the spirits of the great warriors of the past that Enoch Sontonga was inspired at Lovedale College in 1921 to compose the national anthem of the Ciskei, "Nkosi

Sikelel'i - Afrika", which means, of course, "God bless Africa". Few, if any, political organisations or people of Southern Africa are aware of the powerful and courageous history of the Ciskeian people. It is well to bear these facts in mind in approaching and promoting a New South Africa.

The Ciskei was formerly divided into 9 regional authority areas namely Herschel, Hewu, Glen Grey, Keiskammahoeck, Mdantsane, Middledrift, Peddie, Victoria East and Zwelitsha. The Regional Government in each of these areas was a function of a Regional Authority consisting mainly of Chiefs and the Traditional Councillors. The Ciskeian Territorial Authority was the central authority with little more than advisory powers. The Regional Authorities were never really strengthened into dynamic institutions and were declared defunct by a proclamation dated 30th of November 1968. The assets of these authorities were absorbed into a new territorial authority which was granted more power.

On 1st - August 1972 the Ciskei was constitutionally declared a self governing territory with 20 elected members and 30 Chiefs including the Paramount Chief. This new status constitutionally empowered the Ciskei to make Laws and act executively within a defined field. The Ciskei Government Service and the Ciskei Legislative Assembly were thereupon established and this system of government operated up until independence which was inaugurated on 4th of December 1981. Full description of the Constitutional, Structural and Legislative status of the present Ciskei government was represented to Working Group 4 in a comprehensive memorandum prepared by the Ciskei delegation to Codesa.

RE-INCORPORATION

In proceeding logically towards a program for the possible re-incorporation of the Republic of Ciskei into the Republic of South Africa it has already been agreed that the will of the people will be tested in this regard. Hence in logical progression the first exercise to be undertaken is the holding of a national referendum amongst the Ciskeian people to determine their attitude on this issue. Needless to say the prerequisite for such a referendum will be for the Ciskeian authorities to be placed in a position to describe the constitutional frame-work that will be applicable to the so-called new South Africa. Obviously the people will need to know and understand the constitutional frame-work that will apply to the new South Africa.

It follows that the Working Group 4 will need to maintain a close liaison with Working Group 2 in order to facilitate the process of re-incorporation.

Assuming that the will of the people will have been tested and that the desire of the majority is for re-incorporation it will then be incumbent upon the Governments of the Republic of Ciskei and South Africa to engage in bilateral negotiation on the constitutional arrangements that would be necessary between the two States to proceed to re-incorporation.

Bilateral negotiations and discussions between the Republics of South Africa and Ciskei will need to concentrate on the following key issues.

- a) The nature of the constitutional arrangements between South Africa and Ciskei.
- b) The nature of the constitutional arrangements within Ciskei.
- c) The position regarding rights created under Ciskei legislation which do not exist under South African legislation e.g. more favourable taxes, land ownership and land use, casinos, censorship.
- d) Issues of general interest.
- h) The time frame for re-incorporation, this latter point will be dealt with by Working Group 5.

In regard to (a) above the nature of the constitutional arrangements between South Africa and Ciskei, it will be necessary to examine relevant legislation. In this regard legislation that will need the attention of the Republic of South Africa is as follows:

- A) Status of Ciskei Act, 1981 (Act 110 of 1981).
- B) Financial arrangements with Ciskei Act 1981 (Act 118 of 1981).
- C) Borders of particular States, Extension Act, 1980 (Act 2 of 1980) as amended by Act 25 of 1983.
- D) The Supreme Court Act, 1959 (Act 59 of 1959).
- E) University of Fort Hare Act, 1969 (Act 40 of 1969).

It should be noted that it is not for the Ciskei Department of Justice to suggest what legal procedures or (other procedures for that matter) are to be followed on the South African side for dealing with the financial implications of the Appeal for Amendment of the afore going statutes. The implications are formidable.

Legislation for the attention of the Legislature in the Republic of Ciskei:

- A) Republic of Ciskei Constitution Decree, 1990 (Decree 45 of 1990) as amended by Decree 20 of 1991.
- NB. This decree includes a Bill of Rights
- B) Supreme Court Decree 1990 (Decree 43 of 1990).
- C) Definition of State Liability Decree, 1990 (Decree 34 of 1990).
- D) Administrative Authorities Act, 1984 (Act 37 of 1984).
- NB. Act 37 of 1984 provides for the appointment of chiefs and headmen and their powers and functions, the establishment of tribal and community authorities and chiefs and headmen's courts.
- E) Immigration, and Aliens Act 1988 (Act 9 of 1988).
- F) Ciskeian Citizenship Act 1984 (Act 38 of 1984) as amended by Act 7 of 1987 and 16 of 1988.
- G) Municipal Act, 1987 (Act 17 of 1987).
- H) Public Service Act 1981 (Act 2 of 1981).
- H a) Police Act of 1983 (Act 32 of 1983);
- H b) Prison Act 1983 (Act 36 of 1983).
- I) Governments Service Pensions Act, 1989 (Act 4 of 1989).
- J) Black Land Act, 1913 Act 27 of 1913 (See para M below).
- K) Development Trust and Local Act, 1936 (Act 18 of 1936) (See para M below).
- L) Land Regulations Act, 1982 (Act 14 of 1982).
- M) Removal of certain Restrictions Act, 1984 (Act 7 of 1984).
- NB. This Act abolishes racial restrictions in Acts 27 of 1913 and 18 of 1936
- N) Land Use Regulation Act, 1987 (Act 15 of 1987)
- N a) Land Survey Act, 1988 (Act 22 of 1988)
- O) State Lotteries Act, 1984 (Act 14 of 1984)
- P) Income Tax Act, 1984 (Act 41 of 1984).
- Q) Ciskeian Development Tax Act, 1978 (Act 5 of 1978).

- R) Company Tax Amendment Act, 1984 (Act 16 of 1984).
- S) Licences Act, 1982 (Act 22 of 1982).
- S a) Liquor Act, 1983 (Act 13 of 1983).
- T) Small Business Deregulation Act, 1984 (Act 27 of 1984)
- U) Private Companies Act, 1985 (Act 36 of 1985).
- V) Diamond Cutting Act, 1985 (Act 9 of 1985).
- W) Copy Right Amendment Act, 1984 (Act 9 of 1984).
- X) University of Fort Hare Act, 1969 (Act 40 of 1969).
- Y) Technical Act, 1984 (Act 15 of 1984).
- Z) Education Act, 1985 (Act 27 of 1985).
- AA) Ciskei Library Services Act, 1980 (Act 19 of 1980).
- BB) Fort Cox College Decree, 1991 (Decree 5 of 1991)
- CC) Ciskeian Apprenticeship Act, 1973 (Act 7 of 1973).
- DD) Workmen Compensation Act, 1982 (Act 11 of 1982).
- EE) Unemployment Insurance Act, 1983 (Act 11 of 1983).
- FF) Manpower Training Act, 1984 (Act 33 of 1984).
- GG) Machinery and Occupational Safety Act, 1984 (Act 35 of 1984).
- HH) Manpower Placement Act, 1987 (Act 19 of 1987).
- II) Wage Act, 1989 (Act 1 of 1989).
- JJ) Labour Relations Decree, 1990 (Decree 15 of 1990).
- KK) Conditions of Employment Regulation Act, 1984 (Act 34 of 1984).
- LL) Ciskei Nursing Association Act, 1978 (Act 7 of 1978).
- MM) Health Act, 1988 (Act 24 of 1988).
- NN) Mental Health Act, 1986 (Act 28 of 1986).
- OO) Health Professions and Related Health Practices Act, 1984 (Act 36 of 1984).
- PP) Nursing Act, 1984 (Act 13 of 1984).

- QQ) Hazardous Substances Act, 1985 (Act 15 of 1985).
 RR) Abortion and Sterilisation Act, 1985 (Act 16 of 1985).
 SS) Exhumation Act, 1982 (Act 10 of 1982).
 TT) Human Tissue Act, 1985 (Act 27 of 1985).
 UU) Historical Monuments Act, 1989 (Act 10 of 1989).
 VV) Multilateral Motor Vehicle Accident Fund Act, 1989 (Act 7 of 1989).

The Republic of Ciskei continues to administer a considerable number of statutes inherited from the Republic of South Africa at the time of independence. Some of these have been amended in part or in their entirety, to keep abreast with developments in the RSA. The following are examples:-

- 1) Administration of the State Act, 1965 (Act 66 of 1965) - several attempts have been made to have the amendments adopted by the legislature, but without success.
- 2) Criminal Procedure Act, 1977 (Act 51 of 1977) this Act, sans the death penalty is virtually up to date.
- 3) Magistrates' Court Act, 1944 (Act 32 of 1944) - proposed amendments have not yet been promulgated. The jurisdiction authorised in the RSA is in excess of the jurisdiction of the Ciskeian Court.
- 4) Deeds Registry Act, 1937 (applied appropriately to Ciskei), the Deeds Office procedure has been kept up to date to coincide with that in the RSA.
- 5) The Ciskeian Road Traffic Act, 1989 (Act 18 of 1989), this moves the road traffic Act, 1989 of the RSA but without proposed privatisation of vehicle testing stations or examiners for drivers licences.
- 6) Acts relating to Deposit Taking Institutions or Building Societies and other financial Institutions - these are in the process of being substituted by Ciskeian Laws. Virtually identical with their RSA counterparts at present, etc. etc..

Many of the foregoing majors have (as in case of the Statutes mentioned in the list for the RSA) formidable financial implications eg., the Public Service Act 1981 and the Police Imprisonment Acts (The Government Service Pensions Act, 1989 with its funds fortunately controlled by Sanlam). The Income Tax Act, 1984 and the Company Tax Amendment Act 1984. There are also a number of Parastatal bodies, eg. the Ciskei Peoples Development Bank - which is a Development Co-operation, an Agricultural Co-operation, a Tourist Organisation etc. etc.

BILATERAL AGREEMENTS

At the time of the assumption of independence by the Republic of Ciskei some 81 Bilateral agreements were entered into with the South African Government. These Bilateral Agreements have been listed in the documents submitted to Codesa by the South African Government on 10th of February 1992. The agreements cover all possible aspects of government administration and establish a wide field of Economic and Socio-economic Co-operation.

In the event of an acceptable constitution for a new South Africa being drafted and accepted by Working Group 2 then the Republic of Ciskei will seek to engage in further bilateral negotiation with the South African Government with a view to establishing a further agreement for the re-incorporation of the Republic of Ciskei into the new South Africa. In this event all the 81 mentioned "independence agreements" will need to be reviewed and either abolished or incorporated into national legislature. The 81 Bilateral Agreements are listed on pages 123 through to 154 of the above referenced publication.

MULTILATERAL AGREEMENTS

The Republic of Ciskei has engaged in the Multilateral Process in entering into some 15 multilateral agreements with various other Member States of the ECOSA Region. These Multilateral Agreements cover the following fields:-

- A) The establishment of the Development Bank of Southern Africa.
- B) The appointment of a South African Tourism co-ordinator.
- C) A control of pollution of water resources.
- D) The establishment on the Secretariate for the ECOSA Region.
- E) A convention on extraditing the contracting parties RSA, Bophuthatswana, Venda and Ciskei one regional sercurity and co-operation between Transkei and Ciskei.
- F) The Jurisdiction of Municipal Courts over foreign States.
- G) Standards of life-stock and the importation of breeding animals, in Southern Africa between RSA, Venda and Ciskei.
- H) The establishment of a Multilateral Motor Vehicle Accident fund.
- I) Convention on Human Immune Difficiency Virus, and AIDS between all five Member States.

- J) Convention with regard to energy and energy related matters signed by RSA, Transkei, Venda and Ciskei.
- K) Agreement regarding social pension grants and allowances signed by RSA, Transkei, Venda and Ciskei.
- L) Agreements regarding Social Welfare Services between RSA, Transkei, Venda and Ciskei.
- M) Agreement for the avoidance of double taxation, the prevention of physical evasion, the rendering of mutual assistance in-incorporation, the establishment of a transfer system with regard to Value Added Tax.

In dealing with the issues of re-incorporation in respect of the Republic of Ciskei being re-incorporated into the Republic of South Africa it is of considerable merit and interest to record the circumstances pertaining to the interim constitutional development of the Ciskei; as recorded in the Interim report on the Constitutional Development of the Ciskei dated 29th September 1980.

The members of the Committee which produced the report were appointed by the Prime Minister of the Republic of South Africa, viz the Honourable P.W. Botha, and the Honourable Chief L.L.W. Sebe, Chief Minister of Ciskei.

"Confederal Agreement"

3.1 The following was recorded in the report.

As was indicated by the Prime Minister in the no-confidence debate in Parliament in 1980 a Confederation of States could be linked by a Council of States. All independent national States would qualify for full membership on a basis of equality.

Consequently the Governments of the Republic of South Africa and Ciskei decided to enter into a Confederal Agreement, the structure of which is to be negotiated concomitantly with the attainment of independence by Ciskei.

Various important matters such as the matter of nationality, citizenship, passport and travel documents which are the subject of investigation by committees or commissions will upon finalisation be incorporated in the confederal agreement.

From this provision it will be realized that the Government of Republic of Ciskei has at all times been consistent in its concept that it has never sought to irrevocably divorce itself from the SA Commonwealth but in its independent status remain firmly associated with the parent South African body.

In other Submissions and Position Papers submitted to Codesa the Ciskei government has clearly defined the basis and preference for its re-incorporation into South Africa.

In this context it has stated its wish that Ciskei should become part of a regional state, province, far greater regional unit within a United Federal State of Southern Africa. Ciskei has long realised its inability to stand economically independent on the basis of its present boundaries and is convinced of the necessity for it to join a greater economic unit.

In the same manner, as previously, where Ciskei was intending that it should take its place in Southern Africa within a Confederal arrangement with other States, Ciskei would wish to see its participation in the future South African dispensation within a regional context and in this respect deal with the various issues relating to harmonization of Legislation and Taxation in a regional context.

Where Ciskeian Legislation has produced rights which do not exist under South African Legislation i.e. in regard to more favourable tax base, the granting of free-hold land ownership and land use, the establishment of casinos etc., Ciskei would wish to see these matters harmonized in the first instance in the context of being part of a greater regional unit. Such an approach would ensure that maximum economic benefits continue to accrue to the regional environment without causing major disruption to the economy of the region and thus lead to a position of destabilisation and loss of confidence.

In proceeding to deal with areas of commonality Ciskei would again promote the concept of a regional approach in dealing with issues relating to the legal system, the public services, language, and the system of public administration and financial management. All of these issues would need to be negotiated and harmonized for maximum regional benefit.

Any legal system adopted would need to cater for existing traditional common law practices which prevail as well as consolidating the existing practice applying in Roman Dutch Law which is presently used in South Africa.

A regional dispensation would also make it possible for official languages to be adopted which would meet the needs of the regional population and in the case of Ciskei within its envisaged region, English and Xhosa would become the official languages.

A regional approach would also cater for the rationalisation of the existing civil services and their utilisation throughout a greater region. In this respect the trained and experienced civil servants of the Independent States would be available for

disbursement throughout a greater region and thus bring immediate benefit and improvement in the administration and services to the community as a whole, without a delay in having to train for the expansion of the civil service.

Other positive implications of Ciskei incorporating into a Federal/Regional model are listed below:

- historical borders are not necessarily entailed or required
- homogeneous population (putting people together who belong to the same region)
- regional structures are to be determined by the national constitution, thus all regional structures will be the same
- all regional governments must have the same powers and functions
- pragmatism is to play a bigger role
- people in general will be more conscious of themselves, the regional economy and issues affecting them more directly
- leadership development and accountability of leaders possible
- offers opportunities to accommodate group diversity not available in a centralised state
- healthy competition with other federal units/regions
- greater scope for self-determination and local decision-making
- the bigger towns/cities would be part of the regional economy, whereas they have been excluded to date
- no regional citizenship will be imposed as all people will probably be South Africans
- availability of "checks and balances" to ensure consensus
- inclusiveness vs exclusiveness
- multi-party democracy and participation of all
- coalitions are possible to strengthen minorities
- immediate needs of communities more likely to be met
- easier to boost nations morale on federal basis

In considering the question of a transitional arrangements during the process of re-incorporation the Republic of Ciskei would wish to remain a sovereign independent state until such time as re-incorporation became clearly identified by was of bilateral agreements and harmonization of legislation. In this manner the Republic of Ciskei would be able to ensure that it played a significant role in the determination of its own future and secured the best possible dispensation for its people.

In regard to the proposals for the establishment of an interim government currently being investigated by Working Group 3, Ciskei would wish to retain its sovereign independent status until such time as it was able to evaluate the nature of the constitutional dispensation proposed for the "new South Africa".

Naturally as is currently the position between South Africa and the TBVC States, it would expect and anticipate, that in matters of economic co-operation and in all other matters addressed by bilateral agreements, that it would be consulted by the interim government of South Africa.

Thus in matters relating to policy issues, economic co-operation, public service administration, constitutional affairs, referendums etc., Ciskei would wish to be consulted.

As has already been identified in the submission an innumerable number of bilateral agreements have been entered into between the present South African government and the government of the Republic of Ciskei. It goes without saying that these bilateral agreements will need to be entrenched into any interim government arrangement entered into by the South African government so as to ensure that the provisions of the agreements are observed and honoured by the interim government. The situation could not be created whereby these bilateral arrangements would simply fall away because of the change of status of the South African government. The government of the Republic of Ciskei has taken note of the assurances given by the State President, the Honourable F.W. De Klerk that all existing agreements, treaties arrangements etc., will be honoured in full.

Other issues which will also need to be addressed by the government of the Republic of South Africa prior to the inauguration of a sharing of power in an interim arrangement will be as follows:

- a) The entrenchment of the existing financial arrangements whereby South Africa provides financial aid to the Republic of Ciskei and through the Joint Financial Arrangements Committee has assumed responsibility for the Ciskei National Debt and has undertaken to provide a Annual Bank Guarantee for overdraft facilities.
- b) Maintain the operation and allocation of the Revenue Resources arising out of the Common Customs Union for Southern Africa.
- c) Conclude all outstanding land issues relating to compensatory land to the Ciskei government and to identified communities.
- d) An exhaustive study will need to be made of all existing Bilateral Agreements so as to ensure that none of the provisions of these agreements are overlooked and fall into disrepute following the change in status of the existing South African government.

POLITICAL ISSUES

1. Whatever political and/or constitutional model is to be decided upon for the future, this model should guarantee a peaceful resolution to the multifaceted problems left to us by decades of apartheid. The highly centralised political system of the past makes it difficult for communities to adopt a system of decision-making at community level.
2. The Constitution of the new negotiated Southern Africa should bear clauses to prevent the abuse of state power. The Ciskei is not interested in joining South Africa if it is going to be a unitary state with a highly centralised government on all spheres. A large bureaucracy is not a guarantee for sound administration and a good effective government.
3. The implication of reincorporation concerning the lives of the ordinary Ciskeian should be considered. The people expect a system whereby they have a direct input in issues affecting their daily lives. Government by discussion and consent is thus to be considered as a priority.
4. People (Ciskeians) have over the years developed a natural opposition to a system where they have no influence on decision making and the process of government. They also expect a sound administration and an efficient government.
5. Resolving differences between potential hostile organisations should be a priority of this region as these ongoing differences might implicate a situation of winner-takes-all rather than that of cooperation, consensus and competition.
6. The incorporation of Ciskei is subject to the fact that the importance of a participatory model of democracy is not just that it gives us an alternative way of understanding democratic life, but also that it provides us an alternative model of nation-building under conditions of multi-ethnic and religious diversity. If the above is not guaranteed, the Ciskei has no reason to re-incorporate, as there is no nation-building and an understanding of democracy.
7. For many years, under apartheid, leaders were not always made accountable for decisions and actions. People should be given the opportunity after re-incorporation, on a regular basis, of a referendum on certain issues to ensure that not only the leaders, but also the people at large are made accountable for the execution of their daily lives.
8. The consequences of different policies should be taken into account as no policy can guarantee a success. Policies referred to are merely economic and social development policies; those which affect our lives on a daily basis.

9. When democracy is generally discussed by people, they understand the following:-

- freedom of religion, assembly and denomination
- freedom of speech and expression
- freedom of movement
- freedom of political activities
- right to vote
- free market economy and private ownership

If the above is not guaranteed in the constitution or in a Bill of Human Rights, then the implication might be that people will systematically object to the system and demand these rights. Therefore, neither Ciskei nor its people are interested in settling for less than the above.

10. There is no need for the Ciskei and/or any CODESA delegate to reinvent the wheel. We only have to make it more perfect. People at large need to know and to be informed about issues affecting them, even now during this transitional process. Democracy is the ultimate, and the smaller the unit of government and the more restricted and functions assigned to government, the less likely it is that its actions will reflect special interest rather than the general interest. Spending of government has thus to be reduced in order to survive.

11. Ciskei has opted for a federal constitutional model. Therefore, each regional government should have a clearly defined and sensible demarcated geographic area. The power of the state should thus be distributed vertically, in a practical manner between the various levels of government, without culminating in the weak or fragmented exercise of power. The above implicates a sound research to be done on the geographic boundaries and economic viability of each region.

12. The implications of democracy and its contribution towards this region can never be overlooked. The more people are allowed to vote, after re-incorporation, the better. Direct democracy reflects public opinion, ensures that elected leaders remain accountable and it reduces the importance of party politics, to which most people have become used. This should also avoid polarisation, conflict and violence. If party politics is pressed too hard then a "winner-takes-all" situation develops. Under direct democracy, where people vote on a regular basis, losing party members can still share in decision-making. By implication everybody participates in deciding on issues affecting their lives.

13. Direct democracy also has implications such that some people believe that power is transferred from the educated to the ignorant. Some people also believe that democracy favours the elite and the Black South Africans lack the knowledge and experience to participate. However, these are misguided perceptions.

14. The negative implications of ~~State~~, incorporating into a unitary state with a highly centralised government, could be the following:-

- domination of minority groups is possible
- access to government and government privileges is very difficult, especially in rural areas
- alienation between government and individuals could develop
- the potential for corruption, bureaucracy, inefficiency and nepotism is increased
- concentration of power might lead to abuse of power
- discrimination on basis of race, colour, creed and class is not excluded
- minority groups might be excluded from participation, leading to confrontation and violence.

18 March 1992