

\* FIRST DRAFT \*

WORKING GROUP 4 SUB-COMMITTEE 3THE ADMINISTRATIVE, PRACTICAL AND LEGAL EFFECTS OF  
RE-INCORPORATION AND NON-INCORPORATIONDISCUSSION DOCUMENT BY BOPHUTHATSWANA1. INTRODUCTION

Bophuthatswana in its position statement on the future of the TBVC-States, suggested an investigation by CODESA into various future options and an objective evaluation of the likely implications resulting from such options. The opportunity was also asked to assess freely and objectively the merits and demerits of each proposal before the will of the people is tested.

The undertaking was given that every option which promises a better future, or a future at least as good as the present situation, will be regarded a feasible and realistic option for consideration.

CODESA on its behalf, instructed Working Group 4 in its Terms of Reference, "to investigate and report upon all proposals and make recommendations with regard to the relationships between South Africa, the TBVC-States and the people of those states under a new South African constitution".

Working Group 4 continued in this spirit to explicitly state that the effects on re-incorporation and non-incorporation should be investigated by the various Sub-Committees.

Although re-incorporation into South Africa may be a foregone conclusion for Ciskei, Transkei and Venda, it became obvious that the people and Government of Bophuthatswana is not convinced that it would be to their advantage to be re-incorporated.

Because of this reasoning, Bophuthatswana selected two options of non-incorporation as their first preferences. The option of a Regional Government within South Africa was identified as a third option for consideration.

An important part of the Terms of Reference of this Sub-Committee is therefore to investigate these implications further and provide the necessary documented proof if consensus is reached, that it will be to the advantage of Bophuthatswana and South Africa to join forces.

## 2. PROGRESS

It is clear from deliberations and information presented, that the TBVC-States cannot be generalised as a group, but that each individual state should in fact be evaluated as a specific entity in terms of its own unique performances and circumstances.

This resulted in a decision that detailed information according to an approved format, should be presented by each of South Africa, Transkei, Bophuthatswana, Ciskei and Venda. Most of these countries presented their information in terms of the approved format and are now awaiting a report on information still outstanding.

It is crucial for Bophuthatswana to have a clear analysis and balance drawn up of all positive and negative implications and effects on incorporation and non-incorporation for its specific situation.

The initiative to obtain clarity on this all important aspect, was therefore taken by way of a detailed analysis as attached, in ANNEXURE A, for consideration and discussion. This is still a draft presentation and is mainly based on existing and available information to date. A final report is intended for attention of Working Group 4 and even CODESA II, after finalisation by this Sub-Committee.

It is further important to note that many issues identified, require a specific statement of clarity or confirmation before the position can be accepted as final. It can therefore be accepted that this document and its annexure will require further refinement as further information is gathered and clarity is obtained regarding the specifics of a new constitution and its regional structures.

It is thus considered important that this Sub-Committee investigate all issues identified and provide further guidance to be taken into consideration. There-after, the discussion can be documented in the report to Working Group 4. This Working Group could then clarify outstanding issues, and confirm the conclusions and recommendations formulated and undertakings given for verification of the Management Committee and CODESA II.

In preparing the analysis in ANNEXURE A, it was accepted as a best case scenario for re-incorporation, that a regional government with maximum devolution of autonomy and powers is possible. If not, this should be clearly stated. Similarly, it was accepted that Bophuthatswana will be allowed to continue unhindered as an independent country if it choose to remain autonomous. Furthermore, existing cordial and constructive relations with a new South Africa will continue as at present.

If this is not going to be the position, this must also be stated and motivated clearly.

It is obvious that the conclusions and findings of this draft analysis will have to be reviewed and adopted if these two basic premises are not acceptable as a point of departure.

### 3. CONCLUSIONS

From the analysis provided, it is obvious that each government should be assessed separately and on merit regarding the likely effects and implications in a new South Africa. General guidelines and undertakings will have to be followed with more detailed understandings reached with each specific country.

The economic analysis and available information show without any doubt that the average resident in Bophuthatswana is enjoying a quality of life and access to a quality service by government, that compares favourably with anything offered in South Africa at present. In fact, it is obvious that there is apparently very little to gain administratively and financially from re-incorporation.

In exchange for these doubtful prospects it would appear as if several sacrifices are required from the average resident, as listed in the detailed analysis.

[ANNEXURE A].

In summary, the following examples apply:

- An existing, proven and sound constitution must be replaced by a new constitution still to be developed as part of the negotiation process. It is not clear how principles and values of the government will be carried forward in such a constitution.

- Development attention will initially be focussed on the deprived areas of South Africa to the detriment of further growth and development in the relatively prosperous Bophuthatswana areas. All which has been gained in Bophuthatswana in comparison with the economic degradation in the bordering regions and towns in South Africa, will be lost again.
- The violence, killings and intimidation in South Africa will spill over into Bophuthatswana territory where peace, stability and economic progress were experienced the past years.
- Bophuthatswana's access to revenue sources and its fiscal autonomy to spend the money where the greatest needs are experienced and priority developments could be supported, will severely be limited.
- Political, economic and financial autonomy will largely revert back to a central government without the perspective nor appreciation for the needs and aspirations of the people living in this part of the country.
- The transfers of the functions and responsibilities to regional and local governments without access to revenue and the authority to take decisions, is a sure way to kill initiative and lose support.
- Although economies of scale are possible and provide exciting opportunities for the future, this must be weighed against the advantages of direct access and attention to grassroots and community needs and aspirations. Guidance on this must be given.

- There is a real danger that all good economic and administrative performances by Bophuthatswana will now be emptied in a bottomless pit of debts, shortfalls, poverty and basic needs experienced by the other populations in South Africa. Assurances and guarantees on this aspect is required before re-incorporation becomes a realistic alternative.
- Wrong constitutional, economic and financial policies in South Africa and TBVC countries, is further creating a financial burden and loss of confidence in the ability of South Africa to solve its internal problems.
- Very little respect and recognition is furthermore found at CODESA and in statements by some of the participants, regarding existing constitutions, acts, values and principles applied by ruling governments. This, together with examples where the merits of an argument is subject to political pressure and positioning, do not offer favourable prospects for a future South African Government.
- The way in which existing agreements and the peace accord are also interpreted and applied by the very signatories of these agreements, and the continued use of private armies, violence and intimidation, contribute to the existing despair on what a new South Africa holds.

From the above, it is obvious that considerable debate and guidance on all contradictory signals are required before reasonable expectations about the future can be created.

Furthermore, specific assurances and guarantees on the future of the people, the assets and the structures of existing governments, its resource base and functional responsibilities will be required, before even a remote opportunity is created for a favourable consideration of a re-incorporation option.

D W SCHOEMAN









THE EFFECTS OF RE-INCORPORATION AND NON-INCORPORATION ON BOPHUTHATSWANA.  
(ADMINISTRATIVE, FINANCIAL AND PRACTICAL)

## ANNEXURE A

DESCRIPTION	EFFECTS OF RE-INCORPORATION	EFFECTS OF NON-INCORPORATION		
		POS.	NEG.	
WATER SUPPLY	Access to good sources of water supply	*	Dependant on bulk water supply from SA	*
	Provision of clean water in rural areas is a major challenge		Reticulation of water in rural areas superior to the average SA situation	*
	Major problems are encountered to collect tariffs		* In position to give higher priority to water supply than would be otherwise the situation	*
	Improved access to reticulation services in towns	*	Polution of water not a big problem	*
ELECTRICITY	Major source of electricity supply	*	Do not experience problems with collection of tariffs and fees	*
	Access to big coal resources	*	Dependant on SA for electricity supply	*
	Advanced structure to supply the total sub continent	*	Duplication of structures to supply electricity	*
	Major problems in collection of tariffs	*	Limited access to coal/energy reserves	*
	Improved reticulation of services in towns	*	* Collection of tariffs not a problem	*
COMMUNICATION SYSTEMS	Considerable improvement in telephone facilities is likely	*	Tremendous need for affordable energy in area	*
	Improvement in private telephone connections possible	*	Not the funding base to support big investments	*
	Superior provision of postal services in Bophuthatswana will not be improved soon	*	Higher per capita expenditure on these services will continue	*
	Interference in radio and TV services can be expected	*	Larger number of postal services could ensure an superior service in future	*
	Access to improved maintenance of service	*	* The provision of adequate telephone services is a problem	*
			* Technological expertise required not readily available	*
		Can continue its independant broadcasting and TV service	*	*

THE EFFECTS OF RE-INCORPORATION AND NON-INCORPORATION ON BOPHUTHATSWANA.  
(ADMINISTRATIVE, FINANCIAL AND PRACTICAL)

DESCRIPTION		EFFECTS OF RE-INCORPORATION		EFFECTS OF NON-INCORPORATION			
				POS.	NEG.	POS.	NEG.
SOCIAL INFRASTRUCTURE	HOUSING	Large shortages are experienced Funding requirements put tremendous strain on budget Registration of bonds on tribal land still a problem Housing needs in towns will dominate attention at cost of rural areas Many towns require basic services urgently Local government structures not operational as a result of intimidation by residents Rent boycotts by residents are crippling operations Violence and lawlessness make these towns unsafe for law abiding citizens			* Shortages for housing is manageable * Budgetary provisions for housing relatively small * Structures and finance in place for loans in tribal areas * Towns reasonably provided with basic infrastructure * Effective and efficient local/tribal authorities * Although backlogs are experienced no rental boycott * Local authority legislation in process of completion * Continued inflow of people to escape the violence in SA	* * * * * * *	
	TRANSPORTATION	Transportation in rural areas very bad Very heavy subsidy burden on the government Reluctance to pay transport fares			* Very advanced transportation system that will take years for SA to match * Increases of tariffs are less of a political instrument and budgetary constraint * Manufacture own buses that are required	* * *	
	EDUCATION	Become part of school unrests in SA Children to be subject again to inferior education system and bad matriculation results Superior teacher to pupil ratio will diminish Superior classroom to pupil ratio will diminish Improved enrolment rate will have to wait for SA to catch up			* Discipline and good examination results will be maintained in schools * Superior level of education will continue * Special training to improve skills of teachers will continue unabated * Special programmes on adult and literacy training will continue to be improved * The provision of technical/vocational training will continue to receive priority * System of entrepreneurial/small farmer training will continue	* * * * * *	
	HEALTH	Improved access to doctors Improved access to nurses Improved access to hospital beds Improved facilities and funding			* Superior level of services/clinics in rural areas will stagnate until rest of SA caught up	* * * *	

THE EFFECTS OF RE-INCORPORATION AND NON-INCORPORATION ON BOPHUTHATSWANA.  
(ADMINISTRATIVE, FINANCIAL AND PRACTICAL)

DESCRIPTION	EFFECTS OF RE-INCORPORATION	EFFECTS OF NON-INCORPORATION	
		POS.	NEG.
SOCIAL WELFARE	More social workers/1000 population	*	
	Improved level of public old age benefits	*	
LAW AND ORDER	No access to National provident fund		*
	Large security risks in SA		*
	Violence and crime rate unacceptably high		*
	Number of policemen/capita inferior to present position		*
	No benefits in terms of magistrate offices		*
	Less police stations per 1000 people		*
	More prisoners per 1000 population		*
	Better prisoners/bed ratio	*	
	Ombudsman function only recently introduced	*	
	INSTITUTIONAL CIVIL SERVICE	Improved remuneration and benefits	
Further rationalization of positions and staff			*
An unhealthy big public service			*
Remuneration expenditure more than 30% of budget			*
Participation in uncovered pension schemes			*
Transfers of staff throughout SA			*
Adaptation to new policy and regulations			*
New legislations to be administered			*
At disadvantage compared with existing staff in SA		*	
Unless stated otherwise, PSC act and services will become redundant			*
Unclear and lengthy communication structures			*
Severe rationalisation of parastatals			*
Large numbers of employees will become redundant			*
Economy of scale will apply		*	
Loss of direct and short communication links			*
Many existing and new projects to be postponed		*	
Superior level of services to residents to await rest of country to catch up		*	
Loss of direct communication with parastatals		*	
PARASTATALS	National Provident Fund already in operation		*
		Larger strain on budget to catch up backlog	
	Internal stability		*
	Superior ratio of police and level of services will be maintained for the future		*
	Ombudsman already in operation for 10 years		*
	Continued application of sound policy and strategy		*
	Staff compliment to continue as before		*
	Remuneration still less than in SA		*
	Proportion of budget less than 30%		*
	Continued training and development of staff		*
	Very healthy pension scheme for public servants		*
	Staff transfers only within Bophuthatswana borders		*
	Existing and known legislation		*
	Short and direct communications with decisions		*
	Uniformity in application of policy and procedures		*
Regular evaluation of effectiveness and efficiency of existing organizations		*	
Continued services of high quality to residents		*	
Continuation of existing and new projects		*	
Improved future and security for employees		*	
Direct contact with grassroots needs		*	

THE EFFECTS OF RE-INCORPORATION AND NON-INCORPORATION ON BOPHUTHATSWANA.  
(ADMINISTRATIVE, FINANCIAL AND PRACTICAL)

DESCRIPTION	EFFECTS OF RE-INCORPORATION		EFFECTS OF NON-INCORPORATION	
	POS.	NEG.	POS.	NEG.
C.FINANCES				
REVENUE				
Loss of Customs and Excise revenue			*	*
Loss of autonomy on the use of budgetary assistance from Central level, unless otherwise stated			*	*
Unclarity on basis of future financial transfers from Central level			*	*
Unless stated otherwise, no claim to individual taxes paid by citizens in SA			*	*
Unless stated otherwise, no transfer of company taxes paid to Central Authority			*	*
New double taxation agreements to be entered into			*	*
Unless stated otherwise, loss of control over mining taxes			*	*
Unless stated otherwise, loss of VAT as revenue source			*	*
Fiscal autonomy over other revenue sources to be considerably restricted			*	*
Less revenue to fund functions and needs			*	*
Introduction of higher marginal tax rates for individuals			*	*
Autonomy to raise loans to be restricted considerably			*	*
Strong indications that revenue generated in area will be transferred to other communities			*	*
Motivation for increased revenue collection not there			*	*
Training of staff and community to collect taxes according to new and strange legislation			*	*
Complete chaos in implementing new policies and rates			*	*
Access to new sources of revenue at regional service/local level			*	*
New guidelines on central/regional/local revenue sources to be developed			*	*
Overborrowed according to IMF standards			*	*
Debt servicing ratio unacceptably high			*	*
Access through Central government to Foreign aid	*			*

Addendum 14

WORKING GROUP 4, SUBCOMMITTEE 3 MEETING: 23-03-1992.Land moratorium:

The meeting reaches consensus on the following in regard to the above subject,

1. that no further attempts be made to identify new Land for transfer to the TBVC Governments.
2. that Land currently in the possession of the S.A. Development Trust should remain in the hands of the Trust until its dissolution, whereafter it will be transferred to the S.A. Government (Successor in title).
3. that the moratorium should apply to all land listed in the Schedule to the Borders of Particular States Extension Act 2 of 1980 which has not yet been exised from South Africa.
4. that this moratorium will apply to all SATBVC 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 S.A. Development Trust from individual South African citizens which has not yet transferred.

---