

TRANSITIONAL EXECUTIVE COUNCIL (TEC)

FRIDAY 11 JUNE 1993

INDEX:

SECOND REPORT - 21 MAY 1993

1. Programme of Work
2. Tasks
3. Amendment to First Report
4. Supplement to Item 9. Finances in First Report

Addendum A - Summary of Inputs Received

Addendum B - Submissions Received

SECOND REPORT OF THE TECHNICAL COMMITTEE ON THE TRANSITIONAL EXECUTIVE COUNCIL AND SUB-COUNCILS / 21 MAY 1993

PROGRAMME OF WORK AND THE REPORT OF THE TECHNICAL COMMITTEE ON THE TRANSITIONAL EXECUTIVE COUNCIL AND ITS SUB-COUNCILS

- I** The technical committee has designated its future programme of work as the specification and elaboration of the powers of the Transitional Executive Council and its sub-councils and the mode of exercise of these powers.

As this topic concerned the very "nuts and bolts" of the Transitional Executive Council it was deemed inappropriate to furnish a report on this aspect until all the participants' submissions have been received. The deadline for the submissions was 17H00 on Wednesday 19 May 1993, which was after this report had been drafted. We would however make the point that once this task has been completed it may be necessary to revisit aspects of the structure and function of the Transitional Executive Council and its sub-councils.

- 2** In regard to the Transitional Executive Council and its sub-councils' powers, the technical committee recognises its tasks as follows:

- 2.1 The specification of the powers of the three less contentious sub-councils in respect of which, it is believed, the technical committee will be able to make proposals relatively expeditiously. These three sub-councils are Finance, Regional and Local Government and Foreign Affairs.

In our view, it may be advisable to defer the consideration of the Regional aspect of the Regional and Local Government sub-council until greater clarity emerges from those committees dealing with interim/transitional regional arrangements.

- 2.2 The definition of the Law and Order sub-council's powers are considered of critical importance. The committee is currently considering this issue.

- 2.3 The definition of the Defence sub-council's powers which involves peculiar and developing considerations. This topic will be addressed after the above.

- 2.4 The definition and specification of any general powers, if any, of the Transitional Executive Council which the committee deems necessary to supplement the above powers.

- 3 The committee wishes to draw attention to an error contained on page 7 of our first interim report. In our view the participants in the Transitional Executive Council should not be represented by more than ONE member in any sub-council.

NOTE: The previous report has suggested that parties could be represented by two members in any sub-council.

- 4 In regard to the structure and operation of the Transitional Executive Council, the committee now wishes to supplement its initial report with a section on Finances which reads as follows:

9. Finances

- (1) The Transitional Executive Council shall have the necessary legal status and capacity to open and administer its own financial accounts.
- (2) The Transitional Executive Council shall have a seat of office and for the purposes set out in sub-paragraph (1) shall appoint its own executive officer.

NOTE.. The need to approve guidelines for the Transitional Executive Council's staffing, its administration and operation, to secure and furnish accommodation timeously, and to prepare a budget suggests that a decision, in principle, on a Transitional Executive Council should be made sooner rather than later.

A decision will also need to be made regarding the body which will decide on the appropriate budget of the Transitional Executive Council.

ADDENDUM A

SUMMARY OF INPUTS RECEIVED UNTIL 13H00 ON WEDNESDAY 19 MAY 1993

In alphabetical order, the following organisations have made submissions relating to the brief of the Committee. The import of each submission is briefly stated:

1 African National Congress:

The African National Congress has submitted a comprehensive document entitled 'Legislative Framework for a Transitional Executive Council'. The submission is an elaboration on the report of Working Group 3 of Codesa.

2 Afrikaner-Volksunie:

The Afrikaner-Unie maintains that the transition can only be planned once a new constitution has been adopted.

3 Bophuthatswana:

In view of its proposals on constitutional matters, which were not made available to the Committee, the Government of the Republic of Bophuthatswana is of the opinion that there is no need for a Transitional Executive Council.

4 Conservative Party:

The Conservative Party, in a general submission on the negotiating process, expresses a view from which it can be inferred that the Conservative Party would regard the work of the technical committee on the Transitional Executive Council as premature.

5 Ciskei:

The Government of Ciskei shares the view of Bophuthatswana that there is no need for a Transitional Executive Council, but adds that if it is decided that there should be such a body, Ciskei reserves its right to make inputs regarding -

- the composition
- definition
- terms of reference
- authority
- and general matters

relating to such a body.

6 Democratic Party:

Two submissions have been received from the Democratic Party.

6.1 The first deals with the following matters:

- 6.1.1 The Transitional Executive Council should continue after the first election with a different composition and with increased authority.
- 6.1.2 A sub-council on finance should also be entrusted with responsibility for socio-economic development.
- 6.1.3 A sub-council on foreign affairs should also assist with the improvement of trade, finance, sporting and other international relations and liaison with foreign monitoring groups during the transition.

- 6.1.4 Members of governments/administrations should not be members of the Transitional Executive Council and subcouncils.
- 6.1.5 No political organisation should have more than one representative on a sub-council.
- 6.2 In addition to some editorial and consequential changes to the committee's proposal for the Transitional Executive Council and sub-councils, the second report contains the following suggestions:
 - 6.2.1 It reinforces the Democratic Party's contention in 6.1.4 that members of governments/administrations should not be members of the Transitional Executive Council or sub-councils.
 - 6.2.2 Regional government should be part of a sub-council's brief in a generic sense to include existing provincial administrations, self-governing territories etc.
 - 6.2.3 The sub-council on finance should have a broader mandate to include social, economic and developmental issues impacting on fair and free elections.
 - 6.2.4 No party should be allowed to have more than one member on a sub-council.

7 Natal Indian Congress:

The NIC proposes that:

- 7.1 The terms of reference of the TEC should be expanded to include "levelling the playing field" and "creating a climate of free political activity".
- 7.2 A sub-council on education should also be established.

An unspecified reference to decision making also occurs in the submission.

8 National Peoples Party of SA:

The following points emerge from the NPP submission:

- 8.1 Full support for the need for the Transitional Executive Council.
- 8.2 The Transitional Executive Council should have full cabinet status.
- 8.3 Each participant in the MPNP should have at least one representative on the Transitional Executive Council. No participant should have more than one representative on a sub-council.
- 8.4 Each member of the Transitional Executive Council should serve on at least one sub-council.
- 8.5 No provision should be made for substitutes.
- 8.6 "Levelling of the playing fields" should be mentioned as an objective.
- 8.7 A sub-council for social development should be established.
- 8.8 The Transitional Executive Council should have the power to call to its meetings any political office bearer or official responsible for a matter before it.
- 8.9 Members of the Transitional Executive Council and sub-councils should be remunerated equally and certain discrepancies indicated should be avoided.

9 Pan Africanist Congress of Azania:

The PAC proposes the following:

- 9.1 That the transitional body should be called the Transitional Executive Authority, that it should have full executive powers in respect of its area of jurisdiction, and that the current government relinquishes its powers over those matters. (These views are reinforced in the PAC submission on the constituent assembly/constitution making body.)
- 9.2 Constitutional changes to provide for the situation in 9.1 should not amount to an interim or a new constitution.
- 9.3 Composition: multi-party, with one non-voting representative from each of an unspecified number approved international bodies; it would further appear that the Independent Elections Commission,

the Independent Media Commission and Independent Telecommunications Board, a Commission on Security Forces including Armed Formations and a Commission on defined aspects of Finance should also form part of the composition of the TEA; specifics concerning the number and type of representation were not provided.

- 9.4 In its submission on a constituent assembly/constitution making body, the PAC states that the TEA should through its commissions prepare for elections for an 'unfettered Constituent Assembly' with the sole task of drafting a new constitution, a task which should be completed within 18 months (it is not clear from the submission whether the preparation for the election and the drafting of the constitution should both be completed within 18 months, or only the latter.)

10 Solidarity Party:

The Solidarity Party expresses the view that the Transitional Executive Council and sub-councils should be established as soon as possible.

11 South African Government:

Apart from specific inputs regarding the powers of sub-councils, a submission by the South African Government on matters relating to other Technical Committees, has the following bearing on the Transitional Executive Council:

- 11.1 Legislation for the institution of the Independent Elections Commission should have the approval of either the Multi-Party Negotiating Process or the Transitional Executive Council.
- 11.2 The chairperson of the Adjudication Tribunal (as part of the IEC structure) could be 'designated' by the Multi-Party Negotiating Process or by the Transitional Executive Council.

12 Transkei:

A letter from the Chairman of the Military Council of Transkei to the Planning Committee was also tabled in the Committee. However, the letter is not of direct relevance to the brief of the Committee.

13 Ximoko Progressive Party:

While supporting the idea of a TEC, the XPP expresses concern about the practicability of the proposed structures unless the system of the TEC and sub-councils would also play a role during the full transitional period.

ADDENDUM B

**LIST OF SUBMISSIONS RECEIVED BY THE TECHNICAL
COMMITTEE ON THE TRANSITIONAL EXECUTIVE COUNCIL AND
SUB-COUNCIL A THE FINALISATION OF THE SECOND REPORT**

SEE ITEM 1 OF THE SECOND REPORT

- 1 Position of the Inkatha Freedom Party.
2. Department of Justice and Constitutional Affairs - Kangwane.
3. Intando Yesizwe Party.
4. Transvaal Indian Congress.
5. African National Congress:
 - 5.1 Terms of Reference for a Sub-Council on Local and Regional Government.
 - 5.2 Proposed Terms of Reference for the Transitional Executive Council Sub-Council on Defence.
 - 5.3 Restructuring of Government - Political, Financial and Administrative structures during the Pre-Interim Period.