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DATE 27 October 1993

URGENT

TO: Dr. Theuns Eloff
Head: Administration
Multi-Party Negotiating Process
World Trade Centre
KEMPTON PARK

FROM: P.J. Duminy, Director Parliamentary Information Centre

BY FAX: **THREE** pages including this one: 011-397 2211

FINANCE CHAPTER OF THE DRAFT CONSTITUTION

At the request of the Director-General, Mr R.W.K. Parsons, we are forwarding herewith a two-page submission to

- (i) Participants in the Multi-Party Negotiating Process; and
 - (ii) Members of the Technical Committee on Constitutional Issues
- on aspects of the proposed Finance Chapter of the Constitution accompanying the 17th Report of the Technical Committee on Constitutional Issues.

Please arrange for this to be distributed.

We understand there may be further rewording of some of the draft provisions and would ask for an opportunity to study such changes and to make further input if this is considered desirable.

Yours truly

PETER DUMINY

Director Parliamentary Information Centre

The Voice of Business/Die Sakestem

SOUTH AFRICAN CHAMBER OF BUSINESS/SUID-AFRIKAANSE BESIGHEIDSKAMER Reg. No./Nr. 05/20230/08
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The Voice of Business/Die Sakestem

Reg. No. 15/70136/0A

27 October 1993

To All Participants in the Multi-Party Negotiating Process
 cc Members of the Technical Committee on Constitutional Issues

Submission on aspects of Chapter 11 - Finance - of the Constitution
(Technical Committee's 17th Report dated 20 October 1993)

SACOB offers the following comments on the draft constitutional provisions relating to Finance which have been framed by the Technical Committee on Constitutional Issues and accompany its 17th Report dated 20 October 1993.

I Reserve Bank

The proposed wording of Section 166 (2), specifying, as that does, that the central bank shall 'exercise its powers...independently' but subject to the express proviso that it (the central bank) 'shall act in support of the general economic policy of the government', is clearly open to differing interpretations, and may itself give rise to conflict and be a destabilising factor in the country's economic management.

It is suggested that the laudable and necessary aim of achieving accountability as well as other public benefits, including transparency, would be better served by deleting the proviso as it stands, and by stipulating instead that the Governor of the Reserve Bank should be required to appear before a designated Parliamentary Committee in public hearings once a year, to be questioned about the manner in which the central bank has been and is then discharging its responsibilities.

Read with the proposed Section 167 (which provides that the powers and duties of the Reserve Bank 'shall be those customarily performed by central banks'), it is

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Read with the proposed Section 167 (which provides that the powers and duties of the Reserve Bank 'shall be those customarily performed by central banks'), it is

submitted that, by such public disclosure, the Reserve Bank would be held effectively to account for the proper discharge of its responsibilities, including the coordination of economic policies/programmes of the central bank with those of the government in the public interest.

II Financial and Fiscal Commission

SACOB welcomes provisions designed make the proposed Financial and Fiscal Commission ('the Commission') an instrument significantly contributing to federal characteristics of the Constitution as a whole, particularly with reference to the Commission's composition and intended functions; the requirement that all its decisions must be supported by two-thirds majorities of the members; and that in certain key respects they must 'equitable' [Section 171 (1) (b)].

However, SACOB continues to be concerned lest there be ways in which the Commission could still be used inequitably as an instrument to prefer certain Regions at the expense of some other Region of Regions, for instance in withholding approval for, say, revenue-raising measures or loan raising programmes that a Region wishes to adopt.

To further strengthen the Financial and Fiscal Commission and at the same time to safeguard the interests of the Regions, all of which will be subject to its powers and influence, it is strongly recommended that:-

- A except by agreement of all the Regions, to be renewed annually, any discriminatory rules and norms (or exclusions from rules and norms) applying to one - or more than one - Region shall apply to them all;
- B qualifications required for service as a member of the Commission [Section 172 (2) (b)] be amended and broadened to read that every such person shall by reason of training and experience have expertise in the field of public finance and/or economics (additional words underlined); and
- C after the Chairperson has been appointed by the President on the advice of the Cabinet, the Deputy Chairperson be elected by a two-thirds majority of the other members of the Commission from among suitably qualified persons not being one of their number.

ENDS