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DEPARTMENT OF JUSTICE Â« DEPARTEMENT VAN IUSTISIE
REPUBLIC OF SOUTH AFRICA + REPUBLIEK YAN SUID-AFRIKA

AAN Â¢ VAN:

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BOODSKAP SUBMISSION TO THE
COMMISSION ON REGIONS

REF: 1/11/ , ,/[2

SERTIFIKAAT INGEVOLGE CMSENBRIEF:5 VAN 1990

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The Commission
c/o Dr Renosi Mokate (Tecnical Secretary Âçf the Commession;

Th letter is being faxed to meet the deadline. The original
of The letter and the map referred to therein is being sernt by
post,

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â\200\230 MEMORANDUM TO THE COMMISSION
ON THE DEMARCATION/DELIMITATION OF REGIONS
FROM THE JUDGES OF THE CAPE OF GOOD HOPE

PROVINCIAL DIVISION OF THE SUPREME COURT.
o oSt ot i OUPREME COURT.

The Judges of the Cape of Good Hope Provincial Division of
the Supreme Court have taken note of the appointment by the
Negotiating Council of the Commission on the
Demarcation/Delimitation of Regions.

As the possibility exists that such demarcation/delimitation
might adversely affect the existing area of Jurisdiction,
infrastructure and administration of the Cape of Good Hope
Provincial Division of the Supreme Court as it presently
functions, the Judge President and such other Judges as he
may consider necessary, request the opportunity as interested
parties to present written and oral representations and
recommendations to the Commission and, if needs be, to the
Negotiating Council.

For the convenience of the Commission, a map showing the
present boundaries of the area of jurisdiction of the Cape of
Good Hope Provincial Division is attached.

In respect of those aspects which the Commission is obliged
to take into consideration, we make the following
submissions.

1.1. As to the historical boundaries and infrastructures:
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The boundaries of the area of Jurisdiction of the Cape
Provincial Division are the result of a long process of
historical development: in which the main focus has been
the efficient administration of Justice with due regard
to the convenience of litigants and their legal
representatives. In the main the eastern boundaries of
the court's area of Jurisdiction were laid down in 1864
(in terms of the schedule to The Administration of

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Justice Act, No. 21 of 1864 (Cape)) and they have remained constant with minimal changes since then., The northern boundaries were fixed in 1855 (in terms of section 3 of Act 62 of 1955, pursuant to the recommendations of the Watermeyer Commission) with an alteration in 1969 when three further districts (Victoria West, Carnarvon and Richmond) were taken away and added to the new Northern Cape Division in accordance with the recommendations of the Rumpff Commission. The northern boundaries of the area were thus settled in 1989.

The eastern boundaries {which had remained basically the same since 1864} acquired their present form in 1989 (when Joubertina was added to the Eastern Cape Division) pursuant to the recommendations of the Hefer Commission. The Commission gave careful consideration to the question of what the eastern boundaries of the court's area of jurisdiction should be and was satisfied that, with the exception of Joubertina, the pre-existing boundaries should be left intact because of the considerations mentioned above. Since then no voices have been raised asking for change. the contrary it is our understanding that the present system, including the present boundaries, gives general satisfaction,

With regard to administrative considerations, the availability of infrastructures, the necessity of limiting costs, the need to minimise inconvenience and dislocation of services, the following facts and submissions are put forward for consideration:

(a) The Supreme Court, with Registrar, trained staff, archives and filing and co-ordinating facilities, is sited in Cape Town.

Sheriffs for magisterial districts have long established channels of communications with the Supreme Court for purposes of expediting

service and return of court processes and

documentation. 1:L/()

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Country attorneys throughout the area of jurisdiction have over decades established strong working relationships with Cape Town correspondents for purposes of preparation and the filing of court documents, information on Court procedures and consultations with witnesses, and assistance with trials.

Country attorneys have also built up close and strong ties with Cape Town advocates, which facilitate obtaining advice, consultation and the efficient conduct of litigation. The relationships are much the same as those between country doctor and city specialists. This all is to the benefit of the general public.,

Each existing Division of the Supreme Court has evolved local and workable practical rules of procedure which have become firmly entrenched so as to facilitate and speed up legal procedures. This results in cost saving. Similar considerations apply to the relationship between country and Cape Town city attorneys in regard to the Deeds Registry office and the office of the Master of the Supreme Court both of which are situated in Cape Town. The expeditious handling of property transfers, the registration of bonds, servitudes and related property matters as well as estate and will matters is of considerable importance to the public in general and the commercial world in particular.

Business and commercial firms in Cape Town and surrounding areas have for generations been the main suppliers of services and goods to the areas and towns referred to. There are few established regular lines of supply from east of Plettenberg Bay. Consequently in any disputes between suppliers and their customers it is essential that such disputes be heard and

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d2alt with by a Court where the interested parties fall within its jurisdiction., It would lead *o a dramatic increase in legal cos<s if enother Court outside tre existing commercial and legal areas were to have to Try thcse cases, It facilitates the resolution of sutÂ¢h disputes if this takes place at the seat of tre Court where most of the businesses operaze. The population of the Weatern, North Western (UF to Springbok) Small and Great Karoo (up to Beaufeort West) and the South Eastern Cape {(up Â©0 and including Plet:enberg Bay) is largely homogenous. The cverwhelming majority of ceases are conducted in either the English or Afrikaans language. The Court infrastructure, such as Registrar, clerks, typists, Sheriffs and Messengers of Court, are in a pesition to cater for the needs of this homogeneous public. The infrastructure in ccnection with Circuit Courts, appeals and reviews from magisterial decisions has been firmly established in this Court's seat in Cape Town, Considerable disruption and inconvenience would foliow if the area of jJurisdiction, which as statesd was demarcated after considerable debate as to the advisability and feasibility of the areas incorporated, were now to be changed. The abeocve considerations apply as cogently to the office of the Attorney-General of the Cape of Good Hope and his staff of trained Supreme Court prosecutors. The co-ordination with Magistrates, Deputy Sheriffs and messengers of court and practitioners in the areas concerned works well and in the interests of the public. Geographically the infrastructure is sound, and should in the public inter retained.

Chambers

Cape Town : (TT Faj"\)

18 June 1993, JUDGE PRESIDENT

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