

â\200\224

Or

On

SUBMISSION TO CODESA WORKING GROUPS 1, 2,3 & 4

By

THE INSTITUTE FOR DEFENCE POLITICS

on the issue of

INTERIM MEASURES RELATING TO THE
CONTROL OF ARMED FORCES

prepared by

JAKKIE CILLIERS AND PAUL-BOLKO MERTZ

8 MAY 1992

P O BOX 4167
HALFWAY HOUSE, 1685

TEL 805-1796 / 805-4260
FAX 805-1874

INTERIM MEASURES RELATING TO THE CONTROL OF ARMED FORCES*

Appendix A: Draft Code of Conduct for the SADF

1. INTRODUCTION

South African security policy must aim to contribute to stability and security with a defence concept which is based on the rule of law and a respect for human rights. Such a concept should provide the vantage point for all other aspects such as force structure, strategic doctrine and military culture, including more immediate issues such as interim co-operative structures and the integration of forces.

In a previous and comprehensive submission to CODESA, The Role and Composition of the Armed Forces, dated 2 March 1992, the Institute for Defence Politics (IDP) outlined and submitted comprehensive proposals on the following:

- a concept for the future;

- parliamentary control; and

- proposals for the transitional period.

These proposals followed the approach that armed forces in a democracy serve in defence of freedom and a value system. Consequently those choices that will be made during the transition period should already ensure:

- multi-party control of the armed forces, not the government of the day, also in terms of senior appointments, etc;

- a military completely answerable to parliament;
- dedicated to acting constitutionally and legally;

- built on a respect for individual rights, providing for alternative forms of national service if so required;

- an open debate on defence and defence related issues as far as this is possible within the legitimate limits of national security;

- a smaller, more professional, highly trained but more flexible military suitable to a variety of tasks in an unstable region;

- built upon careful leadership selection and uncompromising standards of selection and promotion;

- but sensitive to its task in terms of building consensus around the democratic values contained in the constitution and bill of rights.

The mission of this defence force should be to secure peace in freedom for the country and not simply orientated towards a threat picture - although any military requires threat scenarios upon which to base its force design considerations and to serve as a basis for training.

* The assistance of Dr Simon Baynham of the Africa Institute of South Africa is gratefully acknowledged.

JC1318L PAGE 1

This, second, submission by the IDP should be read in close conjunction with our previous submission to CODESA, dated 2 March 1992.

The structures and processes proposed in this document flow from the acceptance of three points of departure:

1. The existence and consequently the requirement for the integration of the armed forces of the government and all political parties involved in constitutional negotiations should be accepted as a matter of principle in the interests of reconciliation.

2. A stable and lasting agreement on the issue of the integration of these forces can only be achieved by the direct involvement of the parties affected (ie the leadership of these forces) as well as the public in the process.

3. More specifically, there can be little talk of an interim government within which the ANC shares power without the resolution of the question of MK as well as that of the armed struggle, location of arms caches, etc.

The essence of the future vision for a post-settlement military, as discussed in the first chapter of our previous proposal, is summarized in the next section below.

2. SUMMARY - THE FUTURE VISION

See Chapter 2 in the IDP submission to CODESA dated 2 March 1992.

The concept of a soldier as a Citizen in Uniform can be best described as an organizational culture that must be developed over many years. As such it requires continuous research, further development and adjustment to the constitutional situation. It is an approach to the role and nature of armed forces and the public at large and its place within the democratic state. The moral base of the concept in its modern form is limited to those countries that accept a multi-party democratic value system and the primacy of democratically legitimized politics.

The military is part of the broader society. Consequently the manner in which it pursues its mission should be in harmony with those values central to that society. Military forces do not exist in a vacuum, but as a deliberate institution of the state with a clearly defined purpose. Military forces within a democracy consequently adhere to and operate within a particular value system. Many of the elements of such a value system have already emerged from the deliberations of the National Peace Accord (NPA) and CODESA.

The concept of a soldier as a Citizen in Uniform serves the purpose:
e to assist in the integration of armed forces in the democratic state and society.

e to enhance the readiness and willingness of all members to serve loyally and conscientiously in executing their duties.

e to marry the requirements for democratic values and accountability with the sometimes conflicting disciplinary requirements of the armed forces.

e to ensure armed forces of the highest professional standards, usable and trusted in a wide variety of tasks, comfortable with modern battlefield technology and equal to their task.

The armed forces are part of the executive power of the democratic state. As such they must acknowledge the primacy of democratic and legitimate politics. The armed forces are controlled by parliament. They do not simply serve the government of the day and therefore not any political party or creed.

The same applies with regard to secrecy and the legitimate need of an open society for information. A balance is required between what is really in the interests of the security of the state and the public right to know in a democratic society.

South African security can also not be divorced from its regional context. In the long run there can be little doubt that our security and prosperity is best served within some type of regional security arrangement. Such an arrangement should be a stated objective of South African foreign and defence policy.

Finally the continued semi-permanent deployment of the SADF, or any future armed force for that matter, in countering mass unrest and assisting the police in maintaining law and order is not conducive to impartial, accountable and non-interventionist armed forces in the long term. The ethos of policing and soldiering are not the same and should not be confused. Every effort should be made to remove the military from this involvement as soon as practically possible. This principle having been established, those SADF resources presently deployed in support of the SA Police cannot readily be withdrawn until such time as the endemic cycle of violence in our society has been broken. The military of the future should, however, be refocused on its primary functions.

Against the preceding background, post-settlement parliamentary and political control of the defence force should be exercised by means of: (see figure 2) ,

1. detail budget control, with the defence budget having to be passed by parliament itself.

In this function the members of parliament should be supported by a fiscal committee of the parliament, with some of its members specifically dedicated to defence matters;

2. a multi-party parliamentary defence committee controlling defence policy, strategy and procurement;

3. by the institution of a commissioner or Military Ombudsman of the parliament to safeguard the individual rights of the servicemen and to observe the correlation of the concept of the defence force with the democratic and constitutional value system;

4. by an Advisory Committee on Race Relations and Civic Education (ACRRCE) acting as advisory body to the National Defence Force;

5. by the right of individual members of parliament to place questions to and receive answers from the government/minister of defence;

6. by the right of the members of the public to place a petition to parliament; and

7. by various comprehensive reports which have to be made to parliament by the Minister of Defence.

The proposed structures for the transitional (see figure 1) and post-settlement periods (see figure 2) are virtually similar given the requirement and importance for continuity through the transitional to post-settlement phase in the process of change.

3. SUMMARY OF STRUCTURES TO BE ESTABLISHED DURING THE INTERIM PERIOD

The following are recommended for immediate establishment (ie as soon as possible after CODESA 2) and are discussed in greater detail below (see figure 1):

1. A Joint Armed Forces Council (JAFC) composed of the chiefs of all the armed forces party to the constitutional negotiations.

A Military Ombudsman within the office of the existing ombudsman, accountable to either an interim legislature/interim government or to CODESA itself, with the task of overseeing the adherence to the Military Code of Conduct and Bill of Rights (upon agreement/finalization of the latter).

3. A Multi-Party Defence Committee (MPDC) composed of political appointees from CODESA/interim legislature to act as a policy advisory and control body to the interim legislature/CODESA.

4. An expert Council of Defence (COD) on military affairs which acts as advisory body on defence related matters to the Multi-Party Defence Committee.

5. An Advisory Committee on Race Relations and Civic Education (ACRRCE) acting as advisory board to the Joint Armed Forces Council on the issues of race relations and civic education.

6. Certain changes to the draft Code of Conduct for Members of the Defence Force (appendix A).

Some agreement is already emerging within CODESA with regard to the composition and establishment of an interim legislature (initially probably the existing parliament), interim executive and the establishment of a defence committee (item 3 above). Although these institutions are, therefore, depicted in figure 1, only the defence committee (MPDC) is discussed below.

Some concluding remarks are also made with regard to the public debate about these matters and future training requirements.

4. JOINT ARMED FORCES COUNCIL (J AFC) STRUCTURE

This issue is not discussed in the previous IDP submission to CODESA. It is, therefore, an additional proposal but should be read together with section 4.4 of that document.

There appears to be consensus that the integration of the existing armed forces (ie the SADF, that of the TBVC states and MK) could only occur after/under the establishment of a formal interim government, i.e. not in the immediate future. As a preparatory step towards such integration, the various existing armed forces need to be placed under some type of formal

control structure. We propose, therefore, the establishment of a Joint Armed Forces Council (JAFC) consisting of the heads of these forces. Such a Council should, furthermore, be supported by appropriate regional structures for co-ordination, i.e. the various TBVC forces would link with SADF command structures, whilst SADF/MK linkage should occur as negotiated.

The most serious problem facing such a structure would be defining the armed forces (i.e. formal membership), particularly those of the ANC. Certain criteria would have to be negotiated in this regard by the MPDC on advice of the COD.

JC1I318L

welÃ©tor

OMBUDSMAN * INTERIM

ye LEGISLATURE+ { MULTI-PARTY oe
won a en DEFENCE ADVISE COUNCIL
OMBUDSMAN Tt COMMITTEE _ ON DEFENCE
see ae aanere Poe (PDO doa! (COD) +

POLICY
RECOMMENDATIONS
AND CONTROL

CONTROL
ACCOUNTABILITY

CONDUCT + | INTERIM
Se EXECUTIVE +

MONITOR COIN TC ARMED ADVISORY COMMITTEE
Â»| FORCES COUNCIL ON RACE RELATIONS AND

a ae (SAFC) ae CIVIC: EDUCATION |

SS (ACRRCE}

MONITOR NOTES:

ty * existing

+ proposed/discussed
in CODESA or the NPA

FIGURE 1 200\224 TRANSITIONAL PROPOSALS: STRUCTURES ON DEFENCE

TetÃ©tor

939Vd

REPORT

PARLIAMENT

PARLIAMENTARY

ADVISE â\200\230COUNCIL

Mii ARY
OMBUDSMAN -

MONITOR

CONTROL
jammer se
LE
ACCOUNTABILITY

ON DEFENCE
(COD)

POLICY
RECOMMENDATIONS
AND CONTROL

EXECUTIVE

CONTROL

NATIONAL
DEFENCE FORCE

ADVISORY COMMITTEE
ON RACE RELATIONS AND
CIVIC EDUCATION

ADVISE

(ACRRCE)

FIGURE 2 POST-SETTLEMENT SOUTH AFRICA: STRUCTURES ON DEFENCE

5. AN OMBUDSMAN ON DEFENCE

See Section 3.4.3 of the IDP submission dated 2 March 1992 to CODESA for a more comprehensive discussion of this institution. Also see paragraph 7.2 in appendix A.

In order to create and enhance mutual trust and confidence of the public in the armed forces a

Military Ombudsman should be appointed with immediate effect. For the interim such an appointment can be done in terms of Section (2) (13) of the Ombudsman Act no. 118 of 1979

which provides for the appointment of assistants to the ombudsman. Such an assistant should,

however, specifically be designated to deal with military affairs. The terms of reference

regarding laying matters before the ombudsman (section 4 in the Act) are, however, inadequate

since it does not presently provide for the protection of human rights. Consequently an

amendment to this Act would be required. As is also evident from the recent Report on Constitutional Models, Vol 3, of the South African Law Commission, various other changes

would in any case also be required to the Ombudsman Act which would ultimately make the ombudsman accountable to and appointed by the legislature.

To ensure his impartiality such a post should eventually be instituted in terms of the constitution

(upon agreement on this issue) and passed as separate legislation by the legislature which

defines its competence and powers.

The military ombudsman should be assigned with the responsibility to watch over and ensure

compliance with the values enshrined in a future constitution and bill of rights as is evident

from that contained in the National Peace Accord, CODESA statement of intent and the results

of the deliberations of Working Group 2 of CODESA. The concept guiding such application is

more comprehensively discussed in Chapter 2 of the IDP submission to CODESA dated 2 March

1992. Some essential features of this concept have also been accepted as part of the draft

Code of Conduct for the Military (appendix A). However, we propose an amendment to the proposed purpose of the ombudsman contained in appendix A (see section 9 below).

As such this institution would serve to safeguard the individual and human rights of the soldier

in accordance with the democratic value system which the armed forces are sworn to protect,

thereby preventing any abuse or misuse of the strict command and disciplinary powers of military authority.

In accordance with his legal mandate, the ombudsman takes action whenever circumstances indicate an infringement of the soldier's basic rights or the principles of the concept of a

defence force serving a democratic constitution. To this end the ombudsman may react upon:

information provided by the media;

information provided by a member of the armed forces, however such information may not be supplied anonymously;

e information gained during his own inspections; and

Â® request of the authorities within the framework of the Ministry of Defence, Multi-party Defence Committee or Council of Defence.

All the reports, recommendations and suggestions of the ombudsman must be made public. The powers of the ombudsman should, however, be limited to that of investigation, report and recommendation on these aspects. The ombudsman should not play any role with regard to the day-to-day or operational control of military operations, which is the sole prerogative of the Joint Armed Forces Council (JAFC) discussed earlier.

Should it be required, the ombudsman could also make recommendations to the Multi-Party Defence Committee (MPDC) or the legislature itself.

6. MULTI-PARTY DEFENCE COMMITTEE (MPDC)

This recommendation is in accordance with the emerging consensus at CODESA that a number of multi-party committees or councils, with yet to be defined powers, would serve under an interim executive during the initial transition period. Such a committee would serve as a precursor to a Parliamentary Defence Committee (PDC) in a post-settlement dispensation (see section 3.4.2 of the IDP submission to CODESA dated 2 March 1992 for more detail concerning the latter, and figure 2 in this document).

The Multi-Party Defence Committee (MPDC) should be composed of members appointed by CODESA/interim legislature from within its own ranks. As an initial recommendation it should be composed of members of the political parties involved in constitutional negotiations. It should be restricted in membership numbers and be chaired on a rotational base by the various members. The MPDC would provide policy guidelines for the workings of the Council of Defence (COD) and formulate appropriate legislation for discussion, amendment and enactment by the legislature. It would also serve in an advisory role to the interim executive. In its functions the MPDC would be advised by the Council of Defence (COD). As such the Committee should be mandated with a portion of task 1.1.4. (i) of Working Group 1 of CODESA, namely 'the composition and role of the security forces in South Africa and the TBVC states.'

No serving members of any of the armed forces should serve on this Committee.

The MPDC should be funded by the state and accountable to the legislature. It should be empowered to appoint and direct research, investigations, etc, either directly or through the COD and call for representations from the public regarding any issue pertaining to its mandate. All recommendations of the MPDC should be made public. Ideally its sessions and hearings should also be open.

COUNCIL OF DEFENCE (COD)

See Section 4.3 of the IDP submission dated 2 March 1992 to CODESA for a more comprehensive discussion of this institution. However, whereas this original IDP submission combined the functions of an expert (non-political) committee with those of a multi-party committee, this submission separates these two entities into an expert Council of Defence and Multi-Party Defence Committee.

Also see paragraph 7.1 in appendix A.

An expert Council of Defence (COD) should be established as an independent commission in terms of the provisions of Section 73 of the existing Defence Act. This section reads as follows:

Council of Defence

73. The State President may establish a Council of Defence which shall be constituted in

such a manner and shall perform such functions as he may prescribe.

Obviously the decisions of the State President in this regard must be guided by the consensus of the parties at CODESA.

The purpose of the COD should be to serve as an expert commission to investigate and report upon the role, tasks and composition of the armed forces (including personnel policies and issues, the integration of forces) and associated strategic armaments industry in a post-settlement South Africa to the Multi-Party Defence Committee (MPDC).

JC1378L

In terms of the latter, the Council should deal with defence policy and strategy, concept, structure, legislation and manpower matters. Eventually, in a post-settlement dispensation, this Council would be transformed into an expert advisory Council of Defence (COD) appointed by the Parliamentary Defence Committee (PDC) consisting of non-parliamentary experts on military and security affairs to advise parliament.

During the transition phase, however, the COD should consist of a nominated senior member from each of the various armed forces as well as competent civilian advisors from various institutions/organizations. The Council should elect its own chairman/utilize a rotational chairing system from its civilian members.

As with the MPDC the Council should be funded by the government but be accountable to the MPDC. It should be empowered to do research, appoint and direct research and investigations, and call for representations from the public regarding any investigation conducted by it. All recommendations of the COD should be made public. Ideally its sessions and hearings should also be open.

The Council and/or any of its members should have the right to demand, receive and if necessary seize any and all information from official sources required to execute its task.

In view of the confidence building measures required during the transitional period, the COD would have to address four issues in particular:

1. Revise the existing Defence Act, No. 44 of 1957. Presently a variety of sections within this Act would clash with the provisions of most first generation rights within a bill of rights, including many provisions contained in Chapter XI (Discipline, Legal Procedure and Offences). In so doing the COD should take particular note that the conduct of the individual soldier should be clearly defined within the Military Disciplinary Code (MDC) and law of the country.

Revise, update and extend the draft code of conduct (appendix A) and/or an oath of allegiance towards the democratic constitution.

Investigate and report on changed personnel policies for the military (ie ending of white male conscription and phasing in of a new system) to be instituted as soon as practically possible. This investigation should take cognizance of the effect of the reintegration of the TBVC countries and their armed forces into South Africa. Similarly it should address the issue of the integration of MK members into the armed forces.

Investigate and report upon the future existence structure and role of military intelligence and what are commonly regarded as special forces functions.

Various recommendations to this effect have been made in the IDP submission to CODESA dated 2 March 1992 (see sections 4.4, 4.5, 4.7, 4.9 and 4.10).

ADVISORY COMMITTEE ON RACE RELATIONS AND CIVIC
EDUCATION (ACRRCE)

In section 4.6 of the IDP submission to CODESA dated 2 March 1992 the establishment of a civilian research unit tasked with race relations research was recommended. Section 2.8 of that same proposal recommended the establishment of a civic education advisory committee. This proposal recommends the amalgamation of these two recommendations through the establishment of an Advisory Committee on Race Relations and Civic Education (ACRRCE) to fulfill both functions.

JC1318L

In order to execute its role and functions in society, all members of the defence force (permanent force, temporary members and national servicemen) must come to accept the 'New South Africa' which is set to emerge from the settlement process as a legitimate system. This acceptance should foster and enhance a greater value-conscious professionalism, pride and loyalty to the country as well as a greater tolerance of the racial and cultural diversity within our society.

It is, therefore of utmost importance to accompany the negotiation process for a new dispensation with an education campaign in the defence force and the armed forces of the TBVC states and MK in order to create understanding, awareness and finally loyalty towards the democratic value system as well as to questions of race relations within a divided and plural society.

The purpose of civic and race relations education in the defence force is to achieve an attitude which reflects those values contained in the military code of conduct, constitution and Bill of Rights. The education must convey the creed of democratic values and it must influence or create a positive attitude towards them. Consequently the content and aspects of a new constitution, bill of rights, Geneva convention, etc. must be incorporated in constitutional information sessions in order to motivate the soldier to view his military service as a contribution to peace, freedom and justice for his country and within the region. The personal example of military authorities, particularly a tolerant attitude towards legitimate dissent, criticism and discussion is also important in achieving this aim (see the section of public debate below).

Such education should be part of leadership training and aimed at all soldiers and ranks, not a privilege for selected persons or groups. As such it should emphasize:

the duty of the defence force and the soldier to acknowledge democratic values;

the respect of the freedom to express one's own opinion; and

° mutual trust and confidence as a basis for military service in a democracy.

The committee should include prominent figures of public life with special experience and knowledge related to training, education, leadership and social affairs. The committee should initially function in support of the Joint Armed Forces Council (JAFC) of all the armed forces by making recommendations and giving expert opinions and eventually to the command of a post-settlement National Defence Force. Its members should be independent and not subject to any directives. Its educational programs should, if at all possible, commence prior to the actual integration of the various armed forces and be compulsory at all levels and form part of normal training.

In particular, it should attempt to ensure that the legitimate requirement for affirmative action should not result in a decline in standards of military proficiency.

CODE OF CONDUCT

See appendix A which consists of the draft Code of Conduct for the Military as agreed to at

present.

The legal basis for the armed forces in a democracy is provided by international law, the constitution and a national defence act. The IDP proposal of 2 March 1992 extensively details the various international agreements and constitutional provisions required in this regard (sections 2.4 and 3.5). All three should be taught and debated at all levels of military training.

As discussed in section 4.3 of that same proposal, the finalization of a code of conduct for the military should be a priority task of the proposed COD. This task could build upon the negotiations that have already occurred in terms of the appropriate sub-committee of the National Peace Secretariat. There are, however, a number of shortcomings in the existing draft. Some of the most glaring of these are:

ie

The functions, purpose and task of the military ombudsman as discussed in section 5 above (paragraph 7.2 of the Working Group on the SADF

Sub-Committee - see appendix A.)

The limited commitment in paragraph 6 of the Code of Conduct itself in terms of the promotion of the values of the Code. Obviously these values should embody that emerging from the National Peace Accord, the deliberations of CODESA and those discussed as part of the Citizen in Uniform concept in chapter 1 of the IDP submission to CODESA dated 2 March 1992.

Each member of the armed forces should eventually sign and receive a copy of this document, a copy of which should be placed on the member's file.

10. TRAINING

Whatever the outcome of these present negotiations, the training standards and culture of the various armed forces are very different. As a result many members who wish to join a future defence force would require extensive retraining before they would be usable within a regular army. Future training should, however:

not discriminate against any ethnic or racial group or even differentiate between such groups, e.g. blacks only used in a counter-insurgency role;

training should include comprehensive civic education aspects (see above); joint and mixed SADF, MK and TBVC training should be provided;

all SADF training establishments should be involved in this program, including the Military Academy, various colleges, etc.

Therefore an additional proposal worth investigation, is to smooth the direct integration of MK members (in particular) by first rotating them (and SADF members) to training establishments of other military forces in democracies such as those in Britain, the USA, France and Germany.

We also advise that the reintegration of the armed forces of the TBVC countries begin to adjust the racial imbalance within the leadership cadre of the SADF. Such officers would, however, require all the support and training available.

Specific support programs should also be instituted to assist in overcoming any backlog in skills amongst specific groupings.

11. PUBLIC DEBATE AND AWARENESS

It is vital for the successful implementation of such a new concept that it must be accepted not only by the defence force but by the population as a whole. Discussion, investigation and agreement on the role, tasks, size and nature of a national defence force for a post-settlement South Africa should not await an ultimate settlement but consensus should be pursued during the transition phase, thereby enhancing legitimacy and reducing the possible partisan misuse of these forces on the one hand, but also unilateral political intervention within the armed forces on the other.

JC1378L

PAGE 11

As a result:

The COD, guided by the MPDC, should launch a public campaign on the scope and purpose of the concept and the role and tasks of armed forces within a democracy.

An informed debate about these issues, including the issue of arms procurement, should be encouraged.

12. CONCLUSION

These proposals are aimed at the creation of mutual trust between the negotiating parties for a new South African democracy as well as South African society at large in the interests of a stable and enduring settlement.

29 April 1992

NATIONAL PEACE COMMITTEE

REPORT OF THE WORKING GROUP OF THE SADF CODE OF
CONDUCT SUB-COMMITTEE

The Working Group was established on 11 December 1991 by the Sub-Committee to draft the Code of Conduct for the Defence Force in accordance with drafts submitted by the Government in August 1991 and by the ANC alliance in September 1991.

The Working Group consisted of Mr Wynand Breytenbach, Mr Jayendra Naidoo and Mr Alasdair MaCauley (as an observer to hold a watching brief),

The Working Group met on 16 January 1992, 17 January 1992, 3 February 1992 and 29 April 1992.

The project on hand was finalised on 29 April 1992 without Mr MaCauley of the IFP being present. The Working Group decided to continue its work as a result of the recommendation of the Executive Committee meeting held on 21 April 1992.

The Working Group decided to compile the draft in the following two parts:

- 5.1 A Code of Conduct for members of the Defence Force.
- 5.2. Amendments/Additions to Chapter 3 of the Accord.

The Working Group has agreed on a draft Code of Conduct for members of the Defence Force and this is now formally to be submitted to the Sub-Committee on the SADF Code of Conduct. (If the Peace Committee agrees, the Code will be handed out as

Annexure 1),

a With regard to matters related to Chapter 3 of the Peace Accord, the Working Group reports as follows:

tA

7.2

sadfmin6

The proposed Council of Defence was discussed in the Working Group. It was the view of the Working Group that at this stage Codesa was better placed to proceed with this discussion. Accordingly the Working Group proposes that the matter of the Council of Defence be formally referred to Codesa, in the context of its discussions on Security Forces.

With regard to the proposed Ombudsman, it was agreed in principle that such an Ombudsman was necessary and should be established within the office of the current Ombudsman, Judge Van der Walt, within the terms of reference of the Advocate General Act, No 118 of 1979 as amended by Act No 104 of 1991, To this end the Working Group will seek a meeting with Judge Van der Walt to discuss the procedures and steps to be taken to constitute the proposed Ombudsman. It was agreed that the purpose of such an Ombudsman would be to deal with complaints by members of the Defence Force as well as complaints by members of the public regarding any member of the Defence Force which are of such a serious nature that they may detrimentally affect the relations between the community and the Defence Force,

CONFIDENTIAL

ANNEXURE 1

CODE OF CONDUCT FOR MEMBERS OF THE DEFENCE FORCE

We undertake, in accordance with the laws and constitution of the Republic of South Africa and applicable international law,

to safeguard the integrity and freedom of our country and, in time of war, to act appropriately, with the necessary restraint; and

to respect and to protect the human dignity, life, liberty and property of all in our midst and to act impartially at all times.

The South African Defence Force (SADF) and its members hereby commit themselves to abide by this Code of Conduct in the following terms:

The manner in which its mission is pursued, realised and experienced should be in harmony with those values that are central to a democratic society, namely tolerance, fundamental human rights, the freedom of its citizenry and the rule of law.

The SADF and its members shall respect and defend the right of South Africans to live in peace, freedom and justice. As such they shall

recognize fundamental rights, and in the execution of their duties will

accept personal responsibility for both the care and the legality of the conduct of their subordinates.

Members of the SADF shall participate in a democratic society both as citizens and as soldiers with self-knowledge, courage and knowledge of the values with which they are entrusted.

The SADF recognizes that differences of political interest in South African society do not spare the military but often make it a target of controversy. It is therefore of the utmost importance and in the public interest for the SADF to act with impartiality and tolerance. The SADF and its members undertake to act or conduct military manoeuvres in a non-partisan manner and not for the purpose of unlawfully threatening or intimidating any community or part of the community.

Members of the SADF shall execute their duties in no manner which will not advance or obstruct party political objectives. They may at no time misuse their appointment for these objectives.

The SADF will promote the values of this Code in training programmes at all levels within the SADF,

All actions in time of war shall be guided by relevant national and international law, including the Geneva Convention, and by the determination to observe them. All ranks of military personnel in the SADF shall abide by these rules in their assigned tasks and responsibilities,

Every member of the SADF shall accept full responsibility for his/her orders and the execution thereof. Members of the SADF equally enjoy the right of every citizen to be protected by the laws of the country and to refuse to obey any orders which are manifestly beyond the scope of the authority of the superior officer issuing them and are so manifestly and palpably illegal that a reasonable person in the circumstances of the soldier would know them to be manifestly and palpably illegal.

The SADF re-affirms that it shall not allow its members to be used as mercenaries,