

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 460 final

Brussels, 29 September 1993

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

**South Africa and the European Community:
Guidelines for a Policy to
Support the Transition to Democracy**

**South Africa and the European Community:
Guidelines for a Policy to
Support the Transition to Democracy**

INTRODUCTION

1. The European Community and its Member States have remained, over the years, committed to the total abolishment of the system of apartheid, by peaceful means, and to its replacement by a democratic, united and non-racial system of government in which all South Africans can participate in peace and harmony, regardless of colour and race..

To this end, the European Community developed a two-track approach to South Africa: mounting pressure on the South African government, through sanctions and by other political means linked to a programme of positive support to the victims of apartheid through non-governmental organisations. The progress achieved in the constitutional negotiations has opened-up the possibility of developing a more integrated EC policy targeted on the creation and strengthening of democratic structures; on the encouragement of sustainable economic policies; on the progressive integration of South Africa into the world economy; and on the continuing support to the development of historically marginalised communities.

2. Following the repeal of statutory apartheid, the agreement on a date for the first fully democratic election, and the approval of the necessary transitional legislation by the South African Parliament, South Africa will have removed the legal and constitutional obstacles to the creation of a democratic society. The rationale for maintaining sanctions, therefore, has largely disappeared and the Community, along with its partners, can move ahead on the progressive normalisation of relations.

The Community and its Members States have set out the political framework for the progressive normalisation and strengthening of relations between the Community and South Africa (1).

3. The Commission is ready to prepare the necessary steps for the normalisation of the European Community relations with a democratic South Africa, which is the subject of this communication.

(1) - Informal meeting of EC/MFA in Alden-Biesen, 10-12 September 1993
- Conclusion of the Copenhagen European Council, 21-22 June 1993
- Declaration of the Development Council, 25 May 1993
- Statement by the Presidency following the Foreign Affairs Council, 8 June 1993
(see the texts in annex)

THE TRANSITIONAL EXECUTIVE COUNCIL

4. A decisive step in South Africa's transition to democracy is the establishment of the Transitional Executive Council (TEC), on which agreement was reached at the Multi-Party Negotiating Forum on 7 September 1993.

The enacting legislation following the decision taken by the South African Parliament on 23.9.93 for the TEC and other transitional structures (such as the Independent Electoral Commission, the Independent Broadcasting Authority, etc.) will not, however, become operational until agreement has been reached on the Transitional Constitution.

5. The TEC, which will provide for representation from all parties involved in the negotiations (and others which commit themselves to the objectives of the TEC), will be responsible for preparing for the elections and will ensure that no government or administration exercises any of its powers in such a way so as to disadvantage or prejudice any political party. The TEC as such will not have executive powers and the existing Government will remain in office, but the latter's political freedom of action will be significantly circumscribed.
6. How, precisely, the TEC will exercise these responsibilities, and the extent of its involvement into broader policy issues beyond those directly related to the democratisation process, will only be fully clarified as the TEC itself seeks to assert its influence. Furthermore, assuming that the current timetable is adhered to, the TEC will only have a life-span of six months: from November 1993 to the election on 27 April 1994.

In addition to that, pending the resolution of complex constitutional and regional issues still under negotiation, the envisaged participation to the TEC does not yet include prominent political parties (such as Inkatha and the Conservative Party) and other participants to the Negotiating Forum (the "independent" homelands of Bophutatswana and Ciskei).

7. The establishment of the TEC will, however, for the first time, provide a broadly representative interlocutor through which the European Community can consult with the South African state on a variety of issues leading up to a future full-fledged relation at governmental level. The nature of the European Community's engagement will, to a significant extent, depend on how the TEC operates in practice. The Community should, though, signal its willingness to enter into a dialogue encompassing the whole of South African territory and society.

PROGRAMME OF ACTION

8. The process of normalising and deepening relations with South Africa should take place in response to the acceleration of the democratisation process itself. Some initiatives can be taken as soon as the legislation for the TEC has been passed by the South African Parliament; other actions should only be considered once the TEC is actually in place and operational; yet others must await the elections and the establishment of an interim Government of National Unity.
9. The Commission proposes that the phasing of such actions should take place as follows:

- * **Actions to be taken following the enactment of legislation to establish the TEC**

- + Lifting of economic Sanctions

The Community has already lifted trade and economic restrictions applied to South Africa. It should now, furthermore, support the complete lifting of trade, financial and investment sanctions by the international community, in order to facilitate the country's full integration into the world economy.

The Commission believes the Community and its Member States should now also actively seek, through diplomatic action, the lifting of remaining restrictions on South Africa's participation in World Bank and IMF programmes, as well as the latter's early engagement in support of economic stabilisation of the country.

- + Developing actions under the Special Programme

- a) Support for Democratisation and Peace

The first fully democratic election in South Africa's history will take place on 27th April 1994: that is, only seven months from now. The success of this undertaking is of crucial importance not only for South Africa but also in consolidating democracy in the region as a whole.

The European Community has a major interest in ensuring that the election is successfully conducted and has an important role to play in this process.

The Community, which has already provided MECU 5.2 for voters education, will if called upon enhance its support for these activities.

The Commission, inter alia, through the Special Programme, also stands ready to provide support to the Monitoring of the election. Once the Independent Electoral Commission (IEC) is in place, a dialogue will thus be established, to determine what further assistance can be provided for the election process itself.

In relation to the peace process, the Commission will continue its financial and personnel participation in the European Community's Observer Mission in South Africa (ECOMSA) and will continue to enhance its support for the national peace structures (including the Goldstone Commission).

b) Development Cooperation

The present extreme social and economic inequality in South Africa combined with heightened expectations will place considerable pressure on a future new government to increase spending on education, health, housing social services and rural development. The financial implications of improving the quality and coverage of such services are staggering and - in view of South Africa's present economic situation and its future prospects - beyond the means of the country alone. Foreign Assistance will therefore be necessary to help stabilise the next political dispensation.

The European Community is South Africa's largest external donor: the EC Special programme and the bilateral efforts of the Member States amount to more than 50% of all external development assistance coming into the country.

The role of the organisations (mainly Kagiso Trust, SACC, SACBC) which have traditionally worked as partners in the administration of the Special Programme will continue to evolve in response to the democratisation of South African society. The Commission will continue to broaden the range of organisations involved in and benefiting from these resources.

The Commission, in implementing the Declaration of the Development Council of 25 May 1993, will give particular emphasis on democratisation, the rule of law, human rights, good governance, popular participation and institution building.

In this perspective, the scale of resources to support the Special Programme should be maintained at a substantial level, and certainly should not be decreased, during the whole period of political transition.

* **Actions to be taken once the TEC is in Place and Operational**

+ Discarding of remaining Sanctions of the European Community and its Member States

A review of the EPC sanctions still in force is already foreseen, starting with restrictions on military attachés and cooperation in the field of security.

Following discussion within the EPC, the present reporting requirements relating to the Code of Conduct for EC companies operating in South Africa will be discontinued.

+ Opening of Commission delegation

The establishment of a Commission delegation will, inter alia, signal the normalisation of diplomatic relations between the Community and its Members States and South Africa.

+ Preparation of longer term relations

a) Global political relations

The emergence of a representative political establishment in South Africa will allow for the opening of new lines of communications in the political field with a view to fostering closer links once a democratic government is in place. Over time, a democratic South Africa will become a major political interlocutor for the European Community. Similarly, during this phase, the trade and economic cooperation can be explored.

b) Trade and economic relations

South Africa, has the potential to significantly increase its trade and economic interaction with the European Community. It can also play a crucial positive role in the development of trade and economic cooperation in the southern African region.

The EC is conscious, however, of the difficulties and the challenges South Africa will have to face in the course of its transition. As a country whose export performance has traditionally been a valuable asset, South Africa must be left in no doubt that, in order to restore much needed trade and inward investment, and in order to provide a firm foundation for growth and the further development of its market economy, it needs to send a clear confidence building message to the business community worldwide. There is no better way of doing this than for South Africa to intensify its efforts to dismantle, as a matter of priority, such trade barriers as export subsidies, import surcharges, formula duties, high level and low number of tariff bindings and to commit itself to a market economy that welcomes foreign investments.

It must be borne in mind that any possible type of trade agreement with South Africa will have to be compatible with both South Africa's and the Community's obligations under GATT. Furthermore, it must also be compatible with EC obligations with other trading partners, especially in the region.

The Commission is willing to enter into a dialogue with TEC on those issues; and, to this end, is refining its analysis in preparation for such a dialogue. It is now for the South Africa side to develop a common national position on these issues.

c) Development cooperation

The Commission is also willing to enter into a dialogue with the TEC on development cooperation, with a view to preparing the eventual normalisation of relations in this field.

The development prospects of South Africa, and indeed the whole of southern Africa, hinge crucially on the establishment of closer economic ties within the region.

Special attention should be paid in this respect to promoting regional projects which would benefit from regional funds made available to the southern African ACP countries under the Lome Convention as well as from funds from the Special Programme for South Africa.(1)

One concrete and immediate possibility would be that, at the request of the ACP States concerned, South African economic operators could be allowed to participate in tenders open to these countries within the framework of Lome financed Import Support Programmes being implemented in the SADC countries.(2)

*** Actions to be Taken following a Democratic Election and the effective establishment of a democratic government**

Once a Government issued from democratic elections is in place, and depending on the outcome of the exploratory talks, the Commission would be in a position to seek negotiating directives from the Council in order to prepare a comprehensive long-term agreement, encompassing the whole of bilateral relations.

CONCLUSION

10. The Council is requested to take note and where appropriate approve the above general policy guidelines.

(1) as allowed by article 251 of the Lome Convention

(2) Under the derogation possibilities foreseen in article 296 of the Lomé Convention.

EXTRACTS FROM THE (DRAFT)
TRANSITIONAL EXECUTIVE COUNCIL BILL

The purpose of the draft Transitional Executive Council Bill is to promote:

". . . the preparation for and transition to a democratic order in South Africa; and to provide for matters connected therewith."

The specific objectives of the Council are described, in paragraph 3 of the Bill, as follows:

". . . to facilitate and promote, in conjunction with all legislative and executive structures at all levels of government in South Africa, the preparation for and transition to a democratic order in South Africa:

- (a) creating and promoting a climate for free and political participation by endeavouring to:
 - (i) eliminate any impediments to legitimate political activities;
 - (ii) eliminate any form of intimidation which has a bearing on the said transition;
 - (iii) ensure that all political parties are free to canvass support from voters, to organise and hold meetings and to have access to all voters for the purpose thereof;
 - (iv) ensure the full participation of women in the transitional and electoral structures and processes; and
 - (v) ensure that no Government or administration exercises any of its powers in such a way as to disadvantage or prejudice and political party;
- (b) creating and promoting conditions conducive to the holding of free and fair elections;
- (c) exercising such powers and performing such duties as may be conferred upon or assigned to it by any other law.

South Africa

The European Council welcomed the recent major progress in the negotiation process in South Africa. The European Council hoped that the parties will reach an agreement in the very near future that will set South Africa firmly on the road towards democracy.

The establishment of a Transitional Executive Council will be a further step in the normalization and strengthening of political and economic relations between the Community and its Member

States and South Africa.

The European Council reaffirmed its commitment to contribute to the economic and social development of the new South Africa. Reconstruction and sustainable economic growth will only come about in a democratic and non-violent environment. Therefore the Community and its Member States stand prepared to provide support to the first free elections foreseen in April 1994, including election observers, as well as to strengthen their assistance to the democratization process and the efforts to curb violence.

SOUTH AFRICA

The Council heard a report from its President on his recent journey to South Africa and the evolution of the situation in that country.

In his presentation to the press, the President stressed the following points: The Community and its Member States deem it important to be ready to adjust their policy towards South Africa concurrently with developments in that country towards majority rule and democracy.

The Community and its Member States see the establishment of the Transitional Executive Council as one of the most important steps towards majority rule. For the first time in the history of South Africa a kind of governmental forum with representatives of the majority of the population will come into being.

The Community and its Member States will take the following steps once the TEC is in place:

- a new development initiative will be launched. There will be a dialogue with the TEC on development co-operation. The Council (Development) has already adopted the major outline of the new programme, with more emphasis on democratization and support for institution building;
- Member States will, where appropriate, likewise be ready to enter into a dialogue with the TEC on development matters, including support for the election process;
- the Community and its Member States will be ready to enter into a dialogue with the TEC on future economic relations between the Community and South Africa.
- the Community and its Member States will strive to promote a decision within the World Bank, IMF and other relevant international organizations for a normalization of relations with South Africa;
- reporting under the Code of Conduct for European enterprises in South Africa will be discontinued. Heads of Mission will report annually on developments in the area of labour conditions, in particular concerning equality of opportunities;
- the Commission's office in South Africa will be upgraded to a normal Delegation;
- the ban on military attachés accredited to South Africa and on granting of accreditation to military attachés from South Africa will be lifted, solely with a view to promoting the democratization and integration process in the security field;
- likewise, the freezing of official contacts and international agreements in the security field will be discontinued.

FUTURE DEVELOPMENT CO-OPERATION WITH SOUTH AFRICA - COUNCIL DECLARATION

"The Council and the representatives of governments of Member States meeting in the Council agree on the following:

Policy guidelines

The Community and its Member States reaffirm the importance they attach to the process towards a democratic and non-racial South Africa. They are the biggest single donor in this country in particular through the special programme of positive measures established in the framework of EPC in 1985 and modified since then by the Council.

They recall their commitment to the complete abolition of the unacceptable system of apartheid by peaceful means and its replacement by a democratic, united and non-racial society in which all South Africans can participate in peace and harmony, regardless of colour and race. They reaffirm their readiness to continue and strengthen their support for the ongoing peace process in South Africa.

Concerned by the level of violence which still remains one of the most serious threats to democratisation and economic development in South Africa, they renew their call to all parties to sign the National Peace Accord and to participate in the peace structures. The Community and its Member States welcome the resumption of multiparty negotiations and urge all parties who have not yet done so to commit themselves to a speedy and peaceful transition to a democratic, non-racial and united South Africa.

They reaffirm that the respect, promotion and safeguarding of human rights and the furtherance of democratic principles are among the cornerstones of European cooperation policy as well as of relations with other countries.

The deepening and normalisation of economic, trade and development relations between the Community and the Member States on one hand and South Africa on the other will have a profound impact on the future prospects of a democratic administration. The Community and its Member States will therefore signal to the negotiating partners in South Africa their desire to intensify their relations as soon as a Transitional Executive Council (TEC) is in place.

Member States welcome the way in which the Commission has implemented the special programme of positive measures since its inception in 1986.

Framework for action

The Community's programme of assistance should be based on the established development priorities and policies of the Community and in particular in relation to the elements of democratisation, rule of law, human rights, good governance and popular participation.

The programme should remain flexible. Its content and implementation would vary over a period time taking into account the changing circumstances in South Africa, in particular the pace of democratisation of South African society and, in this context, the future government policies in favour of the poorest sectors of the society and the level and development of the South African economy.

It is considered that the political developments in South Africa require as a first step an assessment of how the special programme could be further refined to contribute more effectively to meeting the basic and immediate needs of the people of South Africa and improving the living standards of the population, in particular the poorest sections of it, with a view to making assistance supportive of the emerging democracy in this country.

Objectives

In line with the elements set out above under "framework for action", the main objectives of the EC programme would be

- to support peace structures and initiatives;
- to support the transition to a democratic government, including support for voter education and other preparations for elections;
- to support institution and capacity building, notably in the focal sectors mentioned below, and policy formulation, thus promoting consensus on development issues between the parties involved and to strengthen capacity in order to allow the implementation of social programmes as soon as possible;

while continuing actions of the kind undertaken in the framework of the positive measures, to implement activities of longer-term nature within a number of focal sectors of special importance for the economic and social development of the vulnerable groups of the population.

ies

implementation of the programme would have to take into account the developments towards establishment of a democratic administration in South Africa and should

focus on a limited number of sectors and be programme oriented whilst maintaining flexibility, notably through decentralised management;

encompass cooperation with and through NGOs (which play a particularly valuable role in civic society) including community-based organisations (CBOs) and, where appropriate, through organs of the interim/transitional arrangements.

ration should be given to the future procedures for allocation and implementation of the same along the lines which apply to other EC development programmes "

GYMNICH ALDER BIESEN 11-12/9/1993

3. | LES MINISTRES SONT EGALEMENT CONVENUS DE SE PENCHER, LORS
CAG DU 4 OCTOBRE, SUR LA SUITE A DONNER A L'INSTALLATION D
CONSEIL EXECUTIF DE TRANSITION EN AFRIQUE DU SUD, DANS LA
LIGNE DES CONCLUSIONS DU CAG DU MOIS DE JUIN.