

DIE SUID-AFRIKAANSE INSTITUUT VAN INTERNASIONALE AANGELEENTHEDE
THE SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS



Southern
Africa **Record**

Numbers 59 & 60

SOUTHERN AFRICA RECORD contains the original texts of, or extracts from, important statements by political leaders, government representatives and international organisations, concerning international relations in the southern region of Africa. In addition to statements on issues of current concern, some significant statements made in the past are included in the RECORD from time to time. The reproduction of these policy statements of the past and present is intended for information and reference purposes, not only for students, but also for all those who are concerned with the relations between the countries of Southern Africa.

Statements are reproduced if and when texts become available (not necessarily in chronological order), and it must be emphasised that the selection of statements included in SOUTHERN AFRICA RECORD should not be regarded in any sense as indicating a viewpoint as to the relative importance of one or other statement over another not reproduced or reproduced in a later number of the RECORD. In any case, as the Institute itself cannot, in terms of its Constitution, hold a viewpoint on any aspect of international affairs, no views expressed in any statement reproduced in the RECORD should be identified with the Institute.

Compiler: Alan Begg

Published by the South African Institute of International Affairs at Jan Smuts House, PO Box 31596, Braamfontein 2017, South Africa.

Four issues per year. 1990 subscription rate R27,00 per annum (South Africa). R37,00 overseas (surface mail), R60,00 overseas (airmail).

Price per copy R7,00 (plus postage for overseas airmail).

Uitgegee deur die Suid-Afrikaanse Instituut van Internasionale Aangeleenthede by Jan Smuts-Huis, Posbus 31596, Braamfontein 2017, Suid-Afrika.

Vier uitgawes per jaar. 1990 intekengeld R27,00 per jaar (Suid-Afrika). R37,00 buiteland (landpos), R60,00 buiteland (lugpos).

Prys per eksemplaar R7,00 (plus posgeld vir buitelandse lugpos).

ISSN: 0377 5445

SOUTHERN AFRICA RECORD
Numbers Fifty-nine and Sixty, 1990

CONTENTS/INHOUD

South Africa and the U.N.

Policies of Apartheid of the Government of
South Africa - Report of the Secretary-General
(44th Session) - 1 July 1990 Page 1

Policies of Apartheid of the Government of
South Africa - Report of the Monitoring Group
of the Ad-Hoc Committee on Southern Africa of
the OAU - 11 July 1990 Page 88

Zimbabwe

Economic Policy Statement by the
Hon. Dr. B.T.L. Chidzero, M.P. (Senior Minister
of Finance, etc. of Zimbabwe). Harare -
26 July 1990 Page 110

South Africa - The Negotiation Process

Text of the "Groote Schuur Minute". Cape Town -
4 May 1990 Page 133

Text of the "Pretoria Minute" - 6 August 1990 Page 135

South Africa and the U.N.

Forty-fourth session

Agenda Item 28

POLICIES OF APARTHEID OF THE GOVERNMENT OF SOUTH AFRICA

**Progress made in the implementation of the Declaration
on Apartheid and its Destructive Consequences
in Southern Africa**

Report of the Secretary-General

CONTENTS

	Paragraphs	Page
I. INTRODUCTION	1 - 9	2
II. OBSERVATIONS	10 - 16	4

Annexes

I. Report of the Mission dispatched to South Africa by the Secretary-General		8
II. Information provided by Governments relating to the progress made in the implementation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa	not included	
III. Letter dated 7 December 1989 from the Minister for Foreign Affairs of South Africa to the Secretary-General		71
IV. Excerpts from the address by President F.W. de Klerk at the opening of the second session of the ninth Parliament of the Republic of South Africa on 2 February 1990.	See Record No.58	
V. Letter dated 7 June 1990 from the Minister for Foreign Affairs of South Africa addressed to the Secretary-General		75
VI. Statement by Nelson Mandela, Deputy President of the African National Congress to the 641st meeting of the Special Committee against Apartheid on 22 June 1990		76
VII. Declaration on Apartheid and its Destructive Consequences in Southern Africa		82

I. INTRODUCTION

1. At its sixteenth special session, on 14 December 1989, the General Assembly adopted the Declaration on Apartheid and its Destructive Consequences in Southern Africa (resolution S-16/1) (annex VII). The Declaration, *inter alia*, encouraged the people of South Africa to join together to negotiate an end to the apartheid system and agree on all the measures that are necessary to transform their country into a non-racial democracy. The Declaration dealt with fundamental principles for a new constitutional order (para. 3), with the creation of a climate for negotiations (paras. 5-7), with guidelines to the process of negotiations (para. 8) and with a programme of action in pursuance of the objectives of the Declaration (para. 9).
2. In paragraph 10 of the Declaration, the General Assembly requested the Secretary-General to transmit copies of the Declaration to the South African Government and the representatives of the people of South Africa, and to prepare a report on the progress made in the implementation of the Declaration and submit it to the Assembly on 1 July 1990.
3. Prior to the adoption of the Declaration, on 7 December 1989, the Minister for Foreign Affairs of the Republic of South Africa addressed a letter to the Secretary-General in which he outlined the position of the Government of South Africa relating to the draft declaration then under consideration (annex III).
4. Pursuant to paragraph 10 of the Declaration, on 12 January 1990, the Secretary-General personally transmitted to the Permanent Representative of South Africa to the United Nations a copy of the Declaration. He also transmitted copies of the Declaration to the Permanent Observers of the African National Congress and the Pan Africanist Congress of Azania on 7 February 1990. In addition, the text of the Declaration was transmitted to the Permanent Representatives of Member States by a note verbale dated 7 March 1990, requesting them to bring the Declaration to the attention of their Governments and to provide the Secretary-General with information on the action which their Governments had taken in respect to provisions of the Declaration that concerned them. The replies received to date from Member States are reproduced in annex II. In addition the Secretary-General of the Organization of African Unity provided a copy of the report of the Monitoring Group of the OAU Ad Hoc Committee on Southern Africa, which is being issued separately as a document of the General Assembly.

5. Since it was important that the report be as factual as possible, the Secretary-General, while in Windhoek on 20 March 1990, sought the agreement of the State President of South Africa for a team of senior United Nations officials to visit the Republic at an appropriate date. While agreeing to this suggestion, the State President made it clear that this was without prejudice to the position of his Government on the question of non-interference in the internal affairs of South Africa.
6. On the basis of this understanding, the Secretary-General arranged for a United Nations team to visit South Africa from 9 to 19 June. The Team was led by Mr. Abdulrahim A. Farah, Under-Secretary-General for Special Political Questions, Regional Co-operation, Decolonization and Trusteeship. He was accompanied by Mr. Sotirios Mousouris, Assistant Secretary-General for the Centre Against Apartheid and four other senior officials. The Team was instructed to obtain firsthand information on the latest developments in the country and to meet with members of the Government and with representatives of political parties and movements and concerned organizations in order to gather factual information on recent measures taken and proposals made for bringing about an end to the apartheid system. The report of the Team is contained in Annex I.
7. On the eve of the Team's arrival in South Africa, the Minister for Foreign Affairs of the Republic of South Africa addressed to the Secretary-General a letter concerning the Team's visit in which he reiterated his Government's position in regard to the Declaration as well as on the question of non-interference (annex V).
8. During the period following the adoption of the Declaration, and in addition to his meeting with President de Klerk, the Secretary-General had the opportunity, on a number of occasions, of discussing with the Permanent Representative of South Africa to the United Nations developments relating to the situation in South Africa. The Secretary-General also met, on two occasions, with Mr. Nelson Mandela, Deputy President of the African National Congress. The first meeting took place in Windhoek last March, and the second one was held in New York on the occasion of Mr. Mandela's visit to United Nations Headquarters on 22 June 1990 (for a text of Mr. Mandela's Statement, see annex VI). In his meetings with President de Klerk, the Secretary-General was informed of the new policy that the South African Government had begun to implement for the dismantlement of the apartheid system (see Annex IV). Mr. Mandela also provided the Secretary-General with an assessment of the situation and the position of his movement on some of the salient features covered by the

Declaration.

9. The information assembled in the report of the United Nations team that visited South Africa, taken together with that provided by Member States, as contained in annexes I and II respectively, presents a comprehensive picture of developments against which the General Assembly will be able to measure progress achieved so far in the implementation of the Declaration.

II OBSERVATIONS

10. The Secretary-General has been greatly encouraged by the positive developments that have taken place within South Africa since the beginning of this year. The bold and courageous policy to which President de Klerk has committed his Government opens up distinct possibilities for the dismantling of the apartheid system. Equally encouraging and statesmanlike has been the vision and forbearance displayed by the Black leadership which, despite long years of injustice and oppression, has renewed its commitment to a peaceful process for ending apartheid and building a non-racial and democratic society.
11. The fact that the Team was able to meet with whom it wished, travel where it desired, and receive freely the views of all on political issues arising from the policy of apartheid, demonstrates, by itself, a significant change in the political climate.
12. Of the measures required by the Declaration on Apartheid and its Destructive Consequences in Southern Africa to create a climate for free political activity, the measure relating to the lifting of the ban on political parties and movements has been implemented in full. Other measures have been implemented in part. While it is evident that an important process has been set in motion, many believe that the Government should implement all measures in their totality to create the appropriate atmosphere.
13. Parallel with the need to establish an appropriate climate for the negotiations is the urgent requirement to end the violence. The issue of violence, not least in Natal, urgently needs to be addressed at the highest level since, if it is allowed to continue unrestrained, the consequences could well present serious difficulties for the political process. The Secretary-General therefore appeals to all parties to do whatever is necessary to end the violence and to work together to build a peaceful South Africa.

14. It is quite clear from the report of the Team that a substantial body of public opinion is anxious to see that the process for the dismantlement of the apartheid system be accelerated.

15. Some of the data in the report illustrate vividly the grave social injustices that have been inflicted by apartheid on the black population. The Secretary-General would strongly endorse any measures aimed at redressing the social and economic imbalances, particularly in the area of housing, education, employment and health. Such measures would go a long way towards addressing effectively glaring inequities and instilling public confidence in the democratic process and in national institutions.

16. The Secretary-General was requested by the General Assembly to submit a report on the progress made in the implementation of the Declaration on Apartheid within six months of its adoption. As the report of the United Nations Team shows, the political process towards the dismantlement of the apartheid system is still at an early stage. Political parties and movements are in the first phases of developing their responses to the negotiating process. For this reason the report does not comment in detail on some of the major issues covered by the Declaration, such as those envisaged in paragraph 8 of that document concerning the mechanisms for drafting a constitution, as well as the principles of the constitution itself.

ANNEX I

Report of the Mission dispatched to South Africa by
The Secretary-General

CONTENTS

	Paragraphs	Page
I. PREFACE	1 - 7	8
A. Terms of reference	1	8
B. Composition of the Team	Omitted	
C. Itinerary and list of interlocutors	3 - 4	8
D. Programme of work	5 - 7	9
II. BACKGROUND	8 - 38	9
A. Developments in 1989	9 - 20	9
B. Basic apartheid laws in force at end of 1989	21 - 27	12
C. Some measures announced by the Government in 1990	28 - 38	15
III. PROGRESS MADE TOWARDS CREATING A CLIMATE CONDUCTIVE TO NEGOTIATIONS	39 - 86	17
A. Release of all political prisoners and detainees	40 - 48	17
B. Lifting of all bans and restrictions on all proscribed and restricted organizations and persons	49 - 56	20
C. Removal of all troops from the townships	57 - 61	23
D. The lifting of the state of emergency and the repeal of all legislation, such as the Internal Security Act, designed to circumscribe political activity	62 - 79	24
E. Cessation of all political trials and political executions	80 - 86	29

CONTENTS (continued)

	Paragraphs	Page
IV. OTHER ELEMENTS CONDUCTIVE TO FREE POLITICAL DISCUSSION AND TO THE PROCESS OF NEGOTIATIONS	87 - 140	30
A. Creation of an atmosphere free of violence	88 - 121	31
B. Freedom of assembly	122 - 129	40
C. Freedom of press	130 - 140	42
V. VIEWS RELATING TO THE QUESTION OF NEGOTIATIONS FOR A NEW CONSTITUTION	141 - 181	44
VI. MATTERS ENHANCING OR OBSTRUCTING THE PROCESS OF ENDING APARTHEID	182 - 250	53
A. Pillars of apartheid	185 - 206	54
B. Labour	207 - 214	58
C. Education	215 - 229	61
D. Housing and land issues	230 - 242	64
E. Health care	243 - 250	66
VII. CONCLUDING REMARKS	251 - 256	68
Appendix: Itinerary and list of interlocutors		69

I. PREFACE

A. Terms of reference

1. On 4 June 1990, the Secretary-General announced his decision to send a team of United Nations officials to South Africa to meet with members of the South African Government, with representatives of political parties and movements and with other concerned organizations on the latest developments relating to the question of apartheid. The Team was instructed to obtain factual information on the various measures taken and proposals made for bringing about a speedy end to the apartheid system and to do so within the framework of the Declaration on Apartheid and its Destructive Consequences in Southern Africa (resolution S-16/1)

C. Itinerary and list of interlocutors

3. The Team arrived in Cape Town on 9 June on the first stage of its mission. In addition to Cape Town, it also visited Durban, Pietermaritzburg, Johannesburg and Pretoria. The Team held 55 meetings in the course of its 10-day stay and left South Africa the evening of 19 June (see appendix I).
4. The Team met with members of the Government as well as with a large number of organizations representing a wide cross-section of South African opinion. Apart from the Government, 39 organizations and professional groups responded positively to the Team's invitation. Only one party declined to meet with the Team, namely the Conservative Party, stating that the Team's presence in South Africa was a "blatant interference" in the internal affairs of the country. The Labour Party did not reply to the Team's invitation. To enable the Team to have a better appreciation of the position of the Conservative Party on relevant national issues, the Government provided it with extracts from statements made in the South African Parliament by party members.

D. Programme of work

5. The Team was conscious of the fact that its visit was taking place at a relatively early stage of the political process. For this reason, it decided to concentrate its attention on four specific areas, namely, the progress made towards helping to create a climate conducive to negotiations (sect. III), the creation of an atmosphere free of violence (sect. IV), the process for negotiating a new constitution order (sect. V), and matters enhancing or obstructing the process of ending apartheid (sect. VI). To facilitate the measurement of progress towards the dismantlement of apartheid, the Team considered it

essential to use as a starting point the situation as it existed in South Africa at the time of the adoption of the Declaration (sect. II).

6. In all areas the Team obtained the oral views of the Government, as well as of political parties and movements and other concerned organizations. In many cases oral views are supplemented by written submissions and background documentations.
7. Given the nature of its mandate and the limited time available, the Team confined its approach to the collection and the reporting of information as presented to it and did not attempt to make value judgements on the issues raised. It was not its purpose to undertake independent research of the data nor to reconcile any conflicting information presented to the Team.

II. BACKGROUND

8. This section reviews briefly major political developments in South Africa during 1980 as well as the situation that obtained at the time that the Declaration on Apartheid and its Destructive Consequences in Southern Africa was adopted. Such information provides a context in which to assess the progress that has been made since December 1989 in the implementation of the provisions of the Declaration.

A. Developments in 1989

9. A series of developments, both within and outside South Africa, in 1989, set the scene for the beginning of a process which held promise for the elimination of apartheid through negotiations. Improvements in the international climate facilitating the peaceful resolution of conflicts were manifested in the southern Africa region by agreements that led to the independence of Namibia. Within South Africa, action by anti-apartheid forces ranged from new forms of resistance to renewed demands for a negotiated end to apartheid and a new constitutional order. Concurrent with those developments, there was a change of thinking within the ruling party in South Africa towards a new policy which acknowledged the failure of apartheid and the need for constitutional change.
10. Among the notable challenges to the apartheid system during early 1989, was the nationwide hunger strike by more than 700 detainees. This strike had the effect of bringing to national and international attention the situation of large numbers of detainees who were being held without

trial. The hunger strike marked a resurgence of organized opposition to apartheid, much of which was restricted under the four-year old state of emergency and of the security laws. A subsequent campaign of mass defiance of apartheid laws led by the Mass Democratic Movement (MDM) attempted to render them ineffectual. The socio-economic inequalities created by apartheid and the political disenfranchisement of the black population were the focus of the Campaign.

11. Civil disobedience involved hundreds of black people seeking treatment at hospitals or moving onto beaches and other facilities reserved exclusively for the white population. In industry, black mine workers challenged the privileges accorded to white miners. The non-racial trade unions engaged in joint actions to have reversed the regressive provisions of the Labour Relations Amendment Act of 1988. Restriction orders on individuals and organizations became the object of defiance. In the same vein, urban squatters and rural dwellers defied Government attempts to remove them to the homelands. In cities such as Johannesburg protests were organized to highlight the housing crisis. The Defiance Campaign also reached the schools, where the boycott of classes aimed to show the consequences of the unequal and inferior education provided for the black population.

12. At the government level, a new constitutional dispensation for all South Africans became the subject of renewed discussion following the publication of the South African Law Commission Report in March. The Law Commission had been instructed by the Minister of Justice, to investigate and make recommendations on the definition and protection of group rights in the context of South African constitutional issues. In its report, the Law Commission called for the adoption of a Bill of Rights in a new constitution and urged the Government "to purge the statute books" of all discriminatory laws. It recommended that a new constitution include universal franchise.

13. In June 1989 the National Party unveiled its five-year Plan of Action outlining the key principles for a new South Africa. According to the Plan, which became the National Party's election platform, South Africa should be a democracy in which no group dominates or is dominated; the independence of the judiciary is upheld; civilized norms apply; free enterprise is the basis of the economy and there is safety and harmony among all groups. The Plan laid emphasis on the need for negotiations with representative leaders in order to devise a new constitutional dispensation. A Bill of Rights was considered a possibility in a future constitution.

14. Elections to the racially segregated tri-cameral Parliament took place on 6 September in an atmosphere of violence and protests against the continued disenfranchisement of the black population. In the elections to the House of Parliament the governing National Party obtained a majority again, though somewhat reduced. Out of the 165 seats, the National Party obtained 93 seats, the Conservative Party 39 and the newly-formed Democratic Party (constituted by the merger of the Progressive Federal Party, the New Democratic Movement and the Independent Party) won 33 seats. The Government interpreted the election as a "clear mandate for the National Party's policy of orderly reform". The search for a resolution of the political impasse in the country was enhanced by the election of Frederik Willem de Klerk as State President in September.
15. Following his election, President de Klerk outlined his programme for change, speaking of "bridging the gap of distrust, suspicion and fear among South Africans, launching a great indaba or negotiating forum and developing a new constitution allowing individuals to participate without domination" of any group over another. Among his first measures, as State President, was the release of eight long-term political prisoners. In addition, permission was granted for several mass gatherings. The length of the national service was reduced from two years to one year. The military-controlled National Management System, a nationwide security network, was replaced by a co-ordinating system under civilian control.
16. Earlier in 1989, the ANC began a process of wide consultations with the anti-apartheid opposition within and outside South Africa concerning the politico-economic future of the country. As a basis for discussions, the ANC used its 1987 Constitutional Guidelines, which outlined its views of South Africa as a non-racial, united and democratic society. By mid-1989 the ANC noted that a "conjuncture of circumstances" existed that was favourable to ending apartheid through peaceful negotiations. The Organization of African Unity (OAU) endorsed the principle of negotiations between the Government and the South African liberation movements when its Ad-Hoc Committee on Southern Africa adopted the Declaration on the Question of South Africa in Harare on 21 August 1989. This Declaration was later endorsed by the Movement of Non-Aligned Countries.
17. The Conference for a Democratic Future, which took place in South Africa on 9 December 1989 with the participation of representatives from more than 2,000 organizations, resolved to adopt the Harare Declaration and to call for a

Constituent Assembly established on a non-racial basis representing all the people of South Africa in order to draw up a new constitution. The Conference adopted a number of resolutions varying from the issue of negotiations to education, health, labour and environment.

18. At the United Nations, a special session of the General Assembly on Apartheid and its Destructive Consequences in southern Africa, was held from 12 to 14 December 1989. At that session, the Assembly adopted by consensus a Declaration in which it encouraged the people of South Africa to "join together to negotiate an end to the apartheid system and agree on all the measures that are necessary to transform their country into a non-racial democracy"; expressed the view that a new constitutional order, determined by the people of South Africa, should be based on the Charter of the United Nations and on the Universal Declaration of Human Rights; suggested guidelines for the process of negotiations and for the drawing up of a new constitution outlining a number of steps that the South African Government should take in order to create the necessary climate for negotiations; established a Programme of Action regarding the responsibilities of the International community and called for the return of South Africa to the fold of the United Nations upon adoption of a new constitution.
19. Prior to the special session of the General Assembly, the South African Government stated that it considered action by the Assembly as an undue interference in the domestic affairs of a Member State (see annex III).
20. Towards the end of the year, President de Klerk held preliminary consultations on the country's political future with Mr. Nelson Mandela, still in prison, and other anti-apartheid leaders. The President also announced that the Government was considering a series of measures whose application would tend to improve the climate for constitutional negotiations.

B. Basic apartheid laws in force at the end of 1989

21. By the end of 1989 racial laws designed to regulate the life of the black population and to keep races apart, known as pillars of apartheid, were still in force and the administrative structures to implement them remained. The provisions of the state of emergency, of the Internal Security Act and of other restrictive legislation were also still in force. Below is a brief description of the basic legislative structure of apartheid, namely the pillars of apartheid.

22. The Population Registration Act, No. 30 of 1950 is the law basic to the system of apartheid. It establishes a system of race classification according to which the population is identified and classified from birth into four racial groups namely, Whites, Coloureds (persons of mixed origin), Asians (mostly Indians) and Africans, although the last three consider themselves Blacks. Racial classification determines each individual's destiny in terms of franchise, mobility, residential rights and social benefits and services provided by the State.

23. The Native Land Act of 1913 and the Development Trust and Land Act of 1936 and their subsequent amendments establish that 13.6% of the country's territory be reserved for the black population, which represents 75% of the population. The 13% is divided into 10 separate and non-contiguous geographical areas called bantustans, homelands or national states. Asians and Coloureds must live in segregated areas in the territory reserved for Whites. The black population is denied ownership of land outside these territories. In recent years these statutes have become untenable due to the refusal of millions of blacks to be removed to the homelands and to their determination to settle in urban areas. Limited freehold housing rights are now allowed in urban areas. These laws, nevertheless, empower the Government to remove the black population from either rural or urban areas if such areas are designated for Whites. Since 1950 an estimated 4 million Blacks have been removed from white areas to areas set aside for the black population. Over 3 million more are still threatened with removals and evictions. In addition, millions of black squatters live in "informal settlements" around major cities. According to published sources in 1987, in Durban alone there are more than 1,700,000 squatters and in the Pretoria-Witwatersrand area there are between 1,600,000 and 2,400,000 squatters.

24. The Group Areas Act of 1966 (first promulgated in 1950) and its subsequent amendments establish control throughout South Africa over inter-racial property transactions and inter-racial changes of occupation. In essence, the Act empowers the Government to declare areas for use, whether for housing, education, or industrial development, strictly according to race. Heavy penalties are provided for violations. Legislation introduced in 1989, namely the Prevention of Illegal Squatting Act, gives authorities new powers to enforce residential segregation without interference from the courts. The provisions of the Group Areas Act affect the black population also in terms of the effects of the abolition of other racial laws, notably the Prohibition of Mixed Marriages Act, No. 55 of 1949. Even though the Mixed Marriages Act has been abolished, its positive effects have been undermined because "mixed

couples" cannot live legally in any group area without reclassification of a partner or a permit to live in the group area of one of the partners. A similar difficulty arises concerning the education of a child born to a "mixed couple". In recent years, the urban housing crisis and the growing poverty in rural areas, in addition to defiance of the law, have made the provisions of the Group Areas Act unworkable. The enforcement of the law has also been less strict.

25. The Reservation of Separate Amenities Act, No. 49 of 1953 provided that any person who was in charge of or had control of any public premises or public vehicle might, whenever it was deemed expedient, reserve such premises or vehicle or any portion thereof for the exclusive use of persons belonging to a particular race or class. The term "public premises" included any land enclosure, building structure, hall, room, office or convenience to which the public had access, whether on the payment of any admission fee or not. Wilful contravention of the Act was an offence, punishable with a fine or imprisonment or both. Subsequent amendments to the Act provided for exemptions, i.e. facilities which were deemed for "international" use or for foreign officials and their families. As in the case of the Group Areas Act, this Act became untenable in practice. In the past two years, Johannesburg and Cape Town passed ordinances providing for the racial integration of certain facilities, although resistance to such integration efforts has developed in different areas of the country.
26. An important aspect of apartheid legislation concerns the provision of education for the black population. According to this legislation, all public education is segregated according to the races and the curriculum is devised along racial lines. Education is free and compulsory for white children. Public sources indicate that the Government spends an average of R3,082.00 on the education of every white child and R764.73 on that of every black child. There are at present 17 education departments.
27. While the above laws constitute the statutory basis upon which apartheid was erected, the Republic of South Africa Constitution Act, No. 110 of 1983, which established racially segregated tri-cameral Parliament for Whites, Coloureds and Asians, specifically excludes the black population from the vote for central government. This exclusion is reinforced by the provisions of the Homeland Citizenship Act which was introduced in 1970. The Act creates independent homelands although their status as such is recognized only by South Africa. To date, the homelands of Transkei, Bophuthatswana, Venda and Ciskei have been declared independent. As a consequence, millions of blacks

have been declared citizens of those homelands and have been deprived of their South African citizenship. It is recognized that the absence of the franchise for South Africa's 27 million blacks is the most fundamental issue to be addressed in a process for negotiations.

C. Some measures announced by the Government in 1990

28. This section outlines some of the measures announced by the Government since the beginning of 1990 until the arrival of the United Nations Team in South Africa. It is based on information drawn from government and other sources.
29. A more detailed discussion of these measures, as well as the views of political movements, parties and organizations concerning the adequacy and implementation of these measures, is presented in the following relevant chapters of this report.
30. During an address given at the opening of the Parliament session on 2 February 1990, President de Klerk announced several measures towards reform, declaring that his final aim was a totally new and just constitutional dispensation in which every inhabitant would enjoy equal rights, treatment and opportunity in every sphere of endeavour - constitutional, social and economic. These measures included the following: the promised release of Nelson Mandela; the release of certain political prisoners; the suspension of the death penalty; the lifting of the banning order on the ANC, PAC and the South African Communist Party (SACP), as well as of the restrictions on 33 organizations; the repeal of certain aspects of the emergency regulations; the lifting of all restriction orders on individuals; and the limitations established on the period of detention under the state of emergency.
31. Since President de Klerk's address, the Government has undertaken other initiatives. The budget for the new fiscal year displays a shift of priorities, as expenditure on social welfare (comprising education, health and housing) will increase while defence spending will decrease in real terms. A R3 billion fund has been created to reduce a variety of backlogs in housing, education, training, literacy and basic health.
32. In April, the Criminal Law Amendment Bill was tabled in Parliament providing the Supreme Court with discretionary powers to impose death sentence in appropriate cases or to grant automatic right of appeal to any person so sentenced.

33. In May the Minister of National Health and Population Development, announced the end of racial segregation in hospitals. The Government is reportedly developing a system for the implementation of this measure which at present applies to public hospitals only. Also, the Indemnity Act, No. 35 of 1990 was adopted granting temporary immunity or permanent indemnity against arrest or prosecution. Indemnity was initially granted for three months, until 19 August 1990.
34. In May, the Minister of Constitutional Development, in his capacity as Acting President, introduced in Parliament a 12-point plan on the constitutional future of the country. In this blueprint it is stated that minorities, because of their particular values and aspirations, should have a special voice in the new constitutional dispensation. The plan includes State support for racially separate schools, the holding of regular elections, a bill of individual human rights, the preservation of the free market system and the existence of an independent judiciary.
35. On 7 June, the State President announced that the country-wide state of emergency would not be reimposed, although it would remain in force in the province of Natal, including the homeland of KwaZulu. In June also the Parliament removed one of the pillars of apartheid law when it adopted the Discriminatory Legislation Regarding Public Amenities Repeal Act, which abolished the Reservation of Separate Amenities Act, No. 49 of 1953. The measure will come into effect in October 1990.
36. The Government also appointed several independent commissions of inquiry to investigate allegations of misconduct by the security forces. The Harms Commission is investigating accusations that the South African Defence Force operates hit squads against apartheid opponents within and outside South Africa. In this connection, the activities of the Civil Co-operation Bureau, a military unit allegedly involved in assassinations, are the subject of this inquiry. The Hiemstra Commission of Inquiry is investigating allegations that the Johannesburg City Council operated a spy network directed at the apartheid opposition. Also, a judicial investigation is being conducted into the events of 26 March 1990 in the township of Sebokeng in the southern Transvaal province where police fired at demonstrators, killing at least 12 persons and wounding nearly 500.
37. From 2 to 4 May the Government and the ANC held their first talks at Groote Schuur in Cape Town. The talks seek to remove obstacles to a process of negotiations. A minute was

adopted (see A/45/268) which established a working group to address the issue of the release of political prisoners and the granting of immunity in respect of political offences to those inside and outside South Africa (a measure which was considered on an urgent basis for members of the ANC's National Executive Committee).

38. The Government undertook to review existing security legislation. Both parties pledged to seek an end to "the existing climate of violence and intimidation from whatever quarter" and reiterated their "commitment to stability and to a peaceful process of negotiations". As scheduled, the working group presented a confidential report to the parties concerned by 21 May.

III. PROGRESS MADE TOWARDS CREATING A CLIMATE CONDUCTIVE TO NEGOTIATIONS

39. In its Declaration on Apartheid and its Destructive Consequences in Southern Africa of 14 December 1989, the General Assembly referred to an essential need to create a climate for negotiation, and, in that regard, stated that "the present South African regime should, at the least" take the measures described in paragraph 6 of the Declaration. The present section contains information provided by the Government concerning measures it has taken or intends to take relevant to the creation of a climate conducive to negotiations. It also presents the positions and views on these matters of the various political parties and movements and other concerned organizations.

A. Release of all political prisoners and detainees

40. Paragraph 6(a) of the Declaration calls on the South African Government to "release all political prisoners and detainees unconditionally and refrain from imposing any restrictions on them".

Position of the Government

41. The Team was informed by the Minister for Foreign Affairs that, in an announcement made by the State President on 2 February 1990, all persons serving sentences by virtue merely of their membership in previously banned organizations, or for having committed an act which was an offence merely because of the prohibition of the organizations concerned, would be identified and released forthwith. Moreover, the conditions which had been imposed in terms of the security emergency regulations on 374 persons upon their release, were being rescinded with immediate effect, and the regulations which provided for

such conditions were likewise being abolished.

42. The Minister for Foreign Affairs also made the following points:
- (a) The Government and the ANC had agreed, as reflected in the Groote Schuur Minute of 4 May 1990 (see A/45/268), to establish a joint working group to make recommendations on the definition of political offences in the South African situation to discuss, in this regard, time scales; and to advise on norms and mechanisms for dealing with the release of political prisoners and the granting of immunity in respect of political offences to those inside and outside South Africa.
 - (b) The Working Group, including representatives of both the Government and the ANC, submitted its report to the Government and the ANC on 21 May 1990. The State President announced in his speech before Parliament on 7 June 1990 that the Government was ready to implement it. The ANC had indicated that it would provide an answer on 10 July 1990. By agreement the contents of the joint report would remain confidential till both sides had agreed.
 - (c) The State President also announced on 7 June that, as a gesture, he was releasing 48 prisoners in terms of powers vested in him by the constitution and the Prisons Act. A total of 104 prisoners have been released since 1 February 1990.
 - (d) No restrictions have been imposed on any of the released prisoners - with three exceptions - where minor conditions were imposed. (One, a foreigner, was deported and requires approval to return; two are required to notify the police if they should leave their district of residence permanently).
 - (e) Further developments in the release of prisoners will have to await ANC agreement on the Working Group's report.
 - (f) The situation concerning detainees is as follows (as of 14 June 1990):
 - (i) The last 12 prisoners held under the terms of Emergency Regulations were unconditionally released on 8 June 1990 when the state of emergency was lifted. In Natal, where the state of emergency is still in force, 2 persons are still being held.

- (ii) In terms of the Internal Security Act:
- a) Section 29(1): 45 persons are detained for questioning;
 - b) Section 31 : 2 persons are in preventive detention (for their own safety or to prevent witnesses absconding).

Position of the national liberation movements

43. The ANC stated that, at the Groote Schuur meeting, its delegation and that of the Government had agreed on the establishment of a working group to make recommendations on the definition of political offences in the South African situation. All persons who could be affected would be considered. The working group would bear in mind experiences gained in Namibia and elsewhere. Moreover, the following offences would receive attention immediately: (a) leaving the country without a valid travel document; and (b) any offences related merely to organizations that were previously prohibited.
44. The ANC considered that relatively few political prisoners had been released. Approximately 3,000 political prisoners remained in prison and this issue had been a matter of intense discussions at the Groote Schuur meeting. The Government seemed concerned only with people who had been arrested for membership of banned organizations or for actions furthering the aims of those organizations. The ANC and the UDF insisted that there were many others outside these categories whom they regarded as political prisoners. The definition of political prisoners, which has been applied in Namibia, would be the correct one to apply to South Africa. It was hoped that agreement would soon be reached with the Government in that regard.
45. The PAC stated that hundreds of political prisoners were still incarcerated, including more than 250 on Robben Island alone. The Government had made the definition of "political prisoners and detainees" a matter for negotiations and it appeared that the release of all prisoners had been made subject to a compromise on that definition. The PAC considered that such an approach had no merit at all. In its view the measures prescribed in paragraph 6 of the Declaration on Apartheid and its Destructive Consequences in Southern Africa were non-negotiable conditions that had to be fully met by the Government before negotiations regarding a new constitution could commence.

Position of other organizations

46. Representatives of other organizations and groups, including the Human Rights Commission of South Africa, while concerned by the relatively small numbers involved, were pleased with the releases of prisoners to date; however, there still remain between 2,500 to 3,000 in jails. Several considered the continued incarceration of political prisoners a serious obstacle to negotiations. It was observed that many of those released had already served a large part of their sentence, and most had served more than two thirds of their sentences, which would have automatically qualified them for parole under criminal law. Concerning detention without trial, the Human Rights Commission indicated that between 400 and 500 persons, including children under the age of 18, remained in detention.
47. The Inkatha Movement welcomed the release of political prisoners, including Mr. Nelson Mandela, Mr. Walter Sisulu and other political prisoners, to which, according to Inkatha, it had contributed. Likewise, Inkatha was satisfied that exiles could now return and that organizations were unbanned.
48. The delegates of the International Committee of the Red Cross (ICRC) mentioned that there were three types of prisoners, namely: persons sentenced after trial for security-related offences (the Internal Security Act of 1982, the Treason Act and the Public Safety Act); persons sentenced after a trial on common law charges (public violence, arson, assault, murder, attempted murder, malicious damage to property, illegal gatherings) which were related to unrest situations; and persons detained without trial under the security law or awaiting trial for common law crimes related to unrest. While ICRC does not have complete records of prisoners and detainees in South Africa, it does possess records of 336 security prisoners and 560 unrest-related prisoners (including 72 people sentenced to death). ICRC, quoting other sources, estimated that there are approximately 400 convicted security prisoners, 1,100 convicted unrest-related prisoners, 1,100 detainees currently on trial (for security and/or unrest-related offences) and 40 detainees held under the Internal Security Act.

B. Lifting of all bans and restrictions on all proscribed and restricted organizations and persons

49. Paragraph 6(b) of the Declaration calls on the Government to "lift all bans and restrictions on all proscribed and restricted organizations and persons".

Position of the Government

50. According to the Minister for Foreign Affairs no organizations were at present banned, proscribed or restricted. He further stated that no restrictions or conditions were being imposed on any persons released from prison or detention with the exception of minor restrictions on three persons (see para. 42(d) above).
51. The Minister drew attention to the statement of 2 February 1990 by the State President in which he announced that:
- (a) The prohibition of the ANC, the PAC, the South African Communist Party and a number of subsidiary organizations was being rescinded;
 - (b) The media emergency regulations and the education emergency regulations were being abolished in their entirety;
 - (c) The restrictions in terms of the emergency regulations on 33 organizations were being rescinded (those organizations included the National Education Crisis Committee, the South African National Students Congress, the United Democratic Front (UDF), the Congress of South African Trade Unions, and Die Blanke Bevrydingsbeweging van Suid Afrika);
 - (d) The emergency regulations on the basis of which restrictions could be imposed on individuals would be abolished with immediate effect.
52. Representatives of the Government, referring to the Foreign Funding Act, said that the purpose of the Act was to regulate the disclosure of the receipt of money from outside the Republic by or for certain organizations and persons, and to provide for matters pertaining thereto. The underlying objective was to ensure that all receipts from a foreign source be utilized for the purpose for which they were intended and was not intended to encroach upon the activities of any organization or person. The influx of money to a reporting organization or person from abroad cannot under the terms of the Act be controlled in any way whatsoever by either the Registrar or the Government, and the Act does not restrict the activities on such organization or person in any way whatsoever.
53. Regarding the listing of persons, representatives of the Government stated that, since 2 February 1990, the names of all persons who were listed have been removed except those convicted of violence or violence-related offences. It is correct that the listing of persons continues, but this has

nothing to do with their membership in or the activities of any organization. The only persons who are listed at present are those convicted of certain offences such as terrorism and sabotage. This involves the addition of the names of approximately 15 persons since 3 February 1990. The listing of persons convicted of offences such as terrorism or sabotage is imperative under the existing provisions of the Internal Security Act. In this regard, the Government undertook at the Groote Schuur discussion on 2 to 4 May 1990 to review existing security legislation. The listing of people convicted in terms of the Internal Security Act is one of the provisions under review.

Position of the national liberation movements and other organizations

54. All organizations and groups with whom the Team met agreed that the lifting of the bans and restrictions was the only pre-condition that had been fully met.

55. Concern was expressed by some organizations that, despite the removal of the bans, they were still not able to organize freely. The ANC and the UDF demanded that they be allowed to enjoy the same freedom to organize as the National Party, stating that without freedom of association the unbanning of organizations would be meaningless. Mention was made by the ANC of the restrictions still placed on certain organizations, such as: prohibition on the receipt of funds from abroad; restrictions placed on returning members of organizations (under the Indemnity Act, indemnity for a number of cadres was initially granted for three months until 19 August 1990); the listing of some 300 persons in the consolidated list under the Internal Security Act with the effect that they could not legally be quoted in the media; the requirement to obtain prior authorization to hold meetings; and the possibility of members of organizations to be detained at any time under the Internal Security Act. It was pointed out that even though the organizations had been unbanned all these restrictions were enforceable.

56. On 17 April, the leader of the Conservative Party stated in Parliament that the unconditional unbanning of the ANC, the PAC, the South African Communist Party and Umkhonto we Sizwe was in conflict with the categorical assurances given by the former State President and those of the present State President. He was of the view that the legalization of such organizations was absolutely outrageous. These organizations had no intention of establishing democracy in South Africa, nor to share power, but only to seize it. They had not given up the armed struggle, and thus violence would continue in South Africa. Further, these

organizations had no consideration at all for the self-determination of other people.

C. Removal of all troops from the townships

57. Paragraph 6(c) of the Declaration calls on the Government to "remove all troops from the townships".

Position of the Government

58. With regard to the removal of troops from the townships, the Minister for Foreign Affairs stated that, with few exceptions, all troops had been withdrawn except in the Province of Natal and some self-governing territories. In Natal, a state of emergency still exists and troops have been deployed to assist the police in that province. Troops have been deployed in certain other areas at the request of the police authorities. As the ratio of police to population in South Africa was amongst the lowest in the world, currently just under 2 per 1,000, troops were needed to help restore order. The Minister for Foreign Affairs added that the ANC and other organizations who had previously opposed the deployment of troops in townships now publicly accepted the need for the presence of troops in certain areas, under specific conditions. (The Government position on the situation is presented in greater detail in paragraph 64.)

Position of the national liberation movements

59. The ANC indicated that although troops had been technically removed from the townships, except in Natal, they still entered the townships for operational purposes and mounted road-blocks to impede ANC and UDF political action and harass their supporters. Although it was felt that the overall situation had improved, concern was expressed by the ANC at the continuing presence of troops in Natal, in particular that of the 32nd Battalion, which had served in Angola. They alleged numerous cases of misconduct by those troops.
60. The PAC stated that some troops had been removed from some townships and demanded that they be withdrawn from all townships.

Position of other organizations

61. Some organizations felt there was a continuing need for the presence of troops in Natal. It was claimed that they served as a buffer between the warring groups. Several

organizations said that even though troops are not currently stationed inside the townships, they are often called in by the local authorities, and therefore their removal did not have the desired effect. Since violence was increasing in Natal, the Inkatha Movement welcomed the continuation of the state of emergency and the redeployment of troops in the area, both of which would assist in reducing tensions. The troops, in their view, would help the police in the maintenance of law and order. Indeed, Inkatha believed that a larger contingent of police was needed in Natal.

D. The lifting of the state of emergency and the repeal of all legislation, such as the Internal Security Act, designed to circumscribe political activity

62. Paragraph 6(d) of the Declaration called upon the Government to "end the state of emergency and repeal all legislation, such as the Internal Security Act, designed to circumscribe political activity".

1. State of Emergency

Position of the Government

63. The Minister for Foreign Affairs referred the Team to the State President's announcement of 7 June 1990 in which he stated that the general country-wide state of emergency would not be reimposed in South Africa when it lapsed at midnight on 8 June 1990. However, a state of emergency was proclaimed in the province of Natal in view of the escalating violence among the black population in that province involving the destruction of human life and property, which had assumed shocking proportions and the exceptionally high level of intimidation rife there. The Government was of the opinion that public safety and public order could not be guaranteed by the application of the ordinary laws of the land.
64. The Minister of Law and Order, at another meeting, told the Team that it had been necessary to retain the state of emergency in Natal for the same reasons that it had been necessary to apply it throughout South Africa in 1986, since the Internal Security Act was not adequate in dealing with large numbers of people, particularly where quick and effective measures are required. Similarly, the Regional Commissioner of South African Police in Natal stated that ordinary law did not provide the powers necessary to deal with the Natal situation, such as the powers provided by regulations under the state of emergency to search homes for weapons in areas of riots, to declare a curfew, and to prohibit marches, meetings and large public funerals which

had become politicized. The hope was expressed that with more police and fewer incidents, the lifting of the state of emergency in Natal could be recommended. Previous media restrictions on reporting were no longer in effect and the press could go where it wished, it was claimed.

65. As regards the detention of persons under the state of emergency, the State President announced on 2 February 1990 that the period of detention under the security emergency regulations would be limited to six months, and that detainees would have the right to legal representations and visits by medical practitioners of their own choosing.

Position of the national liberation movements

66. ANC asserted that, while the state of emergency had been lifted elsewhere, it was still in force in Natal and inhibited political activities. ANC alleged that because of the open support given to the Inkatha Movement by the police, the situation was difficult to resolve for a number of reasons: the security forces relied largely on "ordinary" police powers to search, seize and arrest in Natal; emergency powers were invoked specifically to exclude lawyers and journalists from "unrest" situations or funerals; the emergency regulations exist to maintain the morale of the South African Police and the right-wing "law and order" lobby.
67. PAC objected to the state of emergency being retained in Natal and considered the Government's reasons for retaining it there totally unacceptable.

Position of other organizations

68. A number of organizations welcomed the lifting of the state of emergency in the three provinces. The lifting had a tremendous psychological effect and the rule of law was now better respected. Under the state of emergency any police constable could arrest a person without laying a charge and that person had no recourse. Further, it provided immunity to the police for their actions. For some organizations the lifting was considered to be symbolic, since the State possessed virtually the same powers under the Internal Security Act and other statutes still in force as it had under the state of emergency.
69. In the case of Natal, many organizations felt that the state of emergency should be lifted as the ordinary criminal law could deal with all violent offences while, under the Internal Security Act, the State possessed wide

powers which were not subject to judicial review. They charged that the maintenance of the state of emergency hindered political activities in that province.

70. Some organizations took the view that the Government could not be criticized for maintaining the state of emergency in Natal. They noted, however, that, while the state of emergency might reduce violence, it did not help create a climate conducive for negotiations. Some were skeptical that the retention of the state of emergency could reduce violence in Natal in view of the fact that it had not managed to do so during the last four years of its application there.

2. Repeal of legislation, such as the Internal Security Act, designed to circumscribe political activity

Position of the Government

71. When asked by the Team for comments with regard to the repeal of legislation designed to circumscribe political activity, the Minister of Foreign Affairs referred to the State President's speech in Parliament on 7 June 1990. In that speech, the President had said that the Government was already looking at aspects of security legislation which could possibly inhibit the free conduct of peaceful politics. The Internal Security Act was non-discriminatory in that it applied to all whose actions threatened the security of the State, whatever their political affiliations.
72. The Minister of Constitutional Development told the Team that the Internal Security Act would be amended; some suggestions had been received from the ANC and it was expected that the Act would be amended during the next session of Parliament with the process beginning during the coming parliamentary recess.
73. Regarding deaths in detention, the South African Government is aware of two cases of the deaths of prisoners in detention in terms of security legislation during 1990. One of these was investigated by a judicial commission of inquiry under the chairmanship of Mr. Justice Goldstone, and the finding was that the deceased took his own life. The second case is currently being investigated by a judicial inquest.

Position of the national liberation movements

74. The ANC stated that at the Groote Schuur meetings its

delegation had argued for the repeal of the Internal Security Act and, although the Minute of that meeting implicitly speaks of amending the Act, the ANC wanted it repealed. The ANC, in addition requested the repeal of all other laws which inhibited political activity; they are mentioned below in paragraph 79.

75. The PAC stated that, except for the state of emergency regulations, no other legislation designed to circumscribe political activity had been repealed. Together with other organizations and groups, the PAC and AZAPO called for the repeal of the Internal Security Act on the grounds that its wide provisions constituted a hindrance to free political activities.

Position of other parties and organizations

76. The Democratic Party argued for the amendment rather than the repeal of the Internal Security Act. Others stated that, although every state needed a law on internal security, the South African Act went too far as it curtailed normal political expression.
77. The Human Rights Commission of South Africa levied criticism against the wide and all-encompassing definition of political ideas which have been outlawed by the Internal Security Act. Possession or dissemination of political publications containing banned ideas is still an offence under the Internal Security Act, as is promoting, inciting or funding any protest or campaign against any law of the Republic. The Act also had a direct impact on freedom of association and expression in that under section 46, all gatherings or any particular gathering could be banned by the Minister of Law and Order or by the local magistrate. Pursuant to that power, the Minister on 30 March 1990 and for the fifteenth consecutive year renewed the ban of all outdoor political meetings, making them subject to specific prior authorization, while all indoor gatherings were banned if educational boycotts or work stayaways were to be advocated. In addition, the Act could be used against freedom of expression since under it any person whose name is on the list of persons associated with banned or illegal organizations could not be quoted in the media.
78. A number of organizations spoke of the wide powers of detention under the Internal Security Act, which hindered free political activity. These included:
 - (a) Under Section 28 of the Internal Security Act, a person may be held in preventive detention indefinitely by order of the Minister of Law and Order and no judicial review is possible. The person can be held in prison

incommunicado in accordance with regulations made by the Minister of Justice under subsection (2). Under subsection 28(7), no court of law has jurisdiction to pronounce upon the validity of any regulation made under subsection (2).

- (b) Under section 29, a police officer of the rank of lieutenant-colonel or above can without a warrant detain a person for questioning for 30 days (renewable by the Minister of Law and Order). The person can be held incommunicado and no information need be given about the arrested person although he or she is to be visited fortnightly by a magistrate and a district surgeon. There is no judicial review of the detention.
- (c) Under section 30, a person shall be refused release on bail when the Minister of Law and Order so directs.
- (d) Under section 31, the Attorney-General may detain a potential witness for up to six months. In this connection, the person can be held incommunicado and shall be visited fortnightly by a magistrate and a district surgeon. The Act specifically provides that the Courts have no jurisdiction to review the validity of this type of detention.
- (e) Finally, two sections, 50 and 50A, provide police officers with the power to arrest persons in connection with public disturbances for up to 14 days (section 50) or for 48 hours (section 50A).

Concern was also expressed by these organizations over the treatment received by detainees under the above provisions, especially when held incommunicado or in solitary confinement. They alleged that five deaths in police custody have been reported in 1990.

79. Several organizations were of the view that a number of other laws which circumscribe political activity should be repealed. Among them are the following:

- (a) The Public Safety Act, No. 3 of 1953, as amended in 1986, which permits the proclamation of a state of emergency, and the declaration of "unrest areas", which would amount to a mini-state of emergency;
- (b) The Disclosure of Foreign Funding Act, No. 26 of 1989;
- (c) The Affected Organizations Act, No. 31 of 1974 (which restricts the receipts of funds).
- (d) The Riotous Assemblies Act;
- (e) The Gatherings and Demonstrations Act, No. 52 of 1973.

Other acts, some of the provisions of which were said to limit freedom of expression and information and therefore political activity, are the Police Act, the Prisoners Act, the Publications Act, the Nuclear Energy Act and the Defence Act.

E. Cessation of all political trials and political executions

80. Paragraph 6(e) of the Declaration on Apartheid and its Destructive Consequences in southern Africa calls for the South African Regime to "cease all political trials and political executions".

Position of the Government

81. At the request of the Team, the Minister for Foreign Affairs provided information regarding the present status of political trials and executions in South Africa. He stated that the Joint Government-ANC Working Group's recommendations were relevant. The Government was ready to implement the recommendations in the report. The approval of ANC is awaited. The cases of all persons convicted of political offences as then defined would be reviewed in accordance with the terms of the agreement arrived at between the Government and the ANC. Furthermore, as the State President announced on 2 February 1990, the death penalty will be limited as an option to extreme cases only. In this respect, the Criminal Law Amendment Bill is before Parliament. Its main objective is to do away with the compulsory imposition of the death sentence (which applied in cases of murder without extenuating circumstances) and to vest the Supreme Court with the right of appeal and the defence counsel will be empowered to appeal for clemency if the accused decides not to do so. The Bill also provides for the appointment of a panel of legal experts and Appeal Court judges to review, in accordance with other new legislation, the cases of all persons previously sentenced to death. Meanwhile all executions have been suspended, pending adoption of the legislation and completion of the review procedure.
82. The term "political trial" is considered a misnomer. Trials as such were not political. Offences featuring in trials may, however, be described by some as "political". "Political offences" were a product of the times. In South Africa times have changed dramatically and what may have been viewed as a "political trial" in the past may not be viewed in the same light in the future. In any event, offences which are judged to be political could be eligible for pardon or indemnity.

Position of the national liberation movements and other organizations

83. According to ANC and UDF:

- (a) A number of political trials were still in progress; and
- (b) Although executions for offences had been suspended, the further step of amending the law to prevent executions for political offences needed to be taken without delay.

84. PAC summed up its views on this matter as follows: "A large number of political trials are presently in progress and political executions have been stayed, pending the review of each case by a panel of judges who have been enjoined to apply new legislation which permits greater discretion in the imposition of the death sentence. Implicitly, some political executions may be carried out."

85. According to the Human Rights Commission of South Africa:

- (a) Political trials and imprisonment continue unabated under the Internal Security Act as well as under a plethora of other repressive legislation and common law. About 400 political trials were recorded in 1989 and the rate during 1990 is even higher.
- (b) Political executions have been suspended since 2 February and legislation governing the death sentence is to be amended to some extent (Criminal Law Amendment Bill). Nevertheless, over 300 persons are on death row (70 as a result of political circumstances) with their fate uncertain.

86. Several other organizations, including AZAPO, IDASA and the Detainees' Support Group, said that political trials were still taking place. Some political trials were alleged to have commenced under the guise of criminal trials, involving a shift from detaining persons without trial under security legislation to detaining them on charges under the normal criminal law.

IV. OTHER ELEMENTS CONDUCTIVE TO FREE POLITICAL DISCUSSION AND TO THE PROCESS OF NEGOTIATIONS

87. In addition to obtaining information related to measures prescribed in paragraph 6 of the Declaration on Apartheid and its Destructive Consequences in Southern Africa, the Team focused its efforts towards collecting information

from its interlocutors on other elements which are directly related to the issue of free political discussion and activity. These elements are freedom from violence, freedom of assembly and freedom of press.

A. Creation of an atmosphere free of violence

88. The Declaration recognizes the linkage between an atmosphere free of violence and progress towards negotiations. Paragraph 8 of the Declaration states, "we are of the view that the parties concerned should, in the context of the necessary climate, negotiate the future of their country and its peoples in good faith and in an atmosphere which, by mutual agreement between the liberation movements and the South African regime, would be free of violence".
89. Several types of violence were identified by the various groups which met with the United Nations Team. They include violence related to activities by the police and security forces, attacks by hit squads against anti-apartheid activists, violence by vigilante groups and by the far right, violence between political organizations and violence related to the armed struggle. The violence in Natal was considered to be a combination of several of these types.

Position of the Government

90. The Government of South Africa made it clear that it has consistently stressed the importance of maintaining law and order and that there was no place for violence and armed struggle in the country. In his statement to the Parliament on 2 April on the search for peace and stability, the State President suggested that the current acts of violence differed from that in the middle 1980s. At that stage, he stated, the security forces were blamed and often accused of violence and its continued existence. The present was however different. There was no protest against the security forces; in fact, the assistance of the security forces had been requested from unexpected quarters. There was an acceptance of the necessary protective role of the security forces. He announced that the South African Police, assisted by the South African Defence Force, had received instructions to immediately act firmly and purposefully in curbing all areas of unrest and violence. These new measures included an increased visual presence of the security forces, road blocks and the patrolling of roads and areas with vehicles and aircraft and increased enforcement of law against crime, intimidation and unrest. Everyone, he stated, should understand that the instructions may lead to an increase in the number of

people detained. Continuing this theme in a statement to the Parliament on 17 April, the State President said chaos and anarchy would not be tolerated.

91. At the meeting at Groote Schuur, the Government and the ANC agreed on "a common commitment towards the resolution of the existing climate of violence and intimidation from whatever quarter as well as a commitment to stability and to a peaceful process of negotiations" (see A/45/268). The Team was informed that, in conformity with the provisions of the Groote Schuur Minute to establish effective channels between the Government and the ANC to curb violence and intimidation, regular consultations between the two parties take place through a joint steering committee.
92. The Minister of Law and Order stated that although he believed that the unrest in South Africa required a political solution and could not be solved by security measures, it was necessary to maintain law and order. The number of people arrested for violent activities had increased since the measures announced by State President de Klerk on 2 February 1990. For instance, arrests increased from 1,371 in February to 2,136 in March. He indicated that many more people would have been arrested had the full powers of the Minister been exercised. To address criticisms of police activities, police partiality for instance, the Minister said that he had appointed a senior police officer to investigate any complaint made against any member of the South African Police force. Moreover, he was considering seeking an amendment to the Police Act prohibiting members of the police force from joining any political parties.
93. After stating that the Government was reluctant to repeal the Internal Security Act because of the existing high level of extreme violence from, *inter-alia*, the extreme right wing, the Minister explained that the police were unable to take more law enforcement action because there were not enough police available. This shortage of police was also the reason why whites carrying weapons had started patrolling the streets. The Government recognized this problem and decided to increase the police force by 10,000 men within 12 months. He further indicated that since the extreme right could be even more dangerous than the left, it seemed advisable to talk to them and convince them of the futility of any further violence. He stressed, however, the fact that the Government would not hesitate to act against the far right wing if necessary and that several right-wingers are in detention at the moment.
94. It was further mentioned by Government representatives that

CCB was currently subject to investigation by a Judicial Commission of Inquiry.

Position of the national liberation movements

95. ANC expressed great concern about the extent of violence, claiming that the apartheid system was its source. It claimed that anti-apartheid activists lived in fear of their lives, and of attack on their buildings and property, consequently a climate for free political activity did not exist. ANC charged that there was an unwillingness on the part of the Government to take firm action against police indiscipline and to establish strict guidelines for police action.
96. The ANC leadership expressed disappointment that the Government had not dismantled CCB despite all the evidence of the "horrific deeds" it had committed. They further complained about the narrow terms of reference of the Harms Commission established to investigate the illegal activities of the security forces. Special concern was registered about the failure of the Government to take action against white paramilitary forces that publicly proclaim their violent intentions. The case of Welkom was cited as an example, where armed white extreme right-wing groups patrolled the streets. Black miners had been attacked and the premises of the miners' union firebombed.
97. PAC asserted that institutionalized violence in the form of suppression of community uprisings or public marches was still prevalent. The killing of blacks in Sebokeng and in Welkom were cited as examples. Particular concern was voiced about the alarming trend of the far right to arm themselves and engage in military training as well as the apparent unwillingness of the Government to address this issue squarely. As a result of the rising threat posed by the far right-wing and the continued police repression, PAC said it felt compelled to continue the armed struggle.

Position of other parties and organizations

98. The majority of organizations believed that the continued escalating violence remained an obstacle to the creation of a climate for free political discussion and progress towards negotiations. In their view, violence was pervasive in South Africa. Attention was drawn particularly to a large number of firearms licences which had been issued in recent months to the white population, and to the growing threat of the extreme right wing.

99. It was also stated that a relationship existed between violence and the Government's failure to monitor adequately the implementation of its security laws. Although the state of emergency had been lifted in three provinces, it was claimed that many laws still remained on the books which enabled the authorities to arrest, detain, harass and disperse anti-apartheid supporters and demonstrators. In this connection, it was stated that most of the current police action against demonstrators takes place under section 46 of the Internal Security Act.
100. Documents submitted by the Human Rights Commission and the Independent Board of Inquiry into Informal Repression provide what they considered to be a conservative estimate of 176 persons killed and 1,563 injured as a result of police action during some 70 demonstrations between 2 February and 2 June of this year; in the Sebokeng incident alone, 12 people were killed and nearly 500 were injured when police fired into the crowd. Several anti-apartheid groups also complained that Operation Watchdog, a recent programme of search and seizure sweeps instituted by the police ostensibly to find illegal weapons, had been used primarily against opponents of apartheid.
101. Several organizations stated that black and white vigilante violence had increased since the beginning of the year. They observed that most of the black vigilante activity occurred in the context of the conflict in Natal, while white vigilante activity was carried out by covert death squads related to CCB undercover operations and to overt acts of the far right wing. They also attributed the growth of far right-wing intimidation and violence to tacit support and encouragement by the local police and security forces.
102. In a document presented by the Black Sash it was stated that "we have been greatly dismayed by the widespread violence which is shaking the country. It seems as though there is a hiatus, created by the uncertainty of a transition period, which is being inexorably filled by conflict at many levels; a contest for power and control; attacks based on racist hostility, intimidation, punishment and revenge; and outright warfare between competing forces". The Black Sash felt that "all must share the responsibility. Causes and culprits must be identified, and the government must acknowledge its task as the ultimate provider of protection for all. This means that it is of the utmost importance that the police and the army are impartial servants of the public and are seen to be so. The constitution-making process must be as speedy as possible, and as consultative and open as possible. Those who see no future for themselves unless they fight for it, must be

persuaded that there is a vehicle through which their aspirations can be met. The help of those who have power to affect the outcome of events must be enlisted. It is inevitable that the actions of the powerful business community, the outside world, the unionised labour forces, the religious communities and other groupings within and outside the country have an impact on events."

1. The violence in Natal

103. Virtually every organization considered the protracted violence in Natal a national crisis. Many considered it a major obstacle to the creation of an appropriate climate for negotiations. They maintained that the situation had taken on special importance not only because Natal was the one province where the state of emergency had not been lifted, but also because a government-backed self-governing homeland - KwaZulu - was a major party to the conflict. The conflict was being seen by some as a power struggle for mass support, influence in the negotiations and pre-eminent status in the post-apartheid South Africa between two divergent political movements.

Position of the Government

104. The State President has called the destruction of life and property in Natal shocking. Speaking to the Parliament on 2 April 1990, he said that "investigations indicate the causes of the unrest can be traced to many areas. In addition to the above factors, there is a strong presence of a power struggle between political and ethnic groups, which is complicated by long family and tribe vendettas".
105. In an effort to address this situation, Mr. de Klerk announced that the Government intended to implement a more extensive action plan. This plan included, *inter-alia*, a co-ordinated security plan that involved the deployment to the areas of considerable additional manpower provided by the Defence Force, the provision of appropriate equipment, the intensification of normal policing and the arrangement for extra courts, as well as a special effort "on the socio-economic areas" that would be co-ordinated with the Minister of Planning and Provincial Affairs in close co-operation with all relevant functionaries.
106. Later, on 7 June, when announcing the lifting of the state of emergency except in Natal, State President de Klerk said that "the increasing phenomenon in Natal of violence among Blacks, which has led to destruction of human life and property and has assumed shocking proportions, as well as the exceptionally high level of intimidation that exists

there, must still be countered by the strongest means available" (A/45/307, appendix II).

107. The Minister of Law and Order explained that it was necessary to maintain the State of Emergency in Natal because the Internal Security Act was not useful against large numbers of people. He said that the major cause of violence there was the power struggle between the ANC and Inkatha. The history of Zulu family feuds was also a contributing factor. Troops were necessary in that Province because the available police force was insufficient to deal with the violence. He said that at first additional troops and police had been brought in from other parts of the country but that they could not be maintained there indefinitely. They were replaced by troops speaking Zulu, and subsequently by troops from Cape Province, but for various reasons the Minister had been asked to withdraw them. The 32nd army battalion was now stationed there; it had been in Angola and its soldiers, now all South African citizens, were considered impartial as they did not come from the region and they did not speak Zulu.
108. Concerning a peaceful resolution of the conflict, the Minister for Foreign Affairs said that the Government had tried unsuccessfully to arrange for a meeting between the leader of Inkatha and the Deputy President of the ANC. While the Government was prepared to help, the problem should be resolved by the two organizations.
109. Provincial authorities in Natal also viewed the conflict between Inkatha and the ANC/UDF/COSATU alliance to be political in character, aimed at seeing who would represent the people in the coming negotiations. They pointed out that violence had moved from the urban to the rural areas. It was stated that the South African Police had joint patrols with the army, and when in KwaZulu territory, with the KwaZulu police officers whenever possible. Local authorities denied that the South African Police or members of the 32nd battalion of the defence forces, were biased. In order to maintain political neutrality, there was an agreement between the South African Police and the KwaZulu Government to report any wrongdoing by members of either police force to the Attorney-General. The KwaZulu police acted under the instructions of the KwaZulu Government and the South African Government had no authority over their actions.
110. The Regional Commissioner of South African Police in Natal stated that, under normal circumstances, the number of police in the Province would be sufficient. However, since March this year, the situation of violence had become very

serious and could not be controlled by the police. In that month, 573 incidents of unrest (burnings, stonings, petrolbombings, serious assault, and riotous acts) had been recorded. In April, with the arrival of the troops, that number had dropped to 376; the figure for May was 153; and for the first 10 days of June only 45 minor incidents had been recorded. The police had the main responsibility for maintaining law and order and were assisted by the military on joint patrols. There was always a South African police officer and, if possible, a KwaZulu police officer with the troops when they were in KwaZulu territory.

Position of the national liberation movements

111. A recent address by the Deputy President of the ANC before the International Labour Conference in June 1990 was brought to the Team's attention. Speaking of the continuing police violence, the Deputy President said "We must, in this context, also mention the continuing senseless carnage that is taking place in the province of Natal. We have made it very clear to the Government that they must discharge their responsibility and end this violence. We, for our part, will continue to do everything in our power to solve this problem by peaceful means, whatever the obstacles in our way. We would like to take this opportunity to urge you to support the international campaign initiated by our democratic movement, to draw attention to this situation and to generate the necessary pressure to oblige the South African Government to end the killing of our people. You should know that there are present in this hall representatives of our major trade union federation, COSATU, who have come out in part to take up this issue of Natal violence."

112. ANC, supported by UDF and COSATU, asserted that the South African and the KwaZulu Police forces were a major obstacle to the creation of a peaceful settlement in Natal because of their lack of impartiality. In its view, these forces were the main contributing factors to the continuing violence in the region. The state of emergency had neither stopped the violence nor police misconduct, instead, it had tended to protect the police from prosecutions and public scrutiny. Numerous cases of criminal activity by the police were cited, including theft, rape and assaults, and it was contended that the troops, together with the South African and KwaZulu police forces, had demonstrated partisan support for Inkatha. The fact that only 12 prosecutions had been obtained despite hundreds of charges and that more than 3,000 persons had been killed in four years, clearly indicated that the criminal justice system in Natal had broken down. That situation strengthened the prevailing attitude among the KwaZulu police that they were above the law and left witnesses unprotected and open to retaliatory

violence. Even when prosecutions were obtained, defendants were easily acquitted.

113. According to ANC, since 1987 all peace efforts had failed due to Inkatha's position. ANC, supported by UDF and COSATU, stressed that the magnitude of the violence in Natal made it an issue of national concern. Therefore, it had recently demanded that the State President intervene directly in the resolution of this crisis; the state of emergency be lifted in Natal; the troops be withdrawn from the area or that their peace-keeping functions be defined clearly; the police powers be withdrawn from the Chief Minister of KwaZulu; the KwaZulu police be disbanded; the KwaZulu warlords be arrested and prosecuted; the homelands system be dismantled; and a commission of inquiry be established to investigate the conduct of the police. Having failed to reach an agreement with Inkatha, COSATU, in co-operation with ANC, UDF and the South African Youth Congress (SAYCO), planned to convene a national peace conference in Natal in July/August 1990. They were also planning a series of national actions, beginning with a national stayaway on 2 July 1990.

Position of Inkatha

114. Two meetings were held with representatives of the Inkatha Movement, one with local representatives in Pietermaritzburg and the other with a ministerial delegation in Durban. The two Inkatha delegations contended that the conflict between their organization, on the one hand, and ANC, UDF and COSATU, on the other, had begun in 1985 when UDF launched a recruitment drive in Natal. They claimed that Inkatha had suffered most from the ensuing violence and that attacks against its supporters had increased in recent months. The local Inkatha delegation maintained that the Chief Minister of KwaZulu had taken the initiative to discuss the Natal situation with ANC leaders, first with ANC President, Oliver Tembo, and subsequently, last April, with the Deputy President, Mr. Nelson Mandela. Both efforts had failed.
115. The Inkatha ministerial delegation reminded the Team that, for the past decade, when ANC was in exile and other groups were banned, Inkatha had been the leading spokesman for blacks in support of a democratic alternative to apartheid. By refusing to accept independence for KwaZulu, its Chief Minister Mangosuthu Gathsa Buthelezi and Inkatha had frustrated the Government's homeland policy. They recalled that Chief Minister Buthelezi had refused to discuss constitutional development proposals with the South African Government until Nelson Mandela and other political prisoners had been released. The Inkatha delegation mentioned that its Central Committee had taken the

initiative in attempting to establish a peace process in the KwaZulu/Natal region. Originally, the idea was to have Inkatha nominate five representatives, and UDF and COSATU another five representatives for the purpose of pursuing peace initiatives as a Joint Peace Committee. Unfortunately, the Joint Committee encountered difficulties, particularly because of a vilification campaign against the leader of Inkatha. Inkatha also mentioned that following the lifting of the ban on ANC, the President of Inkatha had called for a broadening of the membership of the Joint Committee so that each individual organization would be represented by a five-man delegation. Inkatha felt that, because of the critical situation, a full-blown attempt should be made to call all sides together. The Inkatha delegations were of the view that a joint appeal by the Chief Minister and the Vice-President of ANC for peace in Natal could have salutary effects.

116. The delegation stated that Inkatha was in the process of transforming itself into a full-fledged political party, and appealed for United Nations recognition as a liberation movement as in the case of ANC and PAC.

The position of other organizations

117. A number of church groups asserted that the violence in Natal had reached crisis proportions. They felt that the situation was serious enough to warrant the services of a United Nations peace-keeping force. The police, who had been conditioned to counter revolutionaries, were overzealous in their efforts to maintain law and order. In addition, it was suggested that the multiple responsibilities of Mr. Buthelezi as Chief Minister of KwaZulu, Chief of Police and leader of the Inkatha Movement created some confusion and perhaps even a conflict of interest.
118. Some church leaders claimed that the Government did not appear to be willing to stop the violence in Natal and commented that had such extensive violence occurred in a white area, it would have been stopped in 48 hours. They emphasized the strategic importance of Natal, which shared a border with independent African States and contained the most important port in South Africa. For these reasons, Natal would be expected to play a significant role in any constitutional talks. It was suggested that continued violence in Natal would affect the climate for political activity and negotiations, and could spill over into other regions of the country.
119. Church leaders had called upon the Government in February

1990 to establish a Judiciary Commission of Inquiry to make a full investigation of the situation, including an assessment of the role of the various security forces. This request was renewed during a meeting with the State President in April. As of mid-June, no response to this request has been received. Business and academic groups and media representatives also expressed support for a judicial inquiry.

120. Some organizations viewed the situation in Natal as intense rivalry between traditionalism and modern urban sectors and a result of economic conditions in the province.
121. COSATU and UDF mentioned that repeated demands had been made for the appointment of a Commission of Inquiry to investigate police action in the conflict but this was rejected by the Government. They alleged that, since 1987, several initiatives to establish a peace process in Natal had failed as a result of Inkatha intransigence. A code of conduct for the organizations in Natal had also been proposed, envisaging the monitoring of police action and the adjudication of complaints. In 1989, COSATU and UDF established a Joint Working Committee to meet with Inkatha in order to resolve the conflicts. These initial contacts had yet to produce any concrete results.

B. Freedom of assembly

Position of the Government

122. The Government affirmed that no organizations are presently banned, proscribed or restricted. There were few or no restrictions on political activities in the country. Individuals and political parties can organize as they wish and can participate in peaceful demonstrations.
123. Regarding the impact of the Internal Security Act on freedom of assembly, Government representatives indicated that section 29 of the Internal Security Act applied indiscriminately to all persons in South Africa without distinction. It applied only to the investigation of activities involving violence. Since the announcement of the State President on 2 February 1990, there was now ample evidence that the rights of freedom of assembly and political expression were fully enjoyed and regularly exercised in South Africa.
124. The Minister of Constitutional Development stated that the Internal Security Act would be amended at the next session of Parliament so as to remove those aspects of the law that

could impinge on political activity. In response to a question by the Team, the Minister stated that as a way of promoting confidence it might be useful to promulgate an interim "mini Bill of Rights" with enforcement powers so that people might feel protected as they undertook political activities. However, the Government would not allow freedom of assembly to be abused, as peaceful protest should not become the springboard for lawlessness, violence and intimidation.

Position of the national liberation movements and other organizations

125. Both ANC and PAC charged that although organizations had been unbanned they were still not able to organize freely. There were a host of laws, especially the Internal Security Act, which limited the exercise of freedom of assembly. The process of obtaining permits for meetings was cumbersome and often involved arbitrary decisions by the local authorities. Resort to the courts, in the limited instances where judicial review of ministerial or police powers were permitted, involved lengthy procedures which often forced organizers to postpone meetings.
126. These movements, as well as some other organizations, claimed that political organizers continued to be harassed from time to time by the police; some had been beaten, and even murdered by vigilantes and hit squads; others had been detained under section 29 of the Internal Security Act, thus making mass mobilization impossible.
127. The Human Rights Commission of South Africa considered that the Internal Security Act had a direct impact on freedom of association. Under section 46, all outdoor political gatherings could be banned and made subject to specific permission.
128. The Black Sash and IDASA said that the best way of assuring freedom of association and assembly as well as freedom of expression in the interim period before the adoption of a new constitution, would be to have a "mini Bill of Rights", with enforcement powers, enacted forthwith.
129. Political organizations also complained that the continued imprisonment of some of their cadres, and the delay in declaring a general amnesty which would allow exiles to return home, were undermining their ability to organize and communicate among themselves in order to develop policies essential to their political activities.

C. Freedom of the press

130. The Government and most of the organizations acknowledged the special role that the media could play in communicating to the people the political changes that were taking place in South Africa and in promoting a free exchange of views.

Position of the Government

131. The Minister of Constitutional Development indicated that the Government had lifted the media emergency regulations and that it envisaged that freedom of press would be protected under the Charter of Human Rights which would be introduced in South Africa. The Minister stated that even if the South African Broadcasting Corporation (SABC) were to be privatized, the Government would ensure that radio would be used to promote education throughout the country.
132. Government representatives made clear that it is open to any organization to make a case for greater access to television and radio directly to SABC. With regard to complaints that the Police, Prisons and Defence Acts imposed restrictions on the press, the Government representatives observed that a scanning of the South African media would make clear that the alleged restrictions had a minimal effect on the freedom of the press.

Position of the national liberation movements and other organizations

133. Representatives of ANC alleged that there was no statutory basis for appeals against unequal radio and television coverage by political parties seeking to make their views known. In the absence of such legislation, it was vital that an independent and impartial overview body be set up to monitor and guide SABC. It was also noted that the visual media still suffered from greater restrictions than the print media. For example, under the Internal Security Act the visual media was not allowed to show any events related to unrest. ANC observed that in Natal, where the state of emergency was still in force, freedom of the press was non-existent.
134. Media representatives disclosed that the Minister of Home Affairs had requested the Media Council to examine all the laws under which the media operated and report to him, thus implying that there were laws restricting the media.
135. Media representatives both from the established and the

alternative press (press not affiliated with the Media Council) agreed that there had been considerable improvement in the freedom granted to the media since 2 February 1990. However, the press was not yet fully free. It was still restricted by many laws such as the Internal Security Act, the Prisons Act, the Police Act, the Defence Act, the Intelligence Act and others; all imposed heavy penalties for reporting activities concerning these services.

136. One member of the alternative media pointed out that the established press was owned by a few conglomerates with close associations with the Government and financially supported by white advertisers. In such circumstances, the established press served only the interest of those groups and did not provide adequate coverage of news and events affecting the black population.
137. According to another member of the media, the press often exercised self-censorship because of the heavy penalties under the Prisons, Police and Defence Acts for reporting what the Government considered to be false information about the services covered by these Acts. The cost of litigation was so exorbitant that the press preferred not to report some events, especially on matters concerning relations between the police and the public. Other members of the media stated that in spite of the costs the press had continued to go to court to contest restrictions placed on them by authorities, while at the same time trying to report whatever they could, testing the limits of the law.
138. Defending the role of the press, several media representatives said that throughout the past 40 years it had been the press that had taken the lead in calling for change; it had been the press that had revealed the acts of official corruption and police brutalities that were currently being investigated by the Harms Commission and it was because of press efforts that the minds of the majority of the white people were able to accept the changes being introduced by the State President.
139. Representatives of SABC, which is owned by the Government, declared that both it and some of the independent radio stations have been promoting debates on radio and television between Government ministers, representatives of political organizations and other leading figures of anti-apartheid movements. The media representatives felt that much more could be done in this respect.
140. There was agreement among the media representatives that

the press must work on promoting a future democratic South Africa, that it must have the courage to debate new ideas such as the bill of rights, and that it was necessary that the Government utilise the media, especially the electronic media, to educate the people about the changes.

V. VIEWS RELATING TO THE QUESTION OF NEGOTIATIONS FOR A NEW CONSTITUTION

141. Sections III and IV of the present report presented the views and positions of the Government and those of other interested parties on the measures taken so far and still required to create the necessary climate for negotiations as well as other elements conducive to free political discussions and for advancing the negotiating process. This chapter contains positions and views expressed to the Team with regard to the mechanisms for the drawing up of a new constitution and an assessment of the progress made thus far and prospects for the future.

Position of the Government

142. The Minister for Constitutional Development informed the Team that the State President, in his inaugural address last September, had made it clear that he wanted the situation in South Africa to be normalized so that negotiations for a new constitutional dispensation could begin. For this purpose, the State President had entrusted him with the task of starting the process of negotiation, and developing models for a constitution that could be presented at the negotiating table. The Government had concluded that as long as political organizations were banned and their leaders were in prison or in exile, the negotiation process could not be initiated. There was consequently a need to allow such organizations to function freely. Therefore, on 2 February 1990, the State President had announced the unbanning of the organizations and the release of Mr. Mandela, which became effective a few days later.
143. As a number of pre-conditions had been set by the ANC and others before negotiations could begin, the Government had had to embark in a long process of consultations to remove the so-called obstacles to negotiations. The Government's view was that although some of the items on the "shopping list" of the pre-conditions were probably relevant a year ago, they were no longer so, eg. the removal of troops from the townships. Nevertheless, the Government had tried to meet many of the pre-conditions and had had many bilateral discussions to that effect with those parties in South Africa with an interest in the negotiating process.

144. The Minister of Constitutional Development spoke of preliminary talks with ANC. He said that three issues were of major concern to the Government/ANC working group which was formed at the Groote Schuur meeting, namely: release of prisoners and indemnity for exiles; return of South African citizens from abroad, many of whom did not have identity papers to prove that they were South African citizens (the ANC and the Department of Interior had set up a mechanism to work on the necessary arrangements for repatriation); and assistance to returnees (a Government-ANC group was working on this issue as well). The Government was disappointed in the delay shown by the ANC in responding to the recommendations of the working group. As soon as these preliminary consultations were complete, the Government would wish to see comprehensive negotiations begin that included all parties.
145. The Minister felt that under the present circumstances it appeared that the preliminary arrangements could be finalized by the end of the year, and that negotiations would not start before the beginning of 1991. He expressed his intention to complete the process within the next two to three years. The Minister mentioned that he was aware that some organizations preferred the constitution to be drafted by a Constituent Assembly. Although the Government was opposed to this proposal, it did not object to its being discussed at the negotiation table like any other proposal coming from any party.
146. The Minister of Constitutional Development observed that, during the September 1989 elections, the State President had promised to put the new constitutional dispensation, resulting from the proposed negotiations to a referendum of the white electorate. Responding to a question from the Team, the Minister stated that the result of the negotiations could also be submitted to a national referendum.
147. According to the Minister of Constitutional Development, the violence in Natal would not be a serious obstacle to the commencement of negotiations. However, the Natal situation had to be resolved. The Government had suggested that the State President, Mr. Mandela and Chief Buthelezi meet and settle the problem. Such a meeting had not yet taken place.
148. The Government felt that it had gone very far in creating the climate for negotiations. The National Party was in close touch with its members in order to help them accept the results of the forthcoming negotiations. Such

grass-roots support was necessary for the success of the political process.

149. The Minister for Foreign Affairs pointed out that the Government preferred that all parties with a "proven, acknowledged constituency" had the right to participate in the negotiations on the new constitution, and that the Government would welcome broad participation.
150. He reiterated the Government's strong view that it was for the people of South Africa to negotiate a new constitution and that the Government did not appreciate being told by outsiders how the constitution should be drafted and what it should contain.
151. The Government intended to seek the repeal or amendment of the Land Acts and the Group Areas Act at the 1991 session of Parliament. It was indicated that the Population Registration Act was inextricably linked with the present constitution and therefore its repeal could take place only in the context of the adoption of a new constitution.

Position of the national liberation movements

152. ANC fully recognized the boldness and the significance of the measures taken thus far by the State President towards the creation of a climate conducive to negotiations. However, it felt that sufficient changes had not yet occurred in South Africa to make the process of dismantling apartheid irreversible. "Profound and irreversible changes" could only be declared to have taken place once free and fair elections to a Constituent Assembly had been conducted on a non-racial basis. ANC warned that in the event that the results of a "whites only" referendum or an election rejected the dismantling of apartheid, the political clock would be turned back.
153. ANC stated that it would continue to press for the release of all political prisoners, for the end of political trials, for the return of exiles, for the repeal of repressive legislation, and for the lifting of the state of emergency throughout the country. Ongoing consultations between ANC and the Government were aimed at the creation of the necessary climate for negotiations. The Groote Schuur meeting in May had been held at its initiative for the purpose of removing obstacles to negotiations.
154. ANC had long pressed for the repeal of the Internal Security Act and, at Groote Schuur, had reiterated the demand that it be repealed, not just reviewed. The ANC

- noted that the Parliament was about to adjourn and would not meet again until next year, consequently that Act would not be repealed in 1990.
155. ANC explained that not everybody in South Africa had as yet accepted that a negotiated resolution of the problem was the best way forward. There were many among the white population who were determined to resist change by force. ANC was worried about the influence that the far right elements were having on the army and the police. An alliance seemed to be developing. Weapons were beginning to disappear from the state armouries and were ending up in the hands of far right elements and in Inkatha hands. Such a situation, coupled with the increased number of gun licences being issued to whites, did not augur well for the process of negotiations and the future of the country.
156. ANC added that when the obstacles to negotiation had been removed it would be possible to bring all the representatives of political forces in the country together and agree on the necessary measures which would lead to the elaboration and adoption of a democratic constitution. ANC said it was determined to ensure the broadest possible unity of all those who were in favour of a genuine democratic transformation and of the creation of a new non-racial society based on the principle of one person, one vote on a common, non-racial voters' roll.
157. ANC stated that it was incumbent on the United Nations to continue to maintain the international community's consensus on the dismantlement of apartheid. ANC considered that the United Nations could continue to play a valuable role as an impartial monitor of developments in South Africa, and could make such developments known to the international community. It believed that the Constitutional Guidelines of ANC should be supported by all since they were in full accord with the spirit of the United Nations Charter and the Universal Declaration of Human Rights, and indeed, the Declaration on Apartheid and its Destructive Consequences in Southern Africa adopted by the General Assembly in December 1989.
158. PAC believed that the South African Government had no intention of negotiating genuinely and seriously for the creation of a new social order. In its view the Government rejected "majority rule", non-racial democracy as well as the redistribution of resources, in particular of land.
159. It was the view of PAC that the conditions which the Declaration had set as essential to create the necessary climate for negotiations were not negotiable. The South

African Government had not complied with most of these conditions. The Government had shown no "demonstrable readiness" to deal with at least two of the most fundamental principles in the Declaration, notably the right to universal equal suffrage under a non-racial voters' roll and the creation of an economic order that would promote and advance the well-being of all South Africans.

160. PAC considered that all of the conditions for creating the climate for negotiations stated in the Declaration were intended to be unilaterally met by the Government. None of these conditions were intended to be subject to negotiation. Only once condition had been fully met by the South African Government, namely the unbanning of organizations. Since there had been no substantial compliance with the measures necessary for the creation of a climate for negotiations, there was no basis for contact or talks, exploratory or otherwise, between the South African Government and the liberation movements, at this stage.
161. PAC advocated the establishment of a Constituent Assembly which would ensure that the process of new constitution-making was democratic; lend legitimacy to the constitution-making process; ensure the participation only of those organizations with legitimate support among the people; and free the constitution-making process from manipulation and channelling through governmental structures.
162. Further, PAC informed the Team that there had been no consultations between liberation movements over the issues contemplated in the Declaration.
163. According to PAC, once the Government had conceded the necessity to establish a Constituent Assembly, agreement would have to be reached between the liberation movements and the Government over transitional arrangements and modalities related to the process of constitution making through a Constituent Assembly. These arrangements would include the holding of elections to a Constituent Assembly and the transition to a democratic order. Since it did not expect the Government to agree to these demands in the near future, it was the view of PAC that negotiations with the Government at this stage would not achieve any of its stated objectives.

Position of other political parties, movements and organizations

164. According to the Democratic Party, the State President, in his speech of 2 February, had initiated a process of seeking a political solution to the problems facing the country, and that process could not be reversed. It was highly improbable that there would be another all-white general election. The process pointed towards the ending of apartheid and it was most unlikely that it could be stopped. If it was stopped, there would be chaos. The white backlash and possible far right-wing violence should not be underestimated, since many whites felt insecure and uncertain about the future. The Democratic Party hoped that the process of negotiation would be accelerated.
165. In the view of the Democratic Party, the climate for negotiations did not depend only on the Government, but also on ANC. Since 2 February 1990, much had happened, namely the release of Nelson Mandela, the lifting of the state of emergency, and the agreement at Groote Schuur. The Government had gone a long way in creating a climate for negotiations. The other side had to contribute also to that climate. The question of violence was crucial and could not be separated from the "armed struggle". Both hurt the climate for negotiations, particularly since they encouraged right-wing extremists to arm themselves, thus creating further obstacles to the process of negotiation.
166. The Democratic Party suggested two ways to further the process of negotiation. First, to reduce those factors which contribute to the climate of violence. In this respect, political violence would only end when all the parties concerned such as ANC, Inkatha and PAC, met to consider ways to stabilize the situation. Second, to expand, as soon as possible, the process of consultation by including other parties, such as PAC, AZAPO, the Democratic Party, and even the Conservative Party. It was explained that the latter, if not brought into the negotiation process, might attempt to veto the results. There was a frustration developing, a feeling of exclusion, which could endanger the future. It appeared that the Government and the ANC believed that, between them, they could control the process and this was troubling other political organizations. The Democratic Party maintained that it had not yet been invited to participate in the consultations that were under way.
167. In the opinion of the Democratic Party, the Government had, at present, three roles: it governed the country, it represented a political party in the Parliament and it was supervising the process of negotiation. Some way had to be found to separate those roles. It would be desirable to appoint a facilitator who would be in contact with all parties to the negotiating process. The Democratic Party

thought that the Chief Justice, for instance, could fulfil that role.

168. The Democratic Party said that there were some irritation with the notion that an outside body like the United Nations could set down guidelines for a negotiating process. While the Democratic Party had no disagreement with the guidelines on their merits, however, negotiations should not be limited to national liberation movements. The Democratic Party made clear it was anti-apartheid but not a liberation movement.
169. The leader of the Conservative Party, during the debate in Parliament on 2 February, declared in reference to the State President's speech on that day, that it was the most revolutionary statement he had ever listened to in Parliament over the past 19 years and merely served to make him more excited about the battle which was about to begin. He added that the National Party neither had a mandate to negotiate away the future of the whites, nor to give a place to those who continued to be committed to the armed struggle. The Conservative Party leader continued that if the State President intended to force the whites of South Africa to accept a constitutional dispensation, depriving them of their political say, he was going to have to bear the responsibility for the violent reaction which it would evoke.
170. The Solidarity Party expressed the view that the Government had established a climate for negotiations by its recent actions. The Party believed that a bill of rights protecting the political rights of minorities would have to be a part of any new constitution. The five million whites must be made to feel secure because if they were not they could destroy the country.
171. Concerning negotiations between the Government and ANC, the Solidarity Party thought they should start as soon as possible because irreparable harm could result from delay. The Party expected all parties, regardless of race, to be represented at the negotiations for a new constitution. The Solidarity Party was not in favour of a Constituent Assembly to negotiate the constitution. In its view, any new negotiated draft constitution would have to be referred to the white electorate for approval, as so promised by the State President, and then be submitted for adoption to the present Parliament as it is currently constituted.
172. The Inkatha movement representatives said that they wanted changes to go faster but it was necessary to be pragmatic and all political forces should be taken into account.

Inkatha supported the initiatives towards negotiations undertaken by State President F.W. de Klerk and considered that the process set in motion by him is irreversible. In that context, they stressed that as an organization which had always supported negotiations as a path to a resolution of the conflict in the country, Inkatha should be a party to the negotiations.

173. The Inkatha Movement believed in the creation of a united South Africa with one sovereign parliament. It also believed in a democratic, non-racial and multi-party political system, in the protection of individual and minority rights, in freedom of association for individuals regardless of race, and in the free enterprise system.
174. AZAPO stated that the consultative process should be broadened and that a Constituent Assembly should be established to prepare a new constitution, since only elected representatives should participate in constitutional negotiations. Regardless of the sincerity of the State President, AZAPO added that the present system could not be trusted. The land issue should be part of confidence building.
175. The Team also received views concerning negotiations and the new constitutional order from a wide spectrum of organizations. Nearly all organizations are of the view that time had come to widen the consultations between the Government and the ANC before actual negotiations started. The divide in South Africa was no longer between Parliament and extra-Parliamentary forces, but between the "insiders" and the "outsiders", the Government and ANC being the key "insiders".
176. According to IDASA, it was necessary for the negotiations to be as inclusive as possible in order to ensure a wider acceptance of the result. The irreversibility of the changes taking place in South Africa would be reached when negotiations on the constitution itself began. However, it was emphasized by nearly all organizations that there was "no luxury of time" and hence the need to begin negotiations as soon as possible.
177. Several organizations considered that the demand to establish an elected Constituent Assembly as the instrument for drafting a new constitution was a realistic one as it would entail a mandate from the people. A variety of views were expressed regarding the exact powers of a Constituent Assembly in relation to the existing Parliament and ways to avoid a power vacuum. Suggestions included the idea of

investing the Constituent Assembly with powers limited to the drafting of the new constitution. Some organizations suggested, that in order for the Government not to be alone in the "driver's seat" during the negotiations, a Government of national unity should be formed. However, several organizations, including church, business and academic groups, felt that the negotiating process would face its greatest challenge from the deep-rooted fears among the white population and suspicions among the black. It was suggested that both white and black leaders intensify their efforts to communicate to the population, as a whole, the merits and objectives of the political process.

178. The non-racial trade unions, in particular COSATU, as well as some church leaders, believed that the message being sent by the Government on the question of negotiations was confusing and contradictory. COSATU pointed out, as an example, that after an agreement had been reached between the black trade unions and several employers on proposed amendments to the 1988 Labour Relations Amendment Act, the Government had delayed sending the legislation to Parliament because of objections raised by white trade unions and some white employers. Such confused signals undermined the process of negotiation and made the black workers feel that the process towards ending apartheid was not serious.
179. Some sectors of the business community considered that constitutional change would be facilitated if there was better understanding of the economic issues at stake among the white and black leadership and the business community at large. Thus, business organizations such as CBM, had initiated contacts in which various parties exchanged views on future basic economic policies that might be reflected in a new constitution.
180. Sections of the business community held the view that if there was no real progress in the negotiating process the National Party might be forced by its own constituency to manage the situation rather than solve it. While business leaders felt the need for the process of negotiation to move quickly, they recognized that all parties needed some time to adapt their responses to the negotiating process and to consolidate their power in their constituencies. This delay should not necessarily be seen as jeopardizing the preparatory process but rather as a necessary element of the long-term solution.
181. As for the process of negotiation, some business leaders thought that the parties should be aware that symbolic

victories for both the white and black community could be important and therefore their leaders must give each other a margin for maneuverability. It was mentioned that such evidence could, for example, involve black leaders advocating the lifting of some sanctions, such as the sports and cultural boycotts which have emotive impact on the white community. Likewise, white leaders, together with the business community, could seriously undertake visible and concrete programmes aimed at the economic uplifting of the black communities in order also to strengthen the message that the apartheid system is being eradicated. Such acts, according to the business leaders, would be crucial for the success of the negotiating process.

VI MATTERS ENHANCING OR OBSTRUCTING THE PROCESS OF ENDING APARTHEID

182. All political movements, organizations and groups with whom the Team met welcomed the declared intention of the State President to embark on a policy for the dismantlement of the apartheid system, and to this end, to engage in a democratic process to develop a new constitution. Most believed that until the pillars of apartheid were removed racial discrimination would continue to divide the nation and the cause of human rights and social injustice would not be served.
183. They all urged the removal of the pillars of apartheid, namely the Population Registration Act, the Land Act, the Group Areas Act and the reservation of Separate Amenities Act, as well as all other laws and the practices that entrenched racial discrimination. At the same time, it was feared that if no concomitant programmes were immediately established to address the glaring social and economic inequalities that were the legacy of apartheid, the process towards creating the new South Africa could be obstructed. On the other hand, a number of initiatives taken by various sectors of society with the object of enhancing the process of change were brought to the Team's attention. These included: the rapprochement between the South African Council of Churches and the Dutch Reformed Church; the initiatives taken by business groups such as the Consultative Business Movement to debate the future economy of South Africa with political parties and movements; the activities of such other groups as IDASA to provide for forums for discussions on national issues; the efforts of civic organisations to negotiate with authorities on local issues; and the negotiations between COSATU and NACTU on one hand, and SACCOLA on the other, that have led to proposals for amendments to the labour legislation. These efforts, which are parallel to the process of consultations being undertaken at the national

level, assume great importance in establishing confidence in the future of the democratic process.

184. The State President's address of 2 February 1990 has already set in motion a flurry of legislative activity which is recorded below. At the same time, it has sparked debate within the nation as to the adequacy and earnestness of the Government's programme. The various points raised by political parties and movements, and by other concerned organizations, are similarly reflected in this section. They cover not only the pillars of apartheid but matters related to labour, education, housing and health.

A. Pillars of apartheid

Position of the Government

185. The Government's commitment to end discrimination was outlined in the National Party Plan of action of September 1989. The State President provided more detailed information about the Government's strategy to end apartheid legislation in his statement to Parliament of 17 April. At that time, he said that the Group Areas Act would have to be replaced in an orderly manner and that, as outlined in the Plan of Action, until such time as effective and generally acceptable measures were substituted, the residential areas would be protected by the Group Areas Act. The new measures would have to have the support of the three Houses of Parliament. To be generally acceptable, such measures could not "institute any new form of discrimination on the grounds of race or colour", would have to "give communities peace of mind with regard to their wishes and ideals on a fair and just basis", would have to "accommodate the need and desire of some communities to be protected against financial exploitation", and would "not jeopardize civilized norms and standards". Until proposals were submitted next year on this matter, the State President said that the application of the Free Settlement Areas Act should continue.
186. On 17 April, the State President also declared that as a result of the obvious similarities between the Group Areas Act and the Land Acts, the same factors would be taken into account. Signalling the important constitutional implications involved in the Land Acts, particularly at the local government level, Mr. de Klerk stated that "any reforms with regard to the usage of the land will have to take into account the principles of free enterprise, security of tenure and vested property rights". He promised that any reforms would "include consultation with all affected groups, such as agricultural unions, municipalities, etc."

187. The State President made it clear on 17 April that the Population Registration Act, which differentiates on the basis of population group, is an inseparable part of the Constitution and the Electoral Act; therefore it must be "amended in conjunction with the existing constitution".
188. Referring to the "pillars of apartheid", the Minister for Foreign Affairs explained that the Reservation of Separate Amenities Act was being repealed in this session of Parliament and that the Group Areas Act and the Land Acts would be repealed during the 1990-1991 session of Parliament.
189. The Minister of Planning and Provincial Affairs also stated that the Reservation of Separate Amenities Act would be abolished at this session of Parliament and it was expected that the Group Areas Act would be abolished next year. While the Land Act and the Group Areas Act were to be repealed, their repeal had to be approached with care. Property rights were involved and protective legislation had to be negotiated. For example, black farmland could not now be purchased by whites, but should the Act simply be repealed, whites could purchase that land, to the detriment of the black population. Time was also needed to allow people to adapt to these new circumstances.
190. The Minister of Constitutional Development observed that the Land Acts and the Group Areas Act would be repealed early in January 1991, but that the Population Registration Act could only be repealed when the new constitution was negotiated because the two were inextricably linked. He believed that it might be necessary to keep some sections of the Land Acts to protect traditional land. But this would also be a result of negotiations.
191. The major response of the Government to social inequalities has been to provide a R3 billion fund for social upliftment. One million rand will be disbursed by the Parliament, and R2 billion will be managed as a trust fund under the leadership of the honorary Chairman of the Urban Foundation. The Team was informed that these funds would be spent mainly for housing, land and education.

Position of the national liberation movements

192. ANC emphasized that only when free and fair elections to a Constituent Assembly had taken place could it be said that "profound and irreversible changes" in the dismantling of apartheid had occurred.

193. PAC called for the repeal of what it considered to be pillars of apartheid namely, the Population Registration Act, the 1913 and 1936 Land Acts, on which was based the Group Areas Act, the Tri-cameral Parliament System, the Bantu Education System and the Bantustan System. Their repeal would establish the good faith of the Government.

Position of other organizations

194. The Solidarity Party did not feel that the Population Registration Act and Land Acts could be repealed until a new constitution had been adopted, as the present Parliament was founded on those two Acts. The repeal of the Group Areas Act and the Internal Security Act, however, would be considered next year.
195. The Democratic Party wished to see the removal of the pillars of apartheid, but did not consider their removal as critical to negotiations.
196. Inkatha noted that the Separate Amenities Act had been repealed and that the Group Areas Act and the Land Acts would be repealed next year. It considered that the repeal of the Population Registration Act should wait until a new constitution was negotiated. It also believed that the Constitution Act, No. 110 of 1983, should be removed.
197. COSATU believed that the process of eradicating apartheid had to proceed in conjunction with a specific programme designed to redress socio-economic imbalances, otherwise serious socio-political dislocation could occur. NACTU deplored the fact that the pillars of apartheid were still in place and mentioned in particular the Bantu Education Act.
198. The South African Council of Churches said that while it was satisfied with the process of consultation, it believed that the State President had not yet introduced substantive changes that affected apartheid itself. Therefore, it felt that the Government needed to make a firm commitment to repeal the pillars of apartheid.
199. IDASA believed that the Group Areas Act should be repealed immediately. A group of academics with whom the Team met in Cape Town felt that the corner-stones of apartheid needed to be repealed. They believed that the black population needed a strong signal from the Government in the form of immediate repeal of some of those Acts. However, there was a difference of opinion among the academics as to whether

the acts should be repealed before the negotiations commenced or following the adoption of a new constitution.

200. Civic organizations considered that while the Government was proceeding with some changes, the real test was the manner in which it addressed the problems created by apartheid, specifically the repeal of the pillars of apartheid. These should be abolished, together with the Internal Security Act. Until that had happened it could not be said that the process of change was irreversible.
201. NAFCOC said that there would be no real progress until the pillars of apartheid had been repealed and affirmative action taken. It felt that the dismantlement of apartheid was not a matter for negotiation.
202. The Federation of South African Women considered that the impact of the repeal of the Reservation of Separate Amenities Act would be diminished as long as the Group Areas Act remained. It felt that the homelands system should be scrapped immediately rather than wait until a new constitution was adopted.
203. The Urban Foundation considered that the repeal of the Group Areas Act would contribute to the full development of blacks and that the recent repeal of the Reservation of Separate Amenities Act would make a difference in the life of the black population.
204. NADEL considered that the Population Registration Act should be repealed before negotiations begin. As long as the Act remained on the books, whites would continue to decide on the future and dominate the negotiations for a new constitution.
205. The Black Sash, referring to the State President's 2 February speech, said that in a short space of time organizations had to move from the "politics of resistance to the politics of nation-building". The apartheid legacy would not disappear soon because it had distorted all aspects of life, i.e. education, health, land distribution, etc. These would have to be taken into account in the future.
206. The Human Rights Commission called for the removal of the pillars of apartheid, stating that the recent repeal of the Reservation of Separate Amenities Act did not indicate a change of heart but was rather a recognition of reality.

It stressed that apartheid should not be examined simply in terms of its statutory provisions, since it had infected the very heart of the country through a complex web of institutions and structures. It would take a major effort by the people of South Africa, supported by the international community, to reverse the situation.

B. Labour

207. It was represented to the Team that while in recent years some progress had been made in the pursuit of black workers' demands, the existence of racial discrimination on the job continued to be an issue of importance to black workers. It was considered that as long as regressive labour legislation was in place, entrenching racial discrimination and curtailing freedom of association and the right to withhold labour, no possibility existed to develop a healthy industrial labour relations system, important to the revitalization of the economy and within which effective negotiations could take place. In that regard, it was feared that continuing industrial conflict could be a serious obstacle to the process towards negotiations in the country.

Position of the Government

208. The Government informed the United Nations Team that the Labour Relations Amendment Act of 1988, which regulates industrial relations, was being revised and that consultations on the issue were in progress with the two major trade union federations, namely COSATU and NACTU, as well as with the South African Employers' Consultative Committee on Labour Affairs (SACCOLA). The 1988 Act provides that discrimination based on race can be regarded as an unfair labour practice by the Industrial Court. The anti-discrimination clause in the Act is enforceable through the courts. COSATU, NACTU, and SACCOLA (CNS) had reached an accord concerning amendments to the labour law and had proposed that they be translated into legislation during the current session of Parliament. Since many submissions had been received with respect to the amendments, all of which needed time to be studied, it would not be possible for Parliament to adopt this legislation during the current session. A Government proposal that sections of the law on which full consultation had taken place be passed at the present session and that the final revised bill be submitted to the next session of Parliament (February 1991) had received a negative response from the trade union federations. The Government emphasized that its policy was that provision should not be made for "racial unionism" in statutory enactments. It believed that in view of the National Manpower Commission's present major investigation into

labour legislation, a visit by a Fact-finding and Conciliation Commission of the International Labour Organization (ILO) to South Africa, as required by the COSATU complaint to ILO, at this stage was premature. The Government had requested a meeting with the Director-General of ILO in Geneva to discuss this subject. It was interested in developing a labour code that would equal international labour standards as defined by ILO.

209. The Government informed the Team that it had requested that the National Manpower Commission study outstanding issues such as the provision in labour relations legislation for the protection of farmworkers. A bill providing for minimum conditions of employment for farmworkers will be published during 1990. Another issue: a trade union demand for a minimum wage, required careful considerations as it could worsen unemployment. Other issues such as job training and education as well as unemployment were of concern to the Government and initiatives were being undertaken to address them. For example, the Manpower Training Amendment Act, which had just been adopted, provides for improvement in training. Employers, as part of their social responsibility, were to contribute to the training of workers and the Government would provide incentives to companies in this regard. Concerning privatization, the Government stated that the issue had been "politicized". In cases of the privatization of industries, the Government was undertaking efforts to prevent the dismissal of workers and to reduce employment through a process of attrition.

Position of the labour movements

210. The two non-racial unions, COSATU and NACTU, pointed out that the provisions of the Labour Relations Amendment Act curtail freedom of association, entrench racial unionism and limit further the freedom to withhold labour, all of which contravene international labour standards recognized by ILO. They emphasized that after a long process of negotiations COSATU, NACTU and SACCOLA (CNS) had reached a historic accord in April 1990 recognizing that all workers were entitled to basic rights, including the freedom of association and the right to withhold labour. In order to address the difficulties introduced by the Act, the CNS accord included proposals to amend the labour law and the Government had undertaken to do so. ILO, they said had played a supportive role in the process of discussing the proposed changes. The two trade unions expressed their strong disagreement with the Government's decision not to legislate the necessary amendments to the labour law during the current session of Parliament.
211. Both federations considered that by not having the

amendments legislated, the Government had disregarded both the CNS accord and the recommendation to accept the majority of the proposals made by its own advisory board on labour affairs. In view of the Government's decision, the federations would seek now a comprehensive review of the law. COSATU also informed the Team that it had lodged a complaint with ILO on the allegation that the LRA "fundamentally infringed international standards on freedom of association". COSATU therefore requested that the United Nations and ILO call upon the Government to: (a) submit to the jurisdiction of a fact-finding and conciliation commission; (b) give statutory effect to the accord by passing the proposed amendments to the labour law; and (c) recognize and give effect to the accord in so far as its own employees are concerned. COSATU stressed that the Government's undertaking to make the necessary amendments to the law was an "acid test" of the extent to which the Government could be relied on to fulfil commitments made by it during negotiations. COSATU and NACTU warned, therefore, about the inevitability of protest action and of heightened industrial conflict, all of which could hinder the overall process of negotiations.

212. Subsequently a joint statement by COSATU and NACTU indicated that the State President and other Government officials had held a meeting with the federations' leaders to discuss the crisis that had arisen in connection with the labour legislation. According to the federations, the State President had endorsed the process of negotiations between the trade unions and the employers aimed at obtaining a national consensus on an acceptable labour law. All parties present at the meeting had agreed that a prompt resolution of the current crisis was needed and modalities to that effect were proposed for consideration.
213. Concern about the socio-economic inequalities created by apartheid has prompted COSATU to develop initiatives concerning job skill training and housing, among other issues. The federation considered that the Government's proposals in this regard are inadequate to the magnitude of the present problems and to their impact on a future society. COSATU informed the Team that it was undertaking a study of the economy and its prospects under a non-racial and democratic government.
214. It was stressed by both federations that the present labour legislation as well as the security legislation in place curtail freedom of association and the ability of trade unions to function. This circumstance affected negatively the otherwise positive developments in the country.

C Education

215. The Team was struck by the consensus among all parties, organizations and professional groups it met on the imperative need to address the crisis in education.
216. It recalled that the Universal Declaration on Human Rights stresses the importance of education for the full development of the human personality and the sense of dignity and for enabling all persons to participate effectively in a free society to promote understanding, tolerance and friendship. Such principles were consistent with the provisions of the United Nations Declaration, which affirmed that all men and women have the right and duty to participate in their own government as equal members of the society.
217. Many of the groups that expressed concern with the educational crisis pointed out that the spirit and repercussions of the Bantu Education Act still permeated the present education system, resulting in vast discrepancies in literacy, school availability, teaching facilities, examination scores and education funding between black and white students.

Position of the Government

218. The Minister of Education and Training, who is responsible for education of the black population outside of the 10 homelands, stated that the educational system for them was inferior to that for the white population and this was an unacceptable situation. The question was not whether it should change, but how.
219. State-provided education for the black population was introduced for the first time in 1953. The approach of the Government then was to provide "full" education for blacks in the homelands and minimum education for blacks in South Africa. The turning point came in 1978, when the Government first accepted the fact that blacks were permanent residents in South Africa. A new Education Act was introduced at that time, which provided that blacks in South Africa were entitled to full education modelled on that available to whites.
220. Over the past decade, resources for black education have increased tenfold, or six times in real terms. Believing that immediate equality would cause so much disruption that it would outweigh the benefits, the Government has advocated a phased approach. Progress was also reported in

improving the quality of black teaching staff. The percentage of underqualified or unqualified teachers has been reduced to 10% from the 70% of five years ago. The dramatic 6% per annum increase in the black school population was cited by the Government as a major constraint in narrowing the gap between white and black education.

221. The Minister of Education and Training stated that the strict separation of schools was being phased out. The Minister of Education and Culture, who is responsible for white education, is introducing a policy whereby it will be left to white parents to decide to open their schools to all races. Part of the voluntary programme that will be implemented next year will permit local communities to decide whether to "privatize" their schools. Under current arrangements subsidies to private schools are reduced once the black enrolment exceeds 40%. Catholic schools have been particularly disadvantaged by this policy. However, schools privatized under the new scheme would continue to receive virtually a 100% government subsidy, whatever the ratio between black and white pupils might be. No financial incentives are envisaged at this time to encourage localities to desegregate their schools. The Minister of Education and Training stated that no discrimination exists at the tertiary level of education.
222. The Team also was informed that the Government is concerned about people using schools as a political tool and creating so many problems on a daily basis that they are souring relations.

Position of national liberation movements and other organizations

223. ANC expressed the hope that the international community would help resolve the educational crisis faced by the black population of South Africa. It warned that South Africa was sitting on a powder keg which could explode at any moment if immediate action was not taken. The PAC called for the immediate repeal of the laws governing and controlling black education.
224. The National Education Crisis Committee (NECC) and other groups also expressed serious concern about the state of black education. It was reported that education was still not compulsory for black children. There were 17 distinct departments of education in spite of continuing demands for a unitary system.

225. According to information provided by the NECC, approximately 50% of the black school age population did not attend school because of lack of funds or facilities. There was a shortage of over 165,000 classrooms in black primary and secondary schools, while an excess capacity of 177 schools and 308,000 seats exists for whites. Only 3 of every 1,000 blacks have a university degree, while the comparable figure for whites is 35 per 1,000. The acute shortage of qualified teachers was the direct result of deliberate apartheid policies.
226. As evidence of the deterioration in the quality of education, it was pointed out that only 41% of the blacks who took the matriculation examination at the end of high school passed in 1989, as compared to a pass rate in 1987 of 51%. Only 9% in 1989 passed at a high enough rate to be eligible to enter the university. Even lower matriculation examination pass rates are anticipated this year.
227. NECC stated that at the height of the state of emergency tens of thousands of black students had been expelled, or had dropped out of schools. Following back-to-school campaigns launched by community groups at the end of last year, 10,000 students had returned to school in Soweto alone. However, as the Department of Education and Training had only projected a student enrolment in Soweto of 4,500, adequate funds were not available for salaries, textbooks and other supplies. During the month of June, there were seven different marches, sit-ins, demonstrations and stayaways in Soweto, Durban, Cape Town and Johannesburg to protest such educational concerns as insufficient textbooks, teachers' working conditions, unequal salaries between male and female teachers, the Department's system of inspection and broken school facilities.
228. The South African Chamber of Business stressed the imbalances between the output of an inadequate educational system and the needs of the economy as being a crucial problem that cut across the colour barriers. The big challenge was to ensure that people were employable. The challenge was even greater when seen in conjunction with the imbalance between the growth of population and the availability of the jobs. It was stated that, in the 1980s, there had been an annual average increase of 230,000 new job seekers on the market while only 80,000 new jobs had been created per year.
229. The Black Sash described the situation in the following words: "we have produced a generation of illiterate, untrained, politicized and unemployed black youth". In its written submission it noted that in the process the young

have sacrificed their youth, their education, their innocence. They cannot regain the lost years. This is the tragedy of the young black generation, but it is also true of the white youths who have been indoctrinated and trained to believe that it is worth fighting to the death to preserve an ethnic identity.

D. Housing and land issues

230. The repeal of the Pass Laws and the end of influx control in 1986 accelerated the large-scale migration of blacks to urban areas in search of employment and a better way of life. This has created problems of overcrowding, a significant expansion of squatter settlements and severe pressures on urban services. The magnitude of the problem, according to the Urban Foundation, can be gauged by the fact that 7 million, or one out of five of the black population, lack permanent shelter.

Position of the government

231. As discussed at the beginning of this chapter, the State President has announced that the Group Areas Act and the Land Acts will be reviewed by the Parliament early next year.
232. Several changes in land policy have occurred since January 1990. In response to popular uprisings, the Government announced in May that independence for the non-independent homelands was no longer a viable option. Moreover, the incorporation of land into the self-governing homelands will not take place without the approval of the lawful inhabitants. The Government also announced that the 2 million hectares reserved for blacks and owned by the South African Development Trust would be leased or sold to black farmers. At present, blacks live on this land as rent paying tenants.
233. The Minister of Planning and Provincial Affairs said that the Government was making an effort to address the problems caused by the rapid urbanisation of blacks since 1988. This year, R300 million has been allocated to purchase land on which people can build houses.
234. The Government does make a distinction in its treatment of squatters who erect structures on land they can legally occupy under the Group Areas Act and land they occupy illegally, either because it is not reserved for blacks or because it is owned by someone else. According to the Minister of Planning and Provincial Affairs, the Government evicted people only when "suitable and acceptable" housing could be found elsewhere.

Position of movements and organizations

235. Representatives of civic associations and community service groups welcomed the proposed changes in land policy, but expressed concern about privatization efforts that could lead to land speculation and dispossession in areas formerly reserved for blacks or coloureds. In explaining the problem with rural land tenure, one group said that although the Government has stated that incorporation of land into self-governing homelands would not continue without the approval of the lawful tenants, such incorporations still take place. In addition, some of the homelands were trying to privatize their land, while other homeland communities maintained that there should be a moratorium on such sales.
236. According to information provided by the National Land Committee, most blacks live on land held communally, or as rent-paying tenants on land administered by the South African Development Trust. According to the Committee, the announcement by the Government that 2 million hectares of Development Trust land would be available for sale or lease to black farmers, contrary to the previous controversial policy of incorporating it into homelands, raises concerns about the possibility of land speculation, and its suitability for farming. It was also stated that black farmers generally have neither adequate infrastructure nor access to such financial assistance. The development banks in the homelands tend to allocate their resources mainly for large infrastructure projects, rather than for agricultural credit for farmers.
237. The Urban Foundation said projections indicate that South Africa's population will expand from 30 million in 1980 to 60 million in 2010. The black percentage of the population will increase from 71% to 82% during this period. Commenting on the high rate of urbanization, it was expected that the number of persons living in urban areas will increase from 9 million in 1980 to 27 million by the year 2010.
238. According to the Urban Foundation, the housing situation was appalling. The backlog in housing in the urban areas alone was 850,000 units. Although 130,000 housing units needed to be produced annually to meet the demand, only 40,000 units were built last year.
239. Members of the civic associations complained of serious overcrowding and spiralling rent increases in townships and newly-opened urban areas. Private groups, such as the Urban Foundation, have assisted black people to obtain housing and leasehold and freehold tenure rights. However, they contended that the two major constraints to black home ownership were affordability and the pace of delivery. In 1989, the Urban Foundation said it was responsible for the

creation of 5,000 houses and serviced lots, making their programme the largest housing scheme for blacks in the country. The Foundation also mentioned that it had set up an agency that assisted black businessmen in competing for building contracts in the housing industry.

240. The Team was informed by some associations that the Government's black town councils in the townships were not viable. Black townships receive lower subsidies than the white townships and they have no tax levying powers. As a result there has been a serious deterioration in services.
241. The Black Sash explained that the rapid movement of blacks into urban centres, particularly after 1986, had been followed by pressures to vacate land near white residential areas. Local authorities and landowners sought legal action to remove blacks through the use of the Trespass and the Prevention of Illegal Squatting Acts. According to the group, the Government was recognizing that it could not prevent black urbanization, so it now sought to control it and make it orderly.
242. The Urban Foundation felt that a careful study of land policy and rights was required to protect black interests prior to the repeal of the Land Acts. By establishing multiple authorities, the Land Acts created a complex system. For instance, six different bodies exercised authority over land in Natal. One can travel three kilometres and go through five jurisdictions.

E. Health care

243. Inadequate health services and preventable disease arising from poverty and poor social conditions were matters high on the agenda of a number of anti-apartheid groups. Both the Government and movements and organizations agreed that urgent action was required to address the health needs of the black population.

Position of the Government

244. Following its decision to eliminate discrimination in health and recognizing that there was no statutory requirement that such facilities be separate, the South African Government announced on 16 May that provincial hospitals would be open to all groups. The Minister of Health stated that the new policy is intended to introduce greater equality in the health care system where there is an excess capacity of 11,000 beds in white hospitals and a 7,000 bed shortage in black hospitals. Instructions on the new policy, which provides that no person may be rejected or turned away on the grounds of race or colour, have been sent to all hospital superintendants.

245. The Minister also stated that the abolition of influx control and the resulting acceleration of urbanization by blacks had created a great need to expand primary health care centres. To address this need, the Government plans to allocate additional funds and resources to commission the establishment of 21 primary health clinics that will concentrate on health education, immunization, maternal and child care and sanitation. A network of clinics will be developed. The new policy represents an important shift in health care policy, which in the past has allocated 43% of the health budget to 13 academic teaching hospitals and to specialized high-technology procedures. Such a shift in policy will affect the training of health care professionals.
246. Since 69% of the people in South Africa depend upon the State for health care and 20% of those cannot afford to pay for expensive procedures, the Government faces formidable costs in trying to provide health care for all.
247. As needs vary by province, the Minister indicated that she had asked for a study of each region in order to elaborate an appropriate strategy and the development of new facilities by region as part of a five year plan.
248. Among the other health problems cited by the Minister were the care of the elderly, ensuring the treatment of widespread diseases such as tuberculosis and diarrhoea-related illnesses and teaching traditional medical practitioners how to detect such important diseases as tuberculosis and AIDS. The Minister announced that the Government would introduce legislation in the current session of Parliament that reflected the move towards a unitary health system.

Position of black health organizations

249. The Government's decision to open the hospitals to all races was welcomed by the two black health groups, namely the National Medical and Dental Association (NAMDA) and the South Africa Health Workers' Congress (SAHWCO). They were afraid however, that this decision could be circumvented by entrenched attitudes at the local level: They also contended that the Group Areas Act would tend to neutralize the impact of the new policy. According to SAHWCO, the Government spends R451 on health care for white patients and only R115 on black patients. Even greater disparities exist in infant mortality rates. Whereas 12 white babies per 1,000 die at birth, the same rate for blacks ranges from 94 to 124 per 1,000.
250. Among the obstacles to the improvement of health care for blacks, NAMDA and SAHWCO identified the fragmentation of the health management structures into 13 or 14 different

departments and the unequal level of resources and health insurance available to blacks. In addition, malnutrition, female illiteracy, income inequalities particularly in rural areas, poor occupational health and safety conditions and the prerogatives given to local authorities, remained issues of concern. The two groups advocated a non-racial health system based upon equality, accessibility and affordability.

VII CONCLUDING REMARKS

251. The United Nations Team had the opportunity during its visit to meet with eight Cabinet Ministers and with representatives of 39 political parties, movements and organizations. Having listened carefully to their views on the current situation in South Africa, it was not possible for the Team to leave the country without having formed some definite impressions of the concerns uppermost in the minds of the South African people.
252. South Africa has reached the threshold of a new era. The political process on which it has embarked holds encouraging prospects of leading to the dismantlement of apartheid.
253. A national debate has begun on the adequacy of the measures that have been initiated to establish a climate to negotiations, and on additional measures that need to be taken to satisfy the aspirations of the South African people.
254. There is a general perception that the path taken by the Government offers real promise for constructive political discussion and represents a significant change from the position of its predecessors. Yet, there is also a widespread belief that a number of additional steps are required to establish an atmosphere favourable to free political activity. Apartheid laws, repressive security regulations, and persistent violence, including that prevailing in Natal, continue to adversely affect domestic tranquility, as well as the sense of security and well-being of the people. So long as racial attitudes persist and apartheid structures at the local level remain, the process for change will encounter difficulties.
255. These issues need to be addressed as a matter of urgency. They would undoubtedly facilitate the process of broad consultations among all political forces on the mechanisms appropriate for framing a new constitution and for shaping the political, social and economic future of the country. Moreover, a series of confidence-building measures designed to reduce politically-related violence and address acute social and economic problems affecting the black population, would strengthen this process.

256. Fundamental change in any society often creates uncertainty, anxiety and even fear. These emotions should not be underestimated, particularly in a country of vast inequities such as South Africa. Despite these real concerns, the challenge of nation-building and the growing desire to build a future different from the past has already begun to stir the people of South Africa in ways that hold the promise of profound and beneficial change.

APPENDIX

Itinerary and list of interlocutors

Saturday,	9 June 1990	Arrival in <u>Cape Town</u>
Sunday,	10 June 1990	Meetings with: the Black Sash; representatives of the ANC Constitutional Committee; representatives of PAC (Western Cape Region)
Monday	11 June 1990	Meetings with: ANC/UDF (Western Cape Region); the Institute for a Democratic Alternative for South Africa (IDASA); University Rectors; the Solidarity Party; the Azanian People's Organization (AZAPO)
Tuesday	12 June 1990	Meetings with: the Minister of Education and Development Aid; Civic Leaders from the townships of Khayelitsha and Crossroads, Editors of local newspapers; the Minister of Health and Population Development; the Democratic Party; the Minister of Law and Order; the Minister of Finance; the Minister of Constitutional Development
Wednesday	13 June 1990	Meetings with: the Minister of Planning and Provincial Affairs; the Minister of Manpower; the Reverend Allan Boesak (President, World Alliance of Reformed Churches); the Director-General of the Ministry of Foreign Affairs; Academics; the Archbishop Desmond Tutu (Anglican Archbishop of Cape Town)
		Departure for <u>Durban/Pietermaritzburg</u>

- Thursday 14 June 1990 Meetings with: the regional leadership of ANC/UDF/COSATU; civic ANC/UDF leaders from Pietermaritzburg; civic Inkatha leaders from Pietermaritzburg; the Administrator of Natal; an inter-denominational group of church leaders
- Friday 15 June 1990 Meetings with: the National Assembly of Democratic Lawyers; Inkatha
- Departure for Johannesburg
- Meetings with: the South African Council of Churches; the Consultative Business Movement (CBM); the National African Federated Chamber of Commerce (NAFCOC)
- Saturday 16 June 1990 Meetings with: the League of Red Cross Societies; Editors of local newspapers and the South African Broadcasting Corporation; the International Committee of the Red Cross; the Reverend Frank Chikane (Secretary-General of the South African Council of Churches)
- Sunday 17 June 1990 Meetings in Soweto with: Mrs. Albertina Sisulu (Federation of South African Women)
- Meetings with: Editors of the alternative media; the Detainees' Support Committee; the Human Rights Commission; the National Land Commission
- Monday 18 June 1990 Meetings with: the Urban Foundation; the Institute of Race Relations; the National Education Crisis Committee; the National Council of Trade Unions; the South African Chamber of Business; the leadership of PAC; the leadership of ANC and UDF; the Boerstaat Party
- Tuesday 19 June 1990 Meetings with: the Congress of South African Trade Unions; the National Medical and Dental Association (NAMDA); the South African Health Workers' Congress (SAHWCO); the Independent Board of Inquiry into Informal Repression; the South African Youth Congress; the national umbrella organization of civic organizations

Tuesday 19 June 1990 Meeting in Pretoria with: the Minister for Foreign Affairs and his senior officials

Departure for New York

ANNEX III

Letter dated 7 December 1989 from the Minister for Foreign Affairs of South Africa to the Secretary-General

As you know, the United Nations General Assembly is about to hold a special session on "apartheid" in New York (12 to 14 December) and is to consider a "Declaration on apartheid and its destructive consequences in southern Africa". A draft of the proposed declaration has been circulating at the United Nations and support for its adoption is currently being canvassed among regional groups and others.

Negotiating constitutional, economic and social changes in any sovereign State is the inalienable right of the citizens of that State. Attempts by other governments, however well-meaning, or international organizations to usurp this responsibility should be rejected. The Charter of the United Nations specifically prohibits the General Assembly from adopting a document such as the draft declaration on apartheid, which is unarguably a blatant intervention in the domestic affairs of a Member State.

The United Nations General Assembly can no longer ignore the dramatic steps taken by the South African Government recently to improve the climate for negotiations on a new constitution for South Africa. It is generally acknowledged virtually throughout the world that the South African Government has introduced and announced constructive steps in removing obstacles to negotiation.

In three brief months the Government has taken a number of substantive steps which underline the sincerity of its purpose, releasing long-term security prisoners, permitting peaceful mass demonstrations, committing itself to the opening of public amenities and central business districts to all races etc. The State President has personally practised an open-door policy and has met opposition personalities across a wide spectrum.

South Africa's positive contribution towards the independence process in Namibia is generally acknowledged. So is South Africa's positive role in supporting African efforts to bring internal conflicts in Angola and Mozambique to an end. The South African Government fully realizes the urgency of getting credible negotiations off the ground and trusts that it will soon be in a position to make further announcements in order to clear the way for negotiations by recognized leaders.

The South African Government is irrevocably committed to the creation of a new South Africa based on a free and equitable constitutional, social and economic system.

In the political field the aim is the creation of a free and democratic political system in which, *inter-alia*:

- * All people shall be free in their country of birth and shall be equal and have equal rights regardless of colour, race, sex and creed;
- * No individual or group of individuals will have any right to govern others without their consent;
- * Adequate protection shall be given to the rights of individuals and minorities, regardless of colour, race, sex or creed;
- * All people shall be equal before the law;
- * Freedom of speech, within the generally recognized bounds of responsibility, shall be the right of all people.

In the social field the aim is the creation of a free and equitable social system in South Africa in which, *inter-alia*:

- * Freedom of religion will be guaranteed for all;
- * Each individual shall be regarded as a unique creature of God entitled to equal protection of his human dignity;
- * All discrimination between groups of people or between individuals shall be eliminated. (In other words apartheid is no longer the South African Government's policy);
- * Freedom of movement, of association and of disassociation shall be guaranteed to all;
- * All people shall have the right to work, and all discrimination in the work place shall be eliminated;
- * Housing for all shall be a high priority.

In the economic field the aim is to ensure equal access to opportunities within the framework of a free enterprise economic system in which, *inter-alia*:

- * All people shall be free to utilize their skills to their best advantage;
- * Private ownership is fostered and property rights guaranteed for all;
- * As is already the case, the resources of the State will

continue to be utilized to create an environment within which all individuals can develop their skills to the best of their abilities and within which the economy can prosper and the benefits of growth can be passed on to all individuals as effectively as possible;

- * Special attention is given to the development of disadvantaged individuals and communities.

The adoption at the special session of the proposed declaration will make the pursuit of these policies within South Africa much more difficult. The people of South Africa fail to understand the international community's response to what this Government has already achieved. South Africa will have no option but to reject the declaration if adopted.

The adoption of this declaration would have an extremely negative effect on the initiation of negotiations between the relevant parties in South Africa. It would, further, complicate the future conduct of such negotiations.

The declaration is an attempt to incorporate as much as possible of the Harare Declaration of 21 August 1989, which endorsed the position of only one of the parties likely to participate in future negotiations, the African National Congress, thus putting it in a preferential position. The ANC can qualify itself for participation by committing itself to the peaceful resolution of differences. Such a commitment will match the South African Government's commitment to a new political constitutional dispensation which will meet the political aspirations of all South Africans, to be arrived at by peaceful means.

The negotiating positions of the various parties will need to be accorded equal consideration. For the United Nations to take cognizance of but one is a recipe for failure.

The proposed declaration seeks to establish a rigid framework which would undermine the flexibility required for genuine negotiations. The declaration seeks to entrench in advance principles which are the essence of what the future negotiations will be about, pre-empting the prerogative of the negotiators.

By suggesting a continuing role for the United Nations and also for the international community and promoting the concept of an interim government, the proposed declaration overlooks the fact that South Africa is a sovereign State and it is South Africans themselves who will have to solve current problems and chart their future.

If the international community wishes to encourage the people of South Africa to proceed on their declared course of creating a new South Africa through negotiations the way to go about it is hardly constructive to promote the continuation and extension of sanctions, as the draft declaration does. Sanctions harm the economies of all the countries of southern Africa. The prime

motivator of the new South African Government's approach to the southern African region is economic progress and stability. The Government believes that peaceful coexistence and maximum co-operation in all fields is essential for the benefit of all the countries of southern Africa. There is no logic or advantage in confrontation.

While on the one hand, the South African Government is laying the ground-work for a new order at home, on the other it is concerned about the economic progress and stability of the southern African region and the welfare of the rest of the continent. The countries of southern Africa indeed have opportunities for economic progress unique in Africa. Through trade, transport, investment, labour, migration, tourism and technology transfers they interact closely and beneficially with the strongest and most diversified economy south of the Sahara. Commercial exchanges between countries stimulate development more effectively than handouts.

Western nations interested in the development of the region should support mutually profitable links between the countries of southern Africa, rather than actively discouraging them such as debating the adoption of the proposed declaration on apartheid.

What is urgently needed for the very survival of the sub-continent is a programme to improve political and economic conditions through regional co-operation. The world community should:

- * Acknowledge that South Africa has an essential contribution to make if efforts to uplift countries in the region economically are to have a chance of succeeding;
- * Pursue policies supportive of - rather than impeding - South African efforts to evolve a domestic social and political order broadly acceptable to all South Africans;
- * Grant and/or mobilize funds and expertise for extending and modernizing the physical infrastructures of the region;
- * Provide assistance for measures aimed at raising human productivity through education and training as well as public health and family planning programmes and housing;
- * Urge and assist southern African Governments to create economic and legal conditions conducive to attracting local and foreign private investments in processing, manufacturing and other productive ventures.

South Africa is already contributing towards the development of southern Africa, notably in the fields of agriculture, mining, building and construction, including roads and dams, human health, education and training, diverse technical fields such as transport, telecommunications, the use of fissionable materials, environmental protection and trade and investment. Significant co-operation projects are the Highlands Water Scheme in Lesotho, the Soda Ash Project in Botswana and the Cahora Bassa

hydroelectric project in Mozambique.

Given the broad spectrum of Africa-related technological know-how available in South Africa, common sense suggests that outside governments and development agencies seeking to promote the material welfare of the peoples of southern Africa should make maximum use of this locally available expertise. It would be wasteful and counterproductive to ignore the availability of such expertise. The South African Government places its resources and know-how at the disposal of the continent.

South Africans are still divided as to the best ways in which our aspirations and ideals are to be realized, but are united in their love of their country and in their resolve to come peacefully to an agreement on a new constitution. The South African Government is determined to apply all its energy to overcome the differences and to find a peaceful way in which a better future can be created for South African, all its peoples, and the generations to come.

The special session offers the United Nations the opportunity to acknowledge and promote the emerging new realism that is developing in southern Africa as around the world. Since the season of white domination in South Africa is over, is it too much to hope that the season for empty declarations and hollow resolutions in the General Assembly has also come to an end?

ANNEX V

Letter dated 7 June 1990 from the Minister for Foreign Affairs of South Africa addressed to the Secretary-General

On the eve of Mr. Abdulrahim Farah's visit to South Africa, I wish to reaffirm my Government's position on the General Assembly's Declaration on Apartheid of 14 December 1989 so that there is no misunderstanding as to my Government's unequivocal rejection in principle of interference in South Africa's internal affairs. I enclose a copy of a media statement issued by me on 4 June 1990, on the forthcoming visit of Mr. Farah to South Africa (appendix I).

As set out in my letter to you of 7 December 1989 and repeated to you at our meeting at Windhoek on 20 March 1990, it is the inalienable and sole right of the citizens of South Africa to negotiate a new constitution for South Africa. The South African Government will under no circumstances agree to any attempt on the part of outside agencies to usurp this responsibility. In the light of the latest developments in South Africa, the General Assembly would be better advised to terminate its irregular interference in South African affairs. It is generally acknowledged world-wide that the process of reform initiated by President F.W. de Klerk cannot be reversed. This is the new reality in South Africa. It requires a fundamental re-evaluation

by African and other Governments of their position towards this new reality. There is no need to monitor an irreversible process. What is required is encouragement - not interference.

Further evidence of the irreversibility of this process was today supplied by President de Klerk in his address to Parliament. I enclose excerpts from his statement (appendix II). Further interference by the General Assembly in the events in South Africa can only be counterproductive. It would be most unhelpful given our strenuous efforts to get negotiations under way. South Africa is a sovereign State and it is for South Africans to decide their own future.

There are pressing problems on the African continent urgently in need of attention. Africa is sliding into an economic abyss. Unless this process is stopped the peoples of the African continent will soon be faced with the frightening reality of permanent and irreversible poverty and degradation. My African colleagues may not agree with me, but in all seriousness I predict today that the point of no return in the process of economic retrogression for most African States will soon be reached unless bold and incisive initiatives are taken by their Governments. The time to do so is now. President de Klerk has done it in South Africa. I sincerely invite my African colleagues to persuade their leaders to follow his example. I advise them as a fellow African: take heed of the events in Central and Eastern Europe. Take heed of the new movement in Western Europe to create both economic and political unity. Then let us ask ourselves, we Africans, where are all those events going to leave us? Do we have a plan? How do we see our future? These are the matters with which we ought to concern ourselves. Continually sniping at South Africa will not save us. Apartheid is going in any event. We are preparing for a future without apartheid. I am asking my African colleagues: are you preparing yourselves for a future without apartheid?

(Signed) R.F. BOTHA

APPENDIX I

Statement made at Cape Town on 4 June 1990 by the
Minister of Foreign Affairs of South Africa

During the meeting at Windhoek on 20 March 1990 between the State President and the Secretary-General of the United Nations, the Secretary-General expressed an interest in the political developments in South Africa. It was agreed that a representative of the Secretary-General could visit South Africa to acquaint himself first-hand with the latest developments in the same way and on the same basis as previous missions from other international organizations that had visited South Africa during recent years.

It was also made clear that such a visit is construed by the South African Government as a genuine desire on the part of the Secretary-General to obtain correct information on the internal situation of South Africa and not as an indication that the South African Government acquiesces in the uncalled-for interference by the General Assembly in the internal affairs of South Africa.

The Minister of Foreign Affairs in a letter dated 7 December 1989 set out the South African Government's attitude to the draft resolution before the United Nations General Assembly. The South African Government made it clear that it rejected the General Assembly's action. This remains the attitude of the South African Government. However, the South African Government has no objection to correct information on South Africa being made available to the Secretary-General on condition that the Secretary-General clearly understands that this is not to be construed as co-operation in the implementation of a General Assembly resolution that the South African Government rejects as *ultra vires*, in terms of the Charter of the United Nations.

ANNEX VI

Statement by Nelson Mandela, Deputy President of the African National Congress to the 641st meeting of the Special Committee against Apartheid on 22 June 1990

Your Excellency Ambassador Ibrahim Gambari, Permanent Representative of the Federal Republic of Nigeria and Chairman of the Special Committee against Apartheid; Your Excellency Mr. Joseph Garba, President of the General Assembly; Your Excellency Mr. Javier Perez de Cuellar, Secretary-General of the United Nations; Your Excellencies Permanent Representatives; Heads of Observer Missions; ladies and gentlemen, friends and comrades:

We feel especially honoured and privileged to have the possibility today to stand at this particular place, to speak to all of you, who represent the peoples of the world. We are most grateful to you, Mr. Chairman, the Special Committee against Apartheid, the Secretary-General and all Member States of the Organization for making it possible for us to be here.

The tragedy is that what has created the need for this gathering and made it seem natural that we must gather in this historic meeting place is the fact of the continuing commission of a crime against humanity. How much better it would have been if we were meeting to celebrate a victory in hand, a dream fulfilled, the triumph of justice over a tyrannical past, the realization of the vision enshrined in the United Nations Charter and the Universal Declaration of Human Rights.

It will for ever remain an indelible blight on human history that the apartheid crime ever occurred. Future generations will

surely ask: what error was made that this system established itself in the wake of the adoption of a Universal Declaration of Human Rights?

It will for ever remain an accusation and a challenge to all men and women of conscience that it took as long as it has before all of us stood up to say enough is enough. Future generations will surely inquire: what error was made that this system established itself in the aftermath of the trials at Nuremberg?

These questions will arise because when this august body, the United Nations, first discussed the South African question, in 1946, it was discussing the issue of racism. They will be posed because the spur to the establishment of this Organization was the determination of all humanity never again to permit racist theory and practice to dragoon the world into the deathly clutches of war and genocide

And yet, for all that, a racist tyranny established itself in our country. As they knew would happen, who refused to treat this matter as a quaint historical aberration, this tyranny has claimed its own conclave of victims. It has established its own brutal worth by the number of children it has killed and the orphans, the widows and widowers it can claim as its unique creation.

And still it lives on, provoking strange and monstrous debates about the means that its victims are obliged to use to rid themselves of this intolerable scourge, eliciting arguments from those who choose not to act, that to do nothing must be accepted as the very essence of civilized opposition to tyranny.

We hold it as an inviolable principle that racism must be opposed by all the means that humanity has at its disposal. Wherever it occurs it has the potential to result in a systematic and comprehensive denial of human rights to those who are discriminated against. This is because all racism is inherently a challenge to human rights, because it denies the view that every human being is a person of equal worth with any other, because it treats entire peoples as sub-human.

This is why it was correct to characterize the apartheid system as a crime against humanity and appropriate that the international community should decide against the iniquitous and oppressive policies of the South African Government. We salute also the States that make up its membership, which have been unrelenting in their resolve to contribute everything they could to ensure that the world was mobilized to act against the apartheid system.

In this connection also, Sir, allow us to express a well-deserved tribute to your country, Nigeria, which you so ably represent, as did your predecessor in this important office, His Excellency Major-General Joseph Garba, current President of the General Assembly, under whose leadership the United Nations Declaration on South Africa was adopted by consensus at the sixteenth special session of the General Assembly last December.

That Declaration will go down in history as one of the most important documents in the struggle of the international community against apartheid. The fact that it was adopted by consensus was itself a telling blow against the apartheid system and a vital statement underlining the unity of the world community on the South African question and its resolution.

We look forward to the report that the Secretary-General of the United Nations will submit dealing with the question of the implementation of the Declaration in South Africa. This report will also be important to the extent that it will provide a basis for further decisions by the United Nations regarding future action on the question of apartheid.

What must, however, be clear is that the apartheid system remains in place. None of the principles laid down in the Declaration has been implemented to provide what the Declaration characterized as an internationally acceptable solution of the South African question. Similarly, the profound and irreversible changes which the Declaration visualized have not yet occurred.

The conclusions from these observations would seem clear to us. It is that nothing which has happened in South Africa calls for a revision of the positions that this Organization has taken in its struggle against apartheid. We therefore strongly urge that there should be no relaxation of existing measures. The sanctions that have been imposed by the United Nations and by individual Governments should remain in place.

We also urge that the United Nations should do everything in its power to maintain the unity it achieved when it adopted the Declaration on South Africa last December. We therefore hope that all Member States will continue to act in concert so as not to create any situation in which those who are opposed to change in our country find encouragement to resist change, because some countries would have destroyed the consensus that has been achieved. In this regard, we take this opportunity once more to call on the countries of the European community, which are holding a summit meeting in a few days' time, themselves to remain faithful to the purposes of the Declaration to whose elaboration they were party and for which they voted.

At the initiative of ANC, the process has begun which could lead to a just political settlement in our country. At our well-known meeting in Cape Town, at the beginning of last month, we agreed with the South African Government on the removal of the obstacles to negotiations which are identified in the Declaration. The process of implementing that agreement has started, but as this distinguished gathering knows, a lot still remains to be done before we can say that a climate conducive to negotiations has been created.

We therefore still have some distance to travel before we undertake the further steps outlined in the Declaration, leading to negotiations for the adoption of a new, democratic

constitution. The fact that a good beginning was made in Cape Town should not lead us to conclude that further progress is assured or that we will not have to confront major obstacles in future.

In this regard, we would like to reiterate what we have said before, that we believe that President de Klerk and his colleagues in the leadership of the ruling party are people of integrity. We are of the view that they will abide by decisions that are arrived at in the course of our discussions and negotiations. This, in itself, is an important victory of our common struggle because it is that struggle which has made the cost of maintaining the apartheid system too high and helped to convince the ruling group in our country that changes can no longer be resisted.

It is, however, also true that there are many among our white compatriots who are still committed to the maintenance of the evil system of white minority domination. Some are opposed because of their ideological adherence to racism. Others are resisting because they fear democratic majority rule. Some of these are armed and are to be found within the army and the police.

Outside of these State agencies, other whites are working at a feverish pace to establish paramilitary groups whose stated aim is the physical liquidation of ANC, its leadership and membership, as well as other persons or formations which these right-wing terrorists see as a threat to the continued existence of the system of white minority domination. We cannot afford to underestimate the threat that these defenders of a brutal and continuing reality pose to the whole process of working towards a just political settlement.

The ANC is determined to do everything in its power to ensure speedy movement forward towards the peaceful abolition of the apartheid system. To this end we are engaged in many initiatives within South Africa aimed at bringing into the process of negotiations all the people and the representative political formations of our country. We have to overcome the mistrust that exists on both sides and reinforce the understanding that the only victory we should all seek is the victory of the people as a whole and not the victory of one party over another.

It is obvious that none of these processes can be easy. We are, however, inspired by the experience of the people of Namibia and our comrades-in-arms of the South West Africa People's Organization (SWAPO), who also overcame the divisions and the mistrust generated by the apartheid system, carried out a peaceful political process within a relatively short period of time and are today a proud nation of independent people. We take this opportunity to salute the representatives of the Namibian people who are present in this Hall and acknowledge the debt we owe them for the contribution they have made to our own liberation.

We also salute the Front-line States of southern Africa and the

rest of our continent for their own enormous contribution to the struggle against apartheid which has brought us to the point today when we can say that the victory of the struggle for a united, democratic and non-racial South Africa is within our grasp.

Tribute is also due to the non-aligned countries and Movement and the peoples of the rest of the world for their own sterling efforts in pursuit of the common cause. What we must once more urge is that all these forces should maintain their unity around the perspectives contained in the United Nations and Harare Declarations on South Africa. How fast we progress towards liberation will depend on how successful we are in our efforts to sustain that united resolve.

This is for us a moving moment because we know that as we stand here we are among friends and people of conscience. We know this because we know what you did over the decades to secure my release and the release of other South African political prisoners from Pretoria's dungeons. We thank you most sincerely for this, especially because you have thus given us the opportunity to join hands with you in the search for a speedy solution to the enormous problems facing our country, our region and continent and humanity as a whole.

We know also that you harbour the hope that we will not relent or falter in the pursuit of that common vision which should result in the transformation of South Africa into a country of democracy, justice and peace. Standing before the nations of the world, we make that commitment, strengthened by the knowledge that you will fight on side with us until victory is achieved.

We also take this opportunity to extend warm greetings to all others who fight for their liberation and their human rights, including the peoples of Palestine and Western Sahara. We commend their struggles to you, convinced that we are all moved by the fact that freedom is indivisible, convinced that the denial of the rights of one diminishes the freedom of others.

We thank you for your kind invitation to us to address this gathering and for the opportunity it has given us to pay homage to you all: to the Secretary-General, to the President of the General Assembly, to the Special Committee against Apartheid and to the United Nations itself for the work that has been done to end the apartheid crime against humanity.

The distance we still have to travel is not long. Let us travel it together. Let us, by our joint actions, vindicate the purposes for which this Organization was established and create a situation wherein its Charter and the Universal Declaration of Human Rights will become part of the body of law on which will be based the political and social order of a new South Africa. Our common victory is assured.

ANNEX VII

Declaration on Apartheid and its Destructive Consequences
in Southern Africa

We, the States Members of the United Nations,

Assembled at the sixteenth special session of the General Assembly, a special session on apartheid and its destructive consequences in southern Africa, guided by the fundamental and universal principles enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights^a in the context of our efforts to establish peace throughout the world by ending all conflicts through negotiations and desirous of making serious efforts to bring an end to the unacceptable situation prevailing in southern Africa, which is a result of the policies and practices of apartheid, through negotiations based on the principle of justice and peace for all:

Reaffirming our conviction, which history confirms, that where colonial and racial domination or apartheid exist, there can be neither peace nor justice.

Reiterating, accordingly, that while the apartheid system in South Africa persists, the peoples of Africa as a whole cannot achieve the fundamental objectives of justice, human dignity and peace which are both crucial in themselves and fundamental to the stability and development of the continent.

Recognizing that, with regard to southern Africa, the entire world is vitally interested that the processes in which that region is involved, leading to the genuine national independence of Namibia and peace in Angola and Mozambique, should succeed in the shortest possible time, and equally recognizing that the world is deeply concerned that destabilization by South Africa of the countries of the region, whether through direct aggression, sponsorship of surrogates, economic subversion or other means, is unacceptable in all its forms and must not occur.

Also recognizing the reality that permanent peace and stability in southern Africa can only be achieved when the system of apartheid in South Africa has been eradicated and South Africa has been transformed into a united, democratic and non-racial country and therefore reiterating that all the necessary measures should be adopted now to bring a speedy end to the apartheid system in the interest of all the people of southern Africa, the continent and the world at large.

Believing that, as a result of the legitimate struggle of the South African people for the elimination of apartheid, and of international pressure against that system, as well as global

a Resolution 217 A (III)

efforts to resolve regional conflicts, possibilities exist for further movement towards the resolution of the problems facing the people of South Africa.

Reaffirming the right of all peoples, including the people of South Africa, to determine their own destiny and to work out for themselves the institutions and the system of government under which they will, by general consent, live and work together to build a harmonious society, and remaining committed to doing everything possible and necessary to assist the people of South Africa, in such ways as they may, through their genuine representatives, determine to achieve this objective.

Making these commitments because we believe that all people are equal and have equal rights to human dignity and respect, regardless of colour, race, sex or creed, that all men and women have the right and duty to participate in their own government, as equal members of society, and that no individual or group or individuals had any right to govern others without their democratic consent, and reiterating that the apartheid system violates all these fundamental and universal principles.

Affirming that apartheid, characterized as a crime against the conscience and dignity of mankind is responsible for the death of countless numbers of people in South Africa, has sought to dehumanize entire peoples and has imposed a brutal war on the region of southern Africa, which has resulted in untold loss of life, destruction of property and massive displacement of innocent men, women and children and which is a scourge and affront to humanity that must be fought and eradicated in its totality.

Therefore we support and continue to support all those in South Africa who pursue this noble objective. We believe this to be our duty, carried out in the interest of all humanity.

While extending this support to those who strive for a non-racial and democratic society in South Africa, a point on which no compromise is possible, we have repeatedly expressed our objective of a solution arrived at by peaceful means; we note that the people of South Africa, and their liberation movements who felt compelled to take up arms, have also upheld their preference for this position for many decades and continue to do so.

Welcoming the Declaration of the Ad-Hoc Committee of the Organization of African Unity on Southern Africa on the question of South Africa, adopted at Harare on 21 August 1989^b and subsequently endorsed by the Heads of State or Government of Non-Aligned Countries at their Ninth Conference, held at Belgrade from 4 to 7 September 1989^c as a reaffirmation of readiness to

b A/44/698, annex

c See A/44/551-S/20870, annex

resolve the problems of South Africa through negotiations. The Declaration is consistent with the positions contained in the Lusaka Manifesto of two decades ago, in particular regarding the preference of the African people for peaceful change, and takes into account the changes that have taken place in southern Africa since then. The Declaration constitutes a new challenge to the Pretoria regime to join in the noble efforts to end the apartheid system, an objective to which the United Nations has always been committed.

Noting with appreciation that the Commonwealth Heads of Government, at their meeting held at Kuala Lumpur from 18 to 24 October 1989, noted with satisfaction the strong preference for the path of negotiated and peaceful settlement inherent in the Declaration adopted at Harare on 21 August 1989, and considered what further steps they might take to advance the prospects for negotiations.

Also noting with appreciation that the Third Francophone Conference of Heads of State and Government, held at Dakar from 24 to 26 May 1989, likewise called for negotiations between Pretoria and representatives of the majority of the people with a view to the establishment of a democratic and egalitarian system in South Africa.

Consequently, we shall continue to do everything in our power to increase support for the legitimate struggle of the South African people, including maintaining international pressure against the system of apartheid until that system is ended and South Africa is transformed into a united, democratic and non-racial country, with justice and security for all its citizens.

In keeping with this solemn resolve, and responding directly to the wishes of the majority of the people of South Africa, we publicly pledge ourselves to the positions contained hereunder, convinced that their implementation will lead to a speedy end of the apartheid system and heralding the dawn of a new era of peace for all the peoples of Africa, in a continent finally free from racism, white minority rule and colonial domination.

Declare as follows:

1. A conjuncture of circumstances exists, which, if there is a demonstrable readiness on the part of the South African regime to engage in negotiations genuinely and seriously, given the repeated expression of the majority of the people

d See Official Records of the General Assembly, Twenty-fourth Session, Annexes, agenda item 106, document A/7754

e See A/44/672-S/20914

of South Africa of their long-standing preference to arrive at a political settlement, could create the possibility to end apartheid through negotiations.

2. We would therefore encourage the people of South Africa, as part of their legitimate struggle, to join together to negotiate an end to the apartheid system and agree on all the measures that are necessary to transform their country into a non-racial democracy. We support the position held by the majority of the people of South Africa that these objectives, and not the amendment or reform of the apartheid system, should be the goals of the negotiations.
3. We are at one with the people of South Africa that the outcome of such a process should be a new constitutional order determined by them and based on the Charter of the United Nations and the Universal Declaration of Human Rights. We therefore hold the following fundamental principles to be of importance:
 - a) South Africa shall become a united, non-racial and democratic State;
 - b) All its people shall enjoy common and equal citizenship and nationality, regardless of race, colour, sex or creed;
 - c) All its people shall have the right to participate in the government and administration of the country on the basis of universal, equal suffrage, under a non-racial voters roll, and by secret ballot, in a united and non-fragmented South Africa;
 - d) All shall have the right to form and join any political party of their choice, provided that this is not in furtherance of racism;
 - e) All shall enjoy universally recognized human rights, freedoms and civil liberties, protected under an entrenched bill of rights;
 - f) South Africa shall have a legal system that will guarantee equality of all before the law;
 - g) South Africa shall have an independent and non-racial judiciary;
 - h) There shall be created an economic order that will promote and advance the well-being of all South Africans;
 - i) A democratic South Africa shall respect the rights, sovereignty and territorial integrity of all countries and pursue a policy of peace, friendship and mutually

beneficial co-operation with all peoples.

4. We believe that acceptance of these fundamental principles could constitute the basis for an internationally acceptable solution that will enable South Africa to take its rightful place as an equal partner among the world community of nations.

A. Climate for negotiations

5. We believe that it is essential that the necessary climate be created for negotiations. There is an urgent need to respond positively to this universally acclaimed demand and thus create this climate.
6. Accordingly, the present South African regime should, at least:
 - a) Release all political prisoners and detainees unconditionally and refrain from imposing any restrictions on them;
 - b) Lift all bans and restrictions on all proscribed and restricted organizations and persons;
 - c) End the state of emergency and repeal all legislation, such as the Internal Security Act, designed to circumscribe political activity;
 - d) Cease all political trials and political executions.
7. These measures would help create the necessary climate in which free political discussions can take place - an essential condition to ensure that the people themselves participate in the process of remaking their country.

B. Guidelines to the process of negotiations

8. We are of the view that the parties concerned should, in the context of the necessary climate, negotiate the future of their country and its people in good faith and in an atmosphere which, by mutual agreement between the liberation movements and the South African regime, would be free of violence. The process could commence along the following guidelines:
 - a) Agreement on the mechanism for the drawing up of a new constitution, based on, among others, the principles enunciated above, and the basis for its adoption;
 - b) Agreement on the role to be played by the international community in ensuring a successful transition to a democratic order;

- c) Agreed transitional arrangements and modalities for the process of the drawing up and adoption of a new constitution, and for the transition to a democratic order, including the holding of elections.

C. Programme of action

9. In pursuance of the objectives stated in this Declaration, we hereby decide:
- a) To remain seized of the issue of a political resolution of the South African question;
 - b) To step up all-round support for the opponents of apartheid and to campaign internationally in pursuance of this objective;
 - c) To use concerted and effective measures, including the full observance by all countries of the mandatory arms embargo, aimed at applying pressure to ensure a speedy end to apartheid;
 - d) To ensure that the international community does not relax existing measures aimed at encouraging the South African regime to eradicate apartheid until there is clear evidence of profound and irreversible changes, bearing in mind the objectives of this Declaration;
 - e) To render all possible assistance to the Front-line and neighbouring States to enable them: to rebuild their economies, which have been adversely affected by South Africa's acts of aggression and destabilization; to withstand any further such acts; and to continue to support the peoples of Namibia and South Africa;
 - f) To extend such assistance to the Governments of Angola and Mozambique as they may request in order to secure peace for their peoples, and to encourage and support peace initiatives undertaken by the Governments of Angola and Mozambique aimed at bringing about peace and normalization of life in their countries;
 - g) The new South Africa shall, upon adoption of the new constitution, participate fully in relevant organs and specialized agencies of the United Nations;
10. We request the Secretary-General to transmit copies of the present Declaration to the South African Government and the representatives of the oppressed people of South Africa and also request the Secretary-General to prepare a report and submit it to the General Assembly by 1 July 1990 on the progress made in the implementation of the present Declaration.

SOUTH AFRICA AND THE U.N.

POLICIES OF APARTHEID OF THE GOVERNMENT OF SOUTH AFRICA -
 THE REPORT OF THE MONITORING GROUP
 OF THE AD HOC COMMITTEE ON SOUTHERN AFRICA
 OF THE ORGANIZATION OF AFRICAN UNITY
 (Official Document of the forty-fourth
 session of the General Assembly,
 Agenda Item 28 - 11 July 1990)

A

INTRODUCTION

- 1.0.0 In fulfillment of the mandate given to it by the Lusaka Summit of the Ad-Hoc Committee of the Organisation of African Unity on Southern Africa of 19th March 1990 to monitor implementation of the 'Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa' (H.D.) and the 'United Nations Consensus Declaration on Apartheid and its Destructive Consequences in Southern Africa' (U.N.D.) the Monitoring Group met in Lusaka, Zambia, every Friday beginning on 20th April 1990 up to, and including the 8th of June 1990. The exceptions were when the group met on 19th May in Cairo, Egypt on the eve of the Ministerial Meeting of the Ad-Hoc Committee of the Organisation of African Unity on Southern Africa held in that country and also on the 26th and 27th May in Gaborone, Botswana during which time it held hearings to receive oral testimonies from representatives of concerned anti-apartheid and/or monitoring organisations and individuals invited directly from South Africa.
- 1.1.0 The Monitoring Group worked closely with the National Liberation Movements of South Africa. On 27th April, the Monitoring Group received oral testimony from Dean Tsheuana Farisani, Deputy Dean of the Lutheran Church of South Africa. On 4th May 1990 in Lusaka, Zambia, it heard oral testimonies from Ms. Feroza Adam, Ms. Makhosi Khoza and Ms. Nomaandia Mfeketho respectively representing the Federation of Transvaal Women, the Natal Monitoring Group and the Federation of South African Women. In Gaborone, Botswana, during its hearings between 26th and 27th May, it received oral testimonies from:
- | | |
|------------------------|--|
| 1. Joyce Mabudafazi | - Human Rights Commission |
| 2. Raymond Mahadi | - Detainees Support Committee |
| 3. Neil Coleman | - Congress of South African Trade Unions |
| 4. Linda Zama | - UDF/COSATU |
| 5. John Aitchison | - Natal Monitoring Group |
| 6. Reverend Ben Usimbi | - Council of Churches |
| 7. Mahlubi Mbandazayo | - Pan Africanist Congress of Azania Unions |

- 8. Carter Seleke - Azania National Youth Union
- 9. Mike Matsobane - National Congress of Trade
- 10. Hazel Leburu - Association of Women's
Organisations
- 11. Thamié Plaatjie - Pan Africanist Students'
Association

1.2.0 In addition to oral testimony, the Monitoring Group also made extensive use of documentary evidence as well as evidence culled from the South African and other mass-media. The result of the Monitoring Group's consultations and investigations are the following findings:

B

FINDINGS

1. PRINCIPLES

- 2.0.0 Both declarations identify a common set of principles fundamental to democracy in South Africa and upon which agreement by all parties to the South African conflict shall constitute the foundation for an internationally acceptable solution which shall enable South Africa to take its rightful place as an equal partner among the African and World community of nations.
- 2.1.0 The overwhelming majority of the people of Southern Africa subscribe to these principles in their entirety.
- 2.2.0 The Apartheid regime has yet to positively, and comprehensively respond to these principles as the speech of Mr. F.W. de Klerk of 2nd February 1990 and the 12 point speech on Minority Rights made by Acting President Mr. G. Viljoen on 11 May 1990 ran contrary to these principles. There are at least three interrelated issues which have a direct bearing on principles and about which the Apartheid regime has made itself clear: their rejection of majority rule through universal adult suffrage on the basis of one person one vote, under a common voters roll of all South Africa's their insistence on 'Group Rights' and on 'Power Sharing'.
- 2.3.0 In the opening of his speech of 2nd February 1990 to the white parliament, Mr. F.W. de Klerk said: "The general election on September 6th 1989 placed our country irrevocably on the road of drastic change. Underlying this is the growing realisation by an increasing number of South Africans that only a negotiated understanding among the representative leaders of the entire population is able to ensure lasting peace." He then went on to add that "On its part, the Government will accord the process of

negotiation the highest priority." However positive this professed commitment to change and to negotiation may be construed to sound, it is not matched by an adequate clarity of the regime's position on the principles contained in both declarations. Where there is clarity on their positions, they are invariably at variance with the principles contained in the Declarations. In several places Mr. F.W. de Klerk's speech even suggests that those principles, which the international community holds to be axiomatic, should be the subject of debate in his parliament, and that in the broader context, they should be negotiated by all parties to the South African conflict.

- 2.4.0 Further on, Mr. F.W. de Klerk, in his speech says: "A changed dispensation implies far more than political and constitutional issues. It cannot be pursued successfully in isolation from problems in other spheres of life which demand practical solutions. Poverty, unemployment, housing shortages, inadequate education and training, illiteracy, health needs and other problems still stand in the way of progress and prosperity and an improved way of life." In detailing the ills of Apartheid that need to be redressed, he sounds positive on detail, yet again this is no substitute for the regime's commitment to the principles.
- 2.5.0 Further on, Mr. F.W. de Klerk says: "the agenda is open and the overall aims to which we are aspiring should be acceptable to all reasonable South Africans." The presumption that the aims of the Apartheid regime should be acceptable to all reasonable South Africans implies that the regime is the one that sets the standards for what is or is not reasonable - not least on the issue of principles.
- 2.6.0 Anticipating and trying to temper the optimism that may arise in the wake of the measures announced earlier on in his speech, Mr. F.W. de Klerk warns: "equally it should not be interpreted as a deviation from the government's principles, among other things, against their (the regime's adversaries) economic policy and aspects of their constitutional policy. This will be dealt with in negotiation."
- 2.7.0 Paragraph 16.1 in the Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa (H.D.) or No.3a, United Nations Consensus Declaration on Apartheid and its Destructive Consequences in Southern Africa (U.N.D.), states that "South Africa shall become a united, democratic and non-racial state" The regime's insistence on Group Rights with its implicit division of South Africans along racial and ethnic lines, directly opposes this principle.

- 2.8.0 Paragraph 16.2 of the Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa (H.D.) or No. 3b, United Nations Consensus Declaration on Apartheid and its Destructive Consequences in Southern Africa (U.N.D.), states that: "All its people shall enjoy common and equal citizenship and nationality, regardless of race, colour, sex or creed." This principle is again opposed by the regime's insistence on "Group Rights."
- 2.9.0 Paragraph 16.3 in the Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa (H.D.) or No. 3c, United Nations Consensus Declaration on Apartheid and its Destructive Consequences in Southern Africa (U.N.D.), states that: "All people shall have the right to participate in the government and administration of the country on the basis of a universal suffrage, exercised through one person one vote, under a common voters roll." The Apartheid regime rejects this principle by insisting on "Group Rights" and refers to it as "simplistic" and "unsophisticated."
- 3.0.0 The principles in Paragraph 16. 1 - 3 of the Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa (H.D.) and the corresponding paragraphs in the United Nations Consensus Declaration on Apartheid and its Destructive Consequences in Southern Africa (U.N.D.), are fundamental and form the formal basis for all the other principles enumerated therein. On the part of the Apartheid regime, the rejection of majority rule, insistence on "Group Rights" and "Power Sharing", taken collectively constitute its fundamental outlook within which its statement of approach is formally located. In all its official pronouncements it invariably links the rejection of majority rule and other principles mentioned in the Declarations of "Group Rights" and "Power Sharing" or both. For this reason, the latter are examined in details below:

GROUP RIGHTS AND POWER SHARING

- 4.0.0 The recurrent themes in pronouncements made by the Apartheid regime either through formal documents such as the Five Year Plan of Action of the Afrikaner Nationalist Party, or through speeches and statements to the mass media by Mr. F.W. de Klerk and the 12 point speech on Minority Rights given by Acting President Mr. G. Viljoen on 11 May 1990 are:
- (a) their rejection of majority rule and
 - (b) their insistence on the need to protect "Group Rights" through "Power Sharing".

- 4.1.0 The Monitoring Group is of the view that the Apartheid regime's rejection of majority rule and their insistence on "Group Rights" and "Power Sharing" constitute an attempt to reserve white minority domination by retaining its essentials while adapting its appearances to the changed circumstances characterised by the inexorable escalation of the struggle of the South African people for a united, democratic and non-racial South Africa.
- 4.2.0 What informs the Apartheid regime's insistence on "Group Rights" and "Power Sharing" is a set of two interrelated objectives:-
- 4.3.0 Through "Group Rights", the Apartheid regime seeks to give overriding political significance to the overwhelmingly rejected ethnic and racial divisions which Apartheid has always sought to impose, maintain and exaggerate between the South African people. The perpetuation and elevation of those divisions, will have the effect of undermining the sense of common nationality shared by the overwhelming majority of South Africans and in this manner undermine the natural basis of both the possibility and the necessity of creating a system of democratically determined and sustained majority rule which transcends race, colour, creed and gender.
- 4.4.0 To the universally accepted demand of the South African people for majority rule through universal adult suffrage based on *one person one vote, on a common voters' roll*, the Apartheid regime counterposes and insists upon "Power Sharing" which consists of dividing the South African people into racial and ethnic political units sharing political power on the basis of absolute equality between such units, contrary to, and in defiance of concrete demographic realities. Central to this dispensation is the stipulation that decision-making on matters that affect all 'groups' shall be based on consensus.
- 4.5.0 Considering that the white minority presided over the creation and maintenance of the Apartheid status quo and that it has shown itself patently unwilling to voluntarily relinquish it, "Power Sharing" is designed to arm the white minority with a veto power to thwart and frustrate the demand of the South African people for an end to Apartheid and for the creation of a united, democratic and non-racial South Africa.
- 4.6.0 By deliberately ignoring the fact that the overwhelming majority of the people of South Africa - including an ever growing number of whites - prefer, for political purposes, to define themselves as being primarily South Africans and only secondarily affiliated to a given race or ethnicity, "Group Rights" and "Power Sharing" can never by definition, serve as a basis for a just and lasting solution to the South African conflict.

PRETORIA'S STATED OR IMPLIED POSITION ON OTHER PRINCIPLES

- 5.0.0 In his address of 2nd February 1990 to the white parliament, Mr. F.W. de Klerk committed his government, to the realisation of, inter alia, the following aims..."a new democratic constitution; universal franchise; no domination; equality before an independent judiciary; the protection of minority as well as of individual rights; freedom of religion; a sound economy based on proven economic principles and private enterprise; dynamic programmes directed at better education, health services, housing and social conditions for all." Though some of it sounds positive, the above cited passage is merely a statement of intentions which makes no commitment to the principles contained in the Declaration.
- 5.1.0 Considering that Apartheid itself was originally presented by its authors as being in the best interest of all South Africans, and taken in conjunction with the rejection of majority rule and insistence on "Group Rights", the cited passage is far less than a reliable guarantee that the Apartheid regime is committed to the dismantling of Apartheid and the creation of a united, democratic and non-racial South Africa. (Paragraph 16.1 in the Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa).
- 5.2.0 With regard to the principle: "All shall enjoy universally recognised human rights, freedom and civil liberties, protected under an entrenched Bill of Rights" (16.5 Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa). Mr. Gerrit Viljoen, in his 11th May 1990 speech said: "It is already envisaged that the planned Bill of Human Rights, besides protecting individual rights and freedoms, may also protect group values like language, culture, religion, by upholding the right of the individual concerned to exercise those values and rights and in a group context." The emphasis the Apartheid regime lays on "Group Rights" in this context, represents a radical and insidious departure from the proven assumption that informs a Bill of Rights as universally understood and accepted, namely, that the protection of individual rights and freedoms suffices for the protection of rights of any group based on voluntary association. Based on the precedent of Apartheid itself, there is reason to believe that the departure is deliberate. By seeming to place individual and group rights on the same footing, the possibility is raised of institutionalising the right to the formation and protection of exclusivist groupings and, therefore, to racism itself. This is contrary to Paragraph 16.5 of the Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa and 3e of the United Nations Consensus Declaration on Apartheid and its Destructive Consequences in Southern Africa.

- 5.3.0 With respect to the principle that : "South Africa shall have a new legal system which shall guarantee equality before the law" (16.6 Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa or 3f of United Nations Consensus Declaration on Apartheid and its Destructive Consequences on Southern Africa). Mr. Gerrit Viljoen's twelve point Minority Rights speech of 11 May 1990, though silent on the type of legal system envisaged by the Apartheid regime, nevertheless contradicts Principle 16.6 of the Harare Declaration of the OAU Ad-Hoc committee on Southern Africa on the Question of South Africa and 3f of the United Nations Consensus Declaration on Apartheid and its Destructive Consequences in Southern Africa. Equality of groups before the law, as implied by the notion of 'Group Rights' in the service of the preservation of white exclusivity and/or domination is incompatible with equality of individuals before the law.
- 5.4.0 With respect to the principle: "South Africa shall have an independent and non-racial judiciary". (16.7 Harare Declaration of the OAU ad-hoc Committee on Southern Africa on the Question of South Africa or 3g of United Nations Consensus Declaration on Apartheid and Its Destructive Consequences in Southern Africa). In his speech of 11 May 1990, Mr. Viljoen said, "that an independent judiciary will exercise judicial authority in cases between one person and another and between citizens and the state." However, he locates these remarks within the framework of the thrust of his speech which is the Apartheid regime's perceived need to protect group rights. The Apartheid regime gives priority to the protection of group rights over the necessity of an independent judiciary. This is contrary to Paragraph 16.7 of the Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa or 3g of United Nations Consensus Declaration on Apartheid and its Destructive Consequences on Southern Africa because it colours justice with racial, and/or ethnic considerations.
- 5.5.0 With respect to the principle: "There shall be created an economic order which shall promote and advance the well-being of all South Africans." (16.8, Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa or 3h of United Nations Consensus Declaration on Apartheid and its Destructive Consequences on Southern Africa), Mr. F.W. de Klerk, in his BBC interview, lays emphasis on the need to protect property rights. Considering that more than 80% of the wealth and 87% of the land mass of South Africa is concentrated in the white minority's hands, this means the racial imbalance in favour of whites in the economic distribution of South Africa's wealth will continue. Mr. Viljoen, in the 12 point Minority Rights speech seeks to entrench this fundamental injustice by saying "That

property rights (including the land) shall be honoured and there shall be no arbitrary dispossession without reasonable compensation."

- 5.6.0 With respect to the principle that: "A democratic South Africa shall respect the rights, sovereignty and territorial integrity of all countries and pursue a policy of peace, friendship and mutually beneficial co-operation with all peoples." (16.9, Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa or 3i of United Nations Consensus Declaration on Apartheid and its Destructive Consequences on Southern Africa), Mr. F.W. de Klerk, in his February 2nd, 1990 speech said inter alia "The season of violence is over. The time for reconstruction and reconciliation has come." However, Apartheid violence still continues in the region as reflected in the activities of the surrogate groups of UNITA and MNR in Angola and Mozambique respectively and in South Africa itself.
- 5.7.0 From the foregoing, the Apartheid regime still refuses to affirm the sets of fundamental principles of democracy contained in the Declarations. It continues instead, to insist that these principles are subject to negotiation.
- 5.8.0 At the level of rhetoric, the regime has been at great pains to attempt to dispel suspicions that its emphasis on "Group Rights" is but a disguised strategy for face-lifting apartheid and preserving white domination.
- 5.9.0 Its most recent pronouncements, notably F.W. de Klerk's speech of the 17th April in the white parliamentary debate on the Budget and the responses he gave to questions on the 19th April in the same session as well as the regime's Minister of Constitutional Affairs, Gerrit Viljoen's speech on 11 May 1990, show the regime's stubborn refusal to accept majority rule through universal adult suffrage on the basis of one person one vote, on a common voter's roll of all South Africans.

II CLIMATE FOR NEGOTIATION

- 6.0.0 In order to create the necessary climate for negotiation, both Declarations require the regime, to, at the least:
- (i) Release all political prisoners and detainees unconditionally and refrain from imposing any restrictions on them;
 - (ii) Lift all bans and restrictions on all proscribed and restricted organisations and persons;
 - (iii) Remove all troops from townships;

(iv) End the State of Emergency and repeal all legislation, such as, and including the Internal Security Act, designed to circumscribe political activity, and

(v) Cease all political trials and political executions.

(i) **Release Political Prisoners and Detainees**

7.0.0 Mr. F.W. de Klerk, by announcing that "people serving sentences merely because they were members of one of the (previously banned) organisations or because they committed another offence which was merely an offence because the prohibition of one of the organisations was in force will be identified and released. Prisoners who have been sentenced for other offences such as murder, terrorism or arson are not to be affected by this" has deliberately limited the definition of political prisoner. Consequently, the overwhelming majority of people serving sentences for offences which occurred in the course of the struggle against Apartheid were excluded from the very narrow definition of political prisoner used by de Klerk in his 2nd February speech. His initiative is limited to those political prisoners convicted of affiliation with or furthering the aims of a banned organisation. As such, the regime has so far only released approximately 72 political prisoners, including Nelson Mandela. (See Annex 1 attached).

7.1.0 According to oral evidence received by the Monitoring Group, and as estimated by monitoring groups in South Africa, there are more than 3000 political prisoners in Apartheid jails. Amongst these, there are currently approximately 350 prisoners serving sentences for convictions under the South African security legislation dealing with unrest related offences such as public violence, arson and malicious damage to property. (See Annex 2 attached).

7.2.0 In order to criminalise anti-apartheid political activity, opponents of the Apartheid system were charged with common law crimes, rather than political offences. Accordingly, there are many political activists serving sentences for such offences as public violence, arson, murder and terrorism.

8.0.0 Since the adoption of the Declarations, the Apartheid regime has neither given indication of intent to halt the practice of detention without trial nor has it made a categorical commitment to release political detainees. what the regime has done is to indicate that the period of detention in terms of security emergency regulations will be limited to a renewable six months and that detainees will acquire the right to legal representation and a medical practitioner of their own choosing. As such, the practice of detention without trial continues.

- 8.1.0 There are over 300 detainees without trial presently held under the State of Emergency including children as young as 12 years old. Thirty-two adults are held under Section 29 of the Internal Security Act, which provides for indefinite detention for the purposes of interrogation, with no access to the family or lawyer. In February 1990, the Minister for Law and Order, Mr. Adriaan Vlok stated that only criminals were being detained. However, the detention of members of the executive bodies and ordinary members of organisations continues. For example, Mr. Edwin Phasha, a Chemical Workers Industrial Union member working in the mines in Secunda was detained under emergency regulations on 22 March 1990. He was released 3 - 4 weeks later without any charges having been laid against him. (See Annex 3 attached).
- 8.2.0 Ex-detainees are natural targets for re-detention. Recently, 4 executive members of the Tembisa Youth Congress were detained. After their release they gave a press interview at which they were quoted as having said they intended implementing "peoples courts". A short time after their release, they were re-detained under the State of Emergency. One of them was a young woman, Deborah Marakalla. This was her third detention. The last detention was for a duration of one and a half years. She is the mother of an asthmatic child, Lerato, aged 5 years, and is herself diabetic.
- 8.3.0 When women are detained, they invariably end up in solitary confinement. As a result, they are subjected to sexual harassment. Detention of pregnant women is particularly serious because they are denied access to natal care. Further, women are anxious about the welfare of their families, wondering whether their children are adequately taken care of while their husbands are at work or in detention, and all the myriad of worries a woman would have separated from her family.
- 8.4.0 According to January 1989 estimates, there were almost 1000 detainees who embarked on a hunger strike in an effort to gain their release. Invariably, all of them have demanded to be charged or get unconditional release. Though the hunger strike is frequently a necessary form of struggle, it has had adverse and sometimes irreversible effects on the health of detainees.

(ii) Lifting of Bans and Restrictions

- 9.0.0 While organisations and individuals have been unbanned, and although Mr. F.W. de Klerk indicated in his February 2nd speech that conditions imposed in terms of security emergency regulations on people on their release are being rescinded, and that the regulations which provide for such conditions are being abolished, the regime retains the

power to impose new banning and restriction orders on organisations and individuals because the Internal Security Act and other repressive legislation remain intact. As such despite the partial amendment of the State of Emergency Regulations in March 1990, there is a question mark over what political action such as boycotts, campaigns and creation of alternative structures will be permitted. For example, the United Democratic Front and the National Union of South African Students are prohibited in terms of proclamations issued under the Affected Organisations Act from receiving any foreign funding.

9.1.0 The blanket ban on all political gatherings without permission continues. Powers under the State of Emergency and Internal Security Act to break up such gatherings continue to be exercised on an almost daily basis, frequently involving a high level of force. Freedom of assembly continues to be severely restricted, constituting a major source of conflict at the present time. On April 1, 1990 the annual blanket ban on all outdoor political gatherings without permission, was renewed for the fifteenth consecutive year under the Internal Security Act. Late in 1989, permission for peaceful political activities such as protest marches and rallies began to be granted in certain instances. However, attitudes have hardened. Permission for gatherings is frequently refused and in some areas the security forces have returned to their former use of extreme force in breaking up peaceful political gatherings and demonstrations, resulting at times in heavy loss of lives. Estimates indicate that 139 people have been killed and 1429 injured directly or indirectly by Police action since Mr. de Klerk's address of 2nd February. Such heavy handed and irresponsible action prevents peaceful political activity by the communities and particularly the youth.

9.2.0 While a number of names have been removed from the Consolidated List, the list still continues in existence. The persons whose names still appear on the list are restricted in terms of Section 18 of the Internal Security Act, from becoming members, office bearers or officers of any organisation considered for prohibition under the Internal Security Act (ISA). They are also restricted from taking part in the activities of these organisations. This may severely affect the recruitment drive of national liberation organisations presently re-organising in South Africa and its leadership appointments, as well as hamper free political intercourse.

9.3.0 Furthermore, although the ban on organisations has been lifted, these organisations are still liable to prosecution for offences under the ISA, such as, terrorism and related offences, promotion of communism, (defined as violence, sabotage and harbouring), promoting and

favouring the aims of certain organisations which were prohibited (statutes enabling the government to ban organisations are still in place); incitement, offering or accepting assistance for organised resistance against the laws of the Republic and fermenting racial hostility. Therefore, in so far as these provisions remain in the Statute Book, members of National Liberation Movements, who for instance, call for economic sanctions are still liable to prosecution for sedition or sabotage.

(iii) **Troops in Townships**

10.0.0 According to oral evidence received by the Monitoring Group, South African Defence Force (SADF) troops remain in the township of Natal and the "Homelands" and persist in their repressive role. In the case of Natal, under the pretext of seeking to arrest internecine violence which it has actually fomented, the regime has in addition sent in the notorious Battalion 32 which had hitherto served in Namibia.

10.1.0 In the majority of cases the presence of South African Defence Force troops is to reinforce the police for the purpose of buttressing the imposition or perpetuation of Apartheid. This is particularly the case where communities are capable of maintaining law and order of their own. In such cases the presence of Apartheid troops only serves to foment and accentuate violence. There are cases also where communities are unable to ensure law and order because of lack of appropriate resources. In such cases, and provided deployment is affected through consultation with the community, troop presence may be helpful.

(iv) **End the State of Emergency and Repeal all Repressive Legislation**

11.0.0 The general increase in the incidence of violence throughout South Africa, has been the result of extensive police involvement and incitement. The pervasiveness of state repression contributes to the obviation of the creation of the necessary climate for negotiation. Furthermore, it is important to note that state repression has been made possible by the State of Emergency which is yet to be lifted and the various security legislation still in place.

11.1.0 The Internal Security Act was renewed in March 1990 and provides, inter alia, for declaring certain organisations unlawful; prohibition of certain publications; initiations of investigations into various organisations and publications with a view to considering their prohibition; the keeping of a Consolidated List of members of unlawful organisations, banning and restriction of organisations and individuals and detentions.

- 12.0.0 The State of Emergency declared under the Public Safety Act, continues. Of the four sets of emergency regulations, two have been withdrawn, namely, the Media and Education Regulations. The third, Prison Regulations, remains unaltered.
- 12.1.0 The fourth, Security Emergency Regulations, has been amended to provide slight changes in the length of detentions and detention conditions. It still provides for the imposition of restrictions on the activities of organisations and empowers the Commissioner of Police to issue orders prohibiting certain activities. For example, despite announced new detention conditions providing for access to legal representation and personal medical practitioner, the Sports Editor of the Sowetan, Horatio Motjaudi was detained and placed in solitary confinement for three months since February 1990. Denied access to legal representation and to his family, it was only the development of a heart problem which compelled prison authorities to take him to hospital.
- 12.2.0 Regulation 14a [a new inclusion] provides that, in judicial proceedings, when the question arises as to whether the Minister of Law and Order formed an opinion that steps were necessary for the safety of the public, the maintenance of public order, the termination of the State of Emergency, in acting under regulations 3(3) [extending a detention], regulation 7(1) [restricting an organisation], regulation 8(1) [restricting a person] or regulation 9(1) [prohibiting particular activities or acts], it shall be necessary for the Minister to give oral evidence. All that is required to prove that necessary opinion was formed is an affidavit made by the person who alleges that he was the Minister of Law and Order at that time when such steps were considered and taken and that he was of the opinion that such steps were necessary for the safety of the public, the maintenance of public order or the termination of the State of Emergency. This affidavit or purported affidavit made by the Minister or someone alleging that he is the Minister shall, "on its mere production at the said proceedings by any person, be accepted as conclusive proof of the facts stated therein." This regulation has the effect of freeing the Minister from proper explanations in court. It protects him from ever having to be cross-examined on how he applied his mind in exercising his vast powers under the regulations. It goes further than that: it implies that the affidavit or purported affidavit does not even have to be made by the Minister of Law and Order. It can be made by a person who simply alleges that he is the Minister of Law and Order and it cannot be questioned. This regulation appears to have been introduced to avoid problems experienced by the State in prosecutions instituted against ex-detainees who either escaped from detention or who, the State alleged, had contravened restrictions orders.

- 12.3.0 An analysis of the Emergency Regulations reveals that they do not so much confer new powers on the police, as a new way of exercising them. The combined effect of framing the discretion of police officials in a subjective form, of limiting legal liability of the security forces, of curtailing the media and the courts, of empowering rank and file members with a discretion previously reserved for officers, serves to free the security forces from supervision and accountability.
- 12.4.0 Moreover, the security forces seldom, if ever, use emergency powers and appear to rely on their 'ordinary' police powers to search, seize and arrest. Where emergency powers have been used, it has been to exclude lawyers or journalists from 'unrest' situations or funerals. The State of Emergency is only used against the political activities of National Liberation Movements and democratic organisations and never against the vigilante and right wing groups.
- 12.5.0 It is the Public Safety Act (PSA) which enables the declaration of State of Emergency (SOE), grants even wider and more unbridled powers and is capable of use on a mass scale. Since 1985 (except for a short period of 3 months in 1986) South Africa has been under a State of Emergency, which is due to expire at midnight on 8th June 1990.
- 13.0.0 The Apartheid regime has a multitude of other laws for the purpose of state repression. Some of these are:
- The Suppression of Communism Act which in effect equates opposition to the Apartheid state with the promotion of communism;
 - The Suppression of Terrorism Act which in effect equates opposition to Apartheid with terrorism;
 - The Defence Act provides for the prohibition of access to designated areas and authorises various other means of control to prevent 'internal disorder' simply by declaring an area to be operational. "Under this Act, for instance, the South African Defence Force (SADF) or any portion thereof may be mobilised to combat internal disorders, and members of the SADF used for this purpose have all the powers, duties and immunities enjoyed by or imposed upon, the South African Police under the Police Act."; The Intimidation Act makes it a criminal offence to intimidate anyone by threats or violence. People organizing protest activities such as strikes and boycotts have been charged under this Act.
- 13.1.0 In addition, thousands of people have been charged with the common law crime of public violence and related criminal offences, such as arson, trespass and malicious damage to property.

Some Cases of Continuing Repressive State of Violence and their Adverse Effect on Attempts to Create the Climate Necessary for Negotiations

(a) Deaths in Police Custody

- 14.0.0 Since the beginning of 1990, 4 people held for political reasons, have died in police custody. One was 16 year old Nixon Phiri. He was amongst a large group of children and youths who were taken to the Welverdiend Police Station for purposes of interrogation. They were called into interrogation rooms, one at a time. When Nixon's turn came, they could hear him screaming, and eventually, there was silence. His interrogators came out of the room, closed the door and went into another room and continued interrogating the others. They allege that Nixon, never came out of the room and was not seen again. The post mortem findings revealed severe head injuries and bruising all over his body. There were three witnesses who were prepared to testify. Two of the three, have been shot down by police. The third boy, 16, is on the run fearing for his life.
- 14.1.0 Another death in detention, was that of Clayton Sithole, detained under Section 29 of the Internal Security Act. Mr. de Klerk hastily set up a commission of inquiry into the death which the judge found as "suicide".
- 14.2.0 The death of Michael Zunga, followed. Although organisations called for similar inquiries into the Phiri and Zunga deaths, there has been a total lack of response by Mr. de Klerk. In March, another detainee, Lucas Tlhotlomisang, a civic member from Schweitzer-Reneke died. Similarly, there has been no enquiry into his death.
- 14.3.0 The police have responded to the mass actions of communities in an unpredictable way. Mass marches and gatherings have taken place with either no police in evidence or keeping a low profile. When this happens, there is never a problem. At other times, the police are there in force and act in a brutal manner.
- 14.4.0 In January, in Khutsong, at a gathering to protest the death in police custody of Nixon Phiri, police fired on the people without warning. A horrified Australian diplomat, Mr. Goledzinowski witnessed the deaths and wounding of the people and was so enraged that he publicly criticised the police.
- 14.5.0 There was an unprovoked attack on people at a peaceful Sebokeng march, 14 people were killed and hundreds wounded. President de Klerk has announced that an independent enquiry will be instituted.
- 14.6.0 On 19 April 1990 in Ramulotsi township, Orange Free State,

four pupils between the ages of 13-16 were shot by the police and died on the spot while another was fatally wounded and died later in hospital. The police justified the killings by stating that they were attacked by the pupils with stones. The residents stated that the pupils were on a protest march and that there had been no violence.

- 14.7.0 Early this year, in Volksrust, a 15 year old was shot dead when police opened fire on a group of pupils setting up street barricades. They had been protesting against the detention of 12 pupils from their school after a local businessman's house was stoned. The police gave the children five minutes to disperse.
- 14.8.0 In April, in Northern Cape, a seven year old boy was shot. A Resident claimed the boy had been shot after police and members of the SADF, assisted by men from a right wing group, had moved into the township and ordered people attending a disco to disperse. He claimed that the police had then fired into the crowd and the boy was hit in the face. The police say that the boy had been killed during unrest. Police had opened fire on a group of people after they had thrown stones at them.

(b) Torture and assault

- 15.0.0 There are constant reports of assault and torture in custody. The small outlying areas are the worst hit as they are tucked away from public scrutiny.
- 15.1.0 Every adult white person in Apartheid South Africa can legally acquire up to twenty-seven weapons, while the oppressed majority are not permitted to keep even home-made weapons to protect themselves. In May 1990, the regime sent 1000 police and soldiers to raid an African township in Welkom for "weapons" whilst white vigilantes in Welkom have been shooting Africans at random. The regime, thus far, has made no attempt to curb the racist and murderous activities of the armed white vigilantes. On the other hand there is evidence of connivance between the regime and the white vigilantes.

(c) Missing Children

- 16.0.0 Many children and youth remain refugees in their own land, fleeing police or vigilantes, thus making it very difficult for parents to know what has happened, because they do not necessarily have means to communicate with them. There are reports of people missing from many areas where there has been unrest and a lot of police activity. Boys are the main target in house to house searches. For example, in Khutsong, boys were taken from their houses.

They were interrogated. Some were released and some fled the area and are hiding in other communities. The parents are desperate because they do not know what has happened to their children.

(v) Cessation of Political Trials and Political Executions

17.0.0 Although the regime has announced a moratorium on executions and the commutal of the death sentences imposed on twenty-three political prisoners to life imprisonment, sixty-four other political prisoners remain in death row. Their fate remains uncertain because the Apartheid regime retains the legal power to lift the moratorium and resume executions. There are also over 300 political trials still in progress. (See Annex 4 attached).

17.1.0 The regime has yet to accede to Protocol 1 of the Geneva Convention relative to the treatment of prisoners of war of August 12, 1949, which recognises wars of National Liberation as legitimate armed conflicts and rules that captured combatants belonging to the armed formations of National Liberation Movements should be treated as prisoners-of-war. Accordingly, captured combatants of Umkhonto we Sizwe, have been charged with criminal offences, including murder. Some have been sentenced to death and executed. Others convicted are serving sentences. None have ever been accorded prisoners-of-war status.

(vi) End Informal Repression

18.0.0 Although the Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa and the United Nations Consensus Declaration on Apartheid and its Destructive Consequences in Southern Africa require the Apartheid regime to fulfill, at the least, five conditions in order to create the necessary climate for negotiations, the Monitoring Group has found that there exists intense violence throughout South Africa, brought about by state-sponsored informal repression and that it also militates against the creation of the necessary climate for negotiation.

18.1.0 Informal repression in the South African context is not new, but received a tremendous boost with the establishment of the National Security Management System, with the National Security Council at its head. In Security matters, this council became more powerful than the cabinet itself. Its tentacles reached every level of society through the Joint Management Centres by co-opting local councils, local industry and local business, etc. In this manner anti-apartheid activists and organisations are identified, monitored, harassed and neutralised in various

ways. Of late, the role or the profile of the National Security Council has been subdued but its basic features remain intact. It remains a major intimidatory factor against free political activity.

- 18.2.0 Growing fascist violence of white right wing groups and the regime's inclination to condone this have led to the escalation of violence against the majority of the people in South Africa. For instance, the refusal of the state to repeal the Arms and Ammunitions Act which allows every white adult up to twenty-seven weapons has directly contributed to the escalation of violence in the country. As a result white fascist groups, such as the Afrikaner Weerstandbeweging are heavily armed. A former security policeman and senior executive member of the right wing Afrikaner Weerstandbeweging AWB (Afrikaner Resistance Movement) Piet Rudolph, announced that the AWB and the Boerstaat Party (BSP), had planned a loan scheme to provide arms to a further one million whites for the next five years. The fact that many fascist organisations in South Africa have taken up arms against the black majority has not met with any credible response from the regime.
- 18.3.0 Vigilante groups have their origins in the systems which have been built up around the unpopular Apartheid created structures. Their growth has been actively encouraged or tacitly condoned by the Security forces and local police. The so-called "black-on-black" violence must be viewed in this context. By this method, the regime seeks to divide the black majority. The violent situation in Natal must be seen in this context. (See Annexes 5 - 8 attached).
- 18.4.0 Hit squads, including the Civilian Cooperation Bureau (CCB), have now clearly emerged as an essential component of the regime's strategy of repression, and operate within the structures of the South African Police and of the South African Defence Force. These squads have perpetrated a full spectrum of atrocities in the defence of Apartheid. Evidence emerging from the Harms Commission of Inquiry suggests involvement at cabinet level. In the meantime, and in spite of the Commission of Inquiry, hit squads continue their activities. (See Annex 9 attached).

To mention a few:

On 7 April, Aldo Mogano (age 22) an Alexandra township activists was murdered by a South African hit squad.

On 23 April, Sam Chand, PAC member, his whole family of four and his security guard were murdered in Botswana by a South African hit squad.

On 28 April, in Harare, Rev. Michael Lapsley, an ANC member, lost one arm, one leg and an eye due to the

explosion of a parcel bomb sent by a South African hit squad.

18.5.0 Escalating violent Apartheid state repression, both formal and informal - most notably in the Natal Province is accentuating many of the typical adverse and dehumanising consequences of Apartheid such as forcible population displacements, destabilisation of and/or denial of family life, disruption of education, juvenile delinquency, high rate of crime and chronic physical insecurity. (See Annexes 10 and 11 attached).

18.6.0 In summary, it must be said that all the powers of repression available to the Apartheid regime are still intact and continue to be exercised. The lifting of the State of Emergency alone will not signal the end of repression since all the awesome powers of the state are available through permanent legislation such as the Internal Security Act. At the same time all the fundamental pillars of apartheid and their repressive and destructive consequences remain intact. These include the Group Areas Act, Bantu Education Act, Bantu Authorities Act, Population Registration Act and the Land Act.

III GUIDELINES TO NEGOTIATIONS

19.0.0 Though the Declarations provide clear guidelines for the announcement of the process of negotiation in good faith and in an atmosphere free of violence, the Apartheid regime continues to hold that these same guidelines are issues subject to substantive negotiations.

IV PROGRAMME OF ACTION

20.0.0 The Programme of Action, common to both Declarations, stipulates that all existing pressures including sanctions against Apartheid South Africa should be maintained until the eradication of Apartheid is rendered irreversible. However, Mr. F.W. de Klerk, on the basis of strictly rhetorical promises of change unbacked by any action, has recently been officially received, most notably, in Western capitals. This sends the most regrettable signals to the regime and will jeopardize efforts to create the necessary climate for negotiations. For example, the United Kingdom has unilaterally lifted the voluntary restrictions on new investments in South Africa as originally adopted by the European Economic Community (EEC) and is campaigning for the EEC to lift its package of sanctions. Also Portugal is actively campaigning for the lifting of all pressures on the apartheid regime.

C

CONCLUSION

- 21.0.0 In fulfillment of its mandate, the Monitoring Group of the Ad-Hoc Committee of the Organisation of African Unity on Southern Africa conducted extensive consultations with National Liberation Movements, anti-apartheid organisations, monitoring groups and individuals concerned to ascertain the implementation of the principles, preconditions, guidelines to negotiations and programme of action continued in the Harare Declaration of the OAU Ad-Hoc Committee on Southern Africa on the Question of South Africa and the United Nations Consensus Declaration on Apartheid and Its Destructive Consequences in Southern Africa which are designed to ensure the eradication of the Apartheid system.
- 21.1.0 The Declarations categorically state that it is essential that the necessary climate be created for negotiations to begin. The onus of creating the necessary climate through unconditionally meeting the five preconditions laid down in the Declarations lies with the Apartheid regime. Irrefutable evidence confirms that the Apartheid regime has not yet met the preconditions. Consequently, it cannot be said that a necessary climate for negotiations has been created by the Apartheid regime.
- 21.2.0 The international community, through the United Nations Consensus Declaration on Apartheid and Its Destructive Consequences in Southern Africa, has emphasised that "we shall continue to do everything in our power to increase support for the legitimate struggle of the South African people, including international pressure against the system of Apartheid UNTIL THAT SYSTEM IS ENDED...." Therefore, the international community is bound to sustain all forms of existing pressures against the Apartheid regime UNTIL THE APARTHEID SYSTEM HAS ENDED. The pressures against that regime include political isolation and comprehensive mandatory sanctions. As this report demonstrates, there has not been any fundamental or irreversible change in South Africa. The so-called changes which have led some members of the international community to believe that pressures should be relaxed vis à vis the Apartheid regime, fall far short of justifying that belief. Therefore, the recent sojourn of Mr. F.W. de Klerk and the attendant suggestions made to relax sanctions and other measures against the Apartheid regime are tantamount to prematurely rewarding Mr. de Klerk, and jeopardising efforts to create the necessary climate for negotiations.
- 21.3.0 It is a fact that internal resistance and complementary international isolation and sanctions were instrumental in compelling the regime to unban the organisations and declare its willingness to enter into dialogue with the

representatives of the oppressed majority. To remove internal and international pressures at this time would amount to removing the vital leverages which could compel the regime to end Apartheid.

- 21.4.0 The Declarations have laid down basic principles which must guide the process of eradicating Apartheid. The Apartheid regime has not positively and comprehensively pronounced itself on these fundamental principles, but utterances and periodic statements by its spokespersons indicate that the regime rejects these fundamental democratic principles. The regime has ruled out the democratic principle of majority rule based on one person one vote, on a common voter's roll, claiming that this would lead to "an unsophisticated majority vote." Instead the regime preaches "government by consensus." This concept, therefore, is in essence a demand that the white minority be given a veto over all major decisions.
- 21.5.0 Mr. Gerrit Viljoen, the Minister of Constitutional Affairs, recently announced twelve "minority rights" which the regime wanted included in a new constitution. Some of these "minority rights" concern the rejection of majority rule, insistence on power sharing and insistence on "Group Rights". Agreeing to these "minority rights" would inevitably result in protecting and perpetuating the cornerstones of the Apartheid system, albeit in another guise.
- 21.6.0 The international community must insist that the Apartheid regime should unconditionally implement at the least, the preconditions laid down in the two Declarations in order to create a necessary climate for negotiations leading to the drawing up of a constitution for a united, democratic and non-racial South Africa.
- 21.7.0 The Monitoring Group took note of the meeting between the Apartheid regime and the African National Congress at Groote Schuur, South Africa from the 2nd to the 4th of May 1990, and convened at the initiative of the African National Congress for the purpose of clearing obstacles to negotiations.
- 21.8.0 The Monitoring Group also noted that resulting from the meeting, the Apartheid regime reiterated its commitment to negotiations and undertook to review existing security legislation and committed itself to working towards resolving the existing climate of violence, lifting the State of Emergency, granting indemnity to political exiles and widening the definition of a political prisoner, bearing in mind experiences in Namibia and elsewhere. It also agreed to establish a joint working group with the ANC to make recommendations towards widening the definition of a political prisoner and facilitating the release of political prisoners, granting indemnity to

political exiles and to report back to principals by 21st May, 1990.

- 21.9.0 On 7th June 1990, the Apartheid regime announced the lifting of the four (4) year old State of Emergency in the whole of South Africa except in the Province of Natal. Although the Monitoring Group took note of the fact that the State of Emergency has been lifted, it emphasises the fact that the Public Safety Act which enables the Apartheid regime to impose the State of Emergency is still intact. The lifting of the State of Emergency as announced, therefore, cannot, on its own, be seen as a profound and irreversible measure towards creating a necessary climate for negotiation.
- 22.0.0 Furthermore, the lifting of the State of Emergency alone will not signal the end of repression since all the awesome powers of the state are available through permanent legislation such as the Internal Security Act. At the same time all the fundamental pillars of Apartheid and their repressive and destructive consequences remain intact. Therefore, nothing short of the fulfillment of all the conditions which are essential to the creation of the necessary climate for negotiations should be deemed sufficient in terms of the demands set out in both Declarations.
- 23.0.0 As reflected in this report, the Apartheid regime has not yet taken any profound and irreversible steps, nor has it fulfilled the objectives to which it committed itself at the Groote Schuur Meeting, toward the creation of the necessary climate for negotiations. Until the Apartheid regime fulfills the commitments it made at the Groote Schuur Meeting, to paraphrase Dr. Nelson Mandela, those commitments are of no more worth than the paper on which they are written.
- 24.0.0 As the African National Congress, particularly in its briefing to the Ministerial Meeting of the Ad-Hoc Committee given by its Deputy President, Dr. Nelson Rolihlahla Mandela, in Cairo, Egypt on 20 April 1990, has cautioned, even though its important initial contacts with Pretoria may have raised hopes as to the willingness of the regime to cooperate, it is all the more important for the international community to intensify actions to compel Pretoria to take concrete and positive measures to at least match the hopes raised.
- 25.0.0 Summing up the failure of the Apartheid regime to take profound and irreversible steps towards the eradication of Apartheid, Dr. Nelson Mandela, reminded the international community that: "I went to prison without a vote, I have come out of prison and I am still without a vote."

ZIMBABWE

ECONOMIC POLICY STATEMENT by Senior Minister of Finance, Economic Planning and Development, The Hon. Dr. B.T.G. Chidzero, MP. Presented to Parliament, July 26, 1990 in Harare.

CONTENTS	PAGE
A. INTRODUCTION	111
B. ECONOMIC BACKGROUND	111
B.1 Economic Performance and Problems	111
B.2 Government's Policy Thrust Since 1980	113
C. PROSPECTS FOR THE FUTURE WITH NO POLICY CHANGE	114
D. MACRO-ECONOMIC TARGETS FOR THE MEDIUM TERM	115
E. ECONOMIC POLICY REFORMS; MAJOR AREAS	117
F. PUBLIC FINANCE	117
F.1 Taxes	117
F.2 Expenditures	117
F.3. Parastatals	118
F.4 Education	119
F.5 Health	120
F.6 Defence	120
F.7 The Size of the Bureaucracy	120
F.8 Public Sector Projects Evaluation	121
F.9 Public Borrowing and Debt Management	121
G. TRADE LIBERALISATION	122
G.1 Major Elements of the Programme	122
G.2 Allocations for Investment	124
G.3 Export Policies	124
G.4 Financing Trade Liberalisation	125
G.5 Managing Trade Liberalisation	125
H. ECONOMIC REGULATION	126
I. INVESTMENT PROMOTION AND INCENTIVES	127
J. SOCIAL ASPECTS OF ADJUSTMENT	128
K. THE FINANCIAL SECTOR	129
K.1 Strengths and Weaknesses of the Financial System	129
K.2 Monetary Policy Stance	130
a) Interest Rates	130
b) Credit	131
K.3 Institutional Arrangements	131
K.4 Stock Exchange	131
K.5 Investment by Small Scale Entrepreneurs	132
L. FINANCING THE STRUCTURAL ADJUSTMENT PROGRAMME	132

Government of Zimbabwe

ECONOMIC POLICY STATEMENT: MACRO-ECONOMIC ADJUSTMENT AND TRADE LIBERALISATION: JULY 1990**A. INTRODUCTION**

1. In order to achieve a sustainable annual rate of growth of 5 per cent in the medium-term the Government of Zimbabwe has embarked upon a programme of economic policy reforms, aimed at stimulating investment activity and removing existing constraints on growth. This statement is intended to give a broad outline of the economic policy approach being instituted by Government. It forms the basis upon which concrete implementable measures will be instituted during the immediate period after its publication. The statement first outlines economic performance during the past decade, and discusses the problems and constraints facing the economy. It then discusses the economic targets for the medium-term and outlines the policy measures needed to achieve these targets.

B. ECONOMIC BACKGROUND**B.1 Economic Performance and Problems**

2. Since 1980, the Zimbabwean economy has been experiencing uneven rates of growth. After growing at impressive growth rates of 10,7% in 1980 and 9,7% in 1981 in real terms, there was a sharp fall to 1,5% growth in 1982. In 1983 the economy experienced a negative growth rate of 3,6%. Recovery started in 1984 with a positive growth rate of 2,3% rising to 7,3% in 1985. Growth then slowed down to 2% in 1986, and to a mere 0,7% in 1987. In 1988 the economy experienced a recovery recording a real growth rate of 6,3% which declined to 4,9% in 1989. These growth rates imply an average annual growth rate of 3,2% over the period since 1980. This growth rate is barely above the population growth rate of 2,9% and is well below the targets of both the Transitional National Development Plan (8%) and the First Five Year National Development Plan (5%).
3. Accompanying the erratic growth is the very low rate of employment creation which has seen less than 10 000 jobs being created in the formal sector annually in the last ten years. Given the population growth rate of 2,9% and the number of school leavers joining the labour market estimated at 200 000 per year, the question of unemployment has become one of the most critical problems facing the economy. Whilst positive employment growth has been recorded in the service sectors of the economy, productive sector employment has either remained stagnant or has been declining.

4. The poor economic growth rate of 3.2% has resulted in stagnant or declining per capital incomes indicating falling standards of living. For instance although per capita income expressed in 1980 prices, rose from \$438 in 1980 to \$472 in 1982 it had declined to \$470 by 1989. On the average, this means that Zimbabweans in 1989 were worse off than they were in 1982.
5. Investment levels have been falling: from 15.5% of gross domestic product in 1987 to 10.7% of gross domestic product in 1989 in real terms. In fact gross investment is estimated to have fallen even below depreciation levels leading to many industries operating far below capacity.
6. The external sector and the foreign exchange situation have remained critical since 1980. Between 1980 and 1989, exports grew by an annual average in real terms of 6.2%, whilst the average growth was only 3.9% between 1982 and 1989. This is far from being adequate to sustain the required level of imports. The balance of payments current account has been kept in a satisfactory position through drastic cuts in import allocations. This has had adverse effects on the economy through the shortage of raw materials and other inputs into industry leading to shortages of essential commodities on the domestic market.
7. In an effort to redress the past imbalances in the provision of vital social services such as health, education, and other infrastructure, government has been obliged to operate with a high budget deficit. The latter has been exacerbated by the high level of defence expenditures necessitated by the regional and internal security situation. The deficit which has been on average 10% of gross domestic product per year has been financed through internal as well as external borrowings, giving rise to a large public debt. With investment demand expected to pick up substantially, the continued financing of a high budget deficit will impose a constraint on growth by limiting financial resources available for new productive investment.
8. Besides the problems of low investment, foreign exchange shortages, shortages of commodities, unemployment, high expenditure and the large budget deficit, there are exogenous problems which affected the performance of the economy since 1980 such as the unpredictable weather changes and the unstable world market commodity prices. Zimbabwe's economic growth is highly dependant on agriculture whose performance is largely determined by the weather conditions. Rainfall distribution has been uneven and sporadic in nature leaving some parts of the country dry for years. This reduces economic activity across all sectors because agricultural outputs are required as inputs in other sectors of the economy.

9. The unstable and generally declining world market commodity prices mean that exports, especially of primary products, have been yielding unsatisfactory amounts of foreign exchange gains. This has contributed to the current shortage of foreign exchange, shortage of imported inputs and shortage of some basic commodities on the domestic market.

B.2 Government's Policy Thrust since 1980

10. The major policy thrust since 1980 was aimed at bringing about transformation which would positively redress the socio-economic imbalances which existed prior to independence in 1980. This meant the redirection of resources towards those areas which were neglected or given low priority in respect of the majority of the population before independence, and these include:-
- provision of both primary and secondary health facilities throughout the country. This was done through increased training capacities for health personnel as well as the construction of hospitals and clinics. To ensure that the lower paid get access to health services, Government offered free medical services to those earning less than \$150,00 per month;
 - the provision of education facilities, and to ensure that every Zimbabwean child had access to education, Government made primary education free in terms of tuition fees and heavily subsidised the education system generally;
 - expansion of rural and agricultural infrastructure.
11. The direction of resources to social and other services and borrowing to finance a high budget deficit meant that only limited resources could be directed towards the material production sectors of the economy thus leading to poor growth performance by these sectors in relation to social services.
12. As part of the policy to redress previous imbalances and the principle of Growth With Equity, Government introduced or re-enforced, wage and price controls, and employment protection regulations. The regulations were designed to improve the status of the worker at the work place and his standard of living whilst wage controls were intended to reduce income differentials. One of the implications of price controls has been that Government has had to continue to subsidise the marketing boards, despite policy to reduce subsidies, or eliminate them. One major problem is that the subsidies as currently managed, do not necessarily assist the people they are intended to assist, as they are not targeted to particular people or groups of people. The

price and wage control systems have also tended to discourage potential investors. Whilst the price control system has been partly responsible for some shortages on the domestic market, wage and labour market regulations have tended to discourage the taking on of new employees.

13. The administrative allocation of foreign exchange, which was inherited from the past and has been necessitated by foreign exchange shortages, is fraught with serious bureaucratic delays and other problems which have cost the country even more foreign exchange at times. The system has not solved the problem of inadequacy of foreign exchange which has tended to reduce the importation of raw materials, machinery and equipment and spare parts, leading to low quality and quantity of export commodities. Export promotion response has been inadequate due to such problems as use of obsolete equipment which gives rise to high costs of production.
14. Because of the inadequacy of official capital inflows, Government had to go into large commercial borrowings to finance reconstruction and development programmes especially in the provision of infrastructure such as roads, bridges, dams, schools, clinics, hospitals, etc. Thus due to the heavy borrowings incurred during the first few years of independence, combined with unsatisfactory export performance, the external debt service ratio reached a peak of 33,3% in 1987 and is expected to decline to about 25,6% in 1990.
15. Investors have been somewhat unsatisfied by the general investment climate existing during the 1980s. This has included issues such as the price and wage controls and investment regulations, particularly those relating to profit remittances, as well as the procedures for screening investment applications.

C. PROSPECTS FOR THE FUTURE WITH NO POLICY CHANGES

16. The Zimbabwean economy is highly vulnerable to weather conditions since any major decline in agricultural output automatically leads to very low economic growth. For instance in 1987 when the agricultural sector experienced a negative growth rate of 18,1%, the economy also suffered and recorded a growth rate of 0,7% and in 1988 agriculture grew by 25,5% and the economy also grew by 6,3%. The weather conditions therefore have a major influence on the growth of the economy. Beside weather problems, agriculture has also been affected by the transport crisis as well as declining terms of trade. This points to the need for major structural change to reduce the vulnerability of the economy on factors that cannot be controlled.

17. Over the last few years unemployment has been increasing at an alarming rate, given school leavers of about 200 000 every year plus those retrenched due to industrial closures necessitated by economic hardships experienced by companies. The problem is compounded by the fact that the economy itself has not been expanding sufficiently, and hence there has been only limited employment generation. The unemployment situation in the country is such that if not harnessed, it will deteriorate to a point where increasing social problems will become the order of the day.
18. Despite the control regulations, prices have been increasing officially or otherwise and these increases have seriously squeezed the incomes of the workers. The statutory minimum wages remain far below the poverty-datum line such that the majority of the workers still live in poverty.
- The prices and wages spiral has also contributed to high rates of inflation and if there are no policy changes, the rate of inflation is likely to double in the coming year and the effect of price and wage regulations on investment will continue to be in the negative which is detrimental to economic growth as evidenced by the falling per capita income.
19. Zimbabwe's exports are predominantly primary commodities whilst imports are raw material inputs, plant and machinery and some finished goods, and the terms of trade have deteriorated substantially over the years. Such a structure of exports and imports does not guarantee a long term solution to the foreign exchange shortage and also poses serious problems for the servicing of our debt. By and large, the country's exports cannot compete on the world market if the status quo is maintained because of outdated technology, high production costs and the resulting relatively poor quality of manufactured goods. This is so in particular as other strong economies emerge in the Southern African region, and as other countries around the world are implementing reforms to enhance their competitiveness.
20. If the problems facing the economy are to be solved, and a sustainable rate of growth achieved, it will be important to enhance the current investment drive, to promote export and introduce measures which will be conducive to solving the present foreign exchange shortage.

D. MACRO-ECONOMIC TARGETS FOR THE MEDIUM TERM

21. Having taken note of the major economic problems which affected the economy in the last 10 years, Government has now committed itself to carrying out major economic reforms

for adjustment and growth. In the medium-term 1990/91 to 1994/95, Government has set a target growth rate of the Gross Domestic Product of 5% per annum in real terms. In order to achieve this target, the Government is going to de-emphasize its expenditure in social services and emphasize investment in the material production sectors such as agriculture, mining and manufacturing, together with supporting economic infrastructure in transport, power and communications.

22. To achieve a GDP growth rate of 5% per annum, the rate of investment in nominal terms should be at least 20% of gross domestic product. Such a rate can be achieved if the present investment promotion drive is enhanced, backed by a package of appropriate incentives. It is also Government's intention to mobilise investment capital by the encouragement of savings by the public by the adoption of appropriate monetary and fiscal instruments.
23. In order to release more funds for productive investment, Government is going to reduce the budget deficit progressively to 5% of GDP by 1994/95. Various policy measures, particularly directed at reducing expenditure, will be adopted to achieve this objective.
24. An increase in export earnings should result from export promotion programmes, and from the effects of trade liberalisation which is expected to increase the import of inputs for export oriented industries. Once the targeted export level is achieved, the balance of payments situation is expected to improve. In the initial stages of implementation of economic reforms, the balance of payments current account will continue to show a substantial deficit.
25. The investment of borrowed capital is seen as vital because the debt can be serviced through the output of the investment. Borrowing will therefore be directed towards productive investment rather than social services. Government would like the debt service ratio to be reduced progressively to about 20% by 1994/95 from the current level of 25.6%.
26. Employment generation is expected to improve to a rate sufficient to absorb the majority of those joining the labour market each year. A high level of employment will be achieved if the investment levels are high enough and are made in the priority productive sectors of the economy. An increase in employment will also depend on the policy change in the employment regulations governing the employer's ability to hire and fire.

E. ECONOMIC POLICY REFORMS: MAJOR AREAS

27. Government has already embarked on a package of economic policy reforms which are aimed at stimulating investment and economic activity in order to achieve an annual average rate of growth of 5% in real terms in the medium term. The package of policy reforms entails moving away from a highly regulated economy to one where market forces play a greater role within the context of Government objectives.

The major areas of policy addressed include:-

- the budget - public finance;
- trade liberalisation and export promotion;
- economic regulation;
- investment promotion and incentives;
- monetary policy and financial sector reforms;
- social aspects of adjustment; and
- financing the economic adjustment programme.

F. PUBLIC FINANCE

28. The major objective of the Budget is to progressively reduce the budget deficit to 5% of Gross Domestic Product by 1994/95.

F.1 Taxes

29. Government is conscious of the already high levels of taxation, and recognises that there is limited scope for using tax measures to raise more revenue in order to reduce the budget deficit. Increased revenues will have to be brought about as a result of a higher rate of economic growth, as opposed to higher rates of tax. During the period of implementation of economic reforms, the tax system will be restructured in such a way as to encourage savings and investment, and to promote growth. Appropriate tax incentives will therefore be instituted and specifically directed towards priority sectors, such as those producing for export and saving on imports or creating employment and improving upon existing technology. Bearing in mind some of the adverse effects which could initially arise from a structural adjustment programme, particularly on the lower paid, the restructuring of the tax system will take into account Government's objective to promote growth with equity.

F.2 Expenditures

30. The initiative to reduce the Budget deficit would have to focus on expenditure reduction, particularly recurrent expenditures, and on cost recovery measures aimed at

encouraging the public to contribute to the provision of social services.

31. The policy reform programme envisages a fall in the proportion of recurrent expenditures in the total Budget and constant capital expenditure in real terms over the programme period. More emphasis will be put on the financing of works-in-progress except for those new projects considered to be of high national priority. The major areas which are expected to facilitate expenditure reduction and optimal resources allocation include parastatals, education, defence and the size of the bureaucracy.

F.3 Parastatals

32. Government has a legal obligation to meet parastatal losses through annual provisions for subsidies. In the last financial year, subsidies to parastatals, excluding ZISCO, accounted for 6,9% of total recurrent expenditure or 35,4% of the estimated budget deficit. Despite having made a provision of Z\$350 million for these losses, there remained an overhang of Z\$300 million carried forward to the next financial year, 1990/91. The policy reform programme objective on parastatals is to clear parastatals' losses and eliminate subsidies by the end of 1994/95, except only in exceptional cases, where subsidies will be directed towards target groups. In order to facilitate effective measures, Government will clear the present subsidies backlog within the two year period beginning in 1990/91 so that the parastatals losses can be considered on a current year basis. Once the backlog is cleared, parastatal operations can be monitored closely and, in order to improve the operations of parastatals, the following measures will be taken:-

- a) Based on the experience and success of the Task Force on the National Railways, Government will set up similar groups to look at each parastatal well before a crisis looms. Such groups would examine the problems of the parastatals and the rationale for their existence. They will come up with a plan to make the particular parastatal viable by a given target date or modify their functions. Parastatals such as the Cold Storage Commission and Dairy Marketing Board, as well as ZISCO are among those needing urgent examination.
- b) Parastatals will be required to plan their programmes, including projected losses, if any, and have these scrutinized in advance of programme implementation. Within this context, Government will require parastatals to operate on the basis of set targets, which management should work towards achieving.

- c) As part of the exercise to examine the operations of parastatals, the pricing policies of each of the parastatals will be reviewed, with a view to closing the gap between consumer and producer prices, replacing it where necessary by targeted subsidies to the needy.
- d) The process of giving equity to those parastatals which are involved in the marketing of goods and services in a competitive environment was already started and will be expedited. This will enable such parastatals to plan ahead with certainty.
- e) Government will on a selective basis introduce new partners to create joint ventures or offer equity shareholding to new partners. On this basis, Government can take advantage of the management expertise and know-how of the partners in efficiently running the parastatals on business lines.
- f) Government will look into the issue of management incentives, linked to set performance criteria and will also grant a higher degree of autonomy to management of parastatals and clearly spell out the role of the boards versus the respective parent ministries.

F.4 Education

33. Following the introduction of free primary education the numbers of pupils increased from 1 636 million in 1980 to 2 267 million in 1989, while in secondary education the number were 74 966 and 695 612 respectively. As a result, the education budget, as a proportion of recurrent expenditure rose from 14,8% in 1980/81 to an estimated 23,1% in 1989/90. There are two reasons why Government should review the system of financing of education:

- a) Although education represents a long-term investment in human resources, its provision needs to be balanced with investment in immediately productive areas, if the economy is to sustain the costs implied. The trend so far has been for social sectors such as education to grow at the expense of the productive sectors.
- b) There appear to be anomalies in the present system of financing, and the objective of equity is not necessarily met. First, free primary education is available to both rich and poor alike. Secondly, whilst education is supposed to be free, parents of various social groups are called upon to contribute to the building fund either in money or in kind, and they have to pay levies collected by different schools at different levels. It is not always the richest who pay the heaviest levies.

34. Government will take steps to recover costs through the introduction of manageable school fees at primary school level beginning with the 1991 school year. The fees would be differentiated on the basis of a system of school designation and the parent's ability to pay. The level of school levies will then have to be reviewed taking into account the fact that school fees are payable. The Ministry of Education and Culture will be working out the details of how these measures can be implemented.
35. Government will also undertake an exercise to review its assistance to private schools, with a view to obtaining maximum contribution from the community.
36. In the course of time, it is Government's intention to decentralise the system of education, in order to obtain maximum efficiency in its administration.

F.5 Health

37. Government will continue with the present policy of providing free health care for those earning below a specified income level. However, steps will be taken to tighten up the administration of the system so that only those who are eligible can benefit.

F.6 Defence

38. Defence expenditure is affected by the security situation, particularly in the region. Any improvements in the security situation which may take place should assist in reducing the proportion of this item in the Budget.

Meanwhile, Government will make an effort to rationalise Defence expenditure, especially that pertaining to procurement, vehicle repairs, transportation of rations, and personnel at base will be encouraged to engage in productive activities. Action on this has already started and progress so far is encouraging.

F.7 The Size of the Bureaucracy

39. In 1989/90 about 41.4% of recurrent expenditures was in salaries, wages and allowances for civil servants and they numbered 181 402 in 1989 compared with a figure of 62 035 in 1980. It is better to have a small but efficient service. Government has taken a decision to reduce the size of bureaucracy on a phased basis beginning in the current fiscal year.

To facilitate the reduction, the following steps will be taken:-

- a) identification of non-essential services or areas of duplication with a view to rationalising them;
- b) the freezing of non-essential posts as soon as they fall vacant;
- c) examination of the staffing situation in Government departments and Ministries and removal of over-staffing where it exists; and
- d) consideration of incentives for staff to voluntarily leave the service, for example, allowing civil servants to buy service and retire early on full pension. The Ministry of the Public Service in consultation with the Ministry of Finance, Economic Planning and Development will work out the details of this scheme.

F.8 Public Sector Projects Evaluation

40. The cut-back on recurrent expenditures will be accompanied by careful streamlining of capital projects and Government has considered the following:-

- a) the temporary freezing of all new projects so as to clear the backlog of "works-in-progress" except in cases of those projects considered to be of high national priority;
- b) the strengthening of the planning process so as to render more effective the process of project evaluation. In this respect, the National Planning Agency will be given greater authority to approve or reject projects for the Public Sector Investment Programme and to monitor implementation.

F.9 Public Borrowing and Debt Management

41. Government is concerned about the increasing size of the public debt, which has a bearing on recurrent expenditures. During the period of economic reform, Government will set up a special unit to give advice on debt contraction, with reference to interest rates, periods of maturity, exchange rates and related matters. Strict adherence will be placed on the policy to acquire debt only for revenue generating purposes.

G. TRADE LIBERALISATION

G.1 Major Elements of the Programme

42. For the past 25 years Zimbabwe has operated a highly protective system of import control through allocating foreign exchange, surcharges on imports and tariffs.

This strategy permitted the development of import substitution which achieved the desired objectives in those circumstances but is now acknowledged to be in need of reform if efficiency, higher employment and improved living standards are to be achieved.

43. The present inward-looking trade regime has an anti-export bias as high prices are charged in the domestic market when protection from imports prevails, resulting in higher profits coupled with increased costs for exporters compared to their international competitors.

44. The trade liberalisation programme to be implemented during the second half of 1990, will be selective and gradual in approach and phased over a period of five years. This will allow the stronger sectors to benefit from the removal of constraints on their export performance whilst permitting weaker sectors to adapt and new investment to take place as opportunities arise. Inherent in the trade liberalisation programme is the shifting of resources within and between sectors so that resources are used in such a way as to generate the best outcome for Zimbabwe.

45. The trade liberalisation programme will be implemented in two stages. In the first stage of the programme there will be a managed transition from the present system of import controls, essentially through foreign exchange allocation, to a tariff based system. This will mean that during the transition imports will be progressively placed under Open General Import Licence (OGIL) and action initiated to modernise domestic productive capacity, preparing producers for external competition and orientating their activities towards exporting. The second stage will be:-

- (i) to further develop and strengthen an outward looking strategy which encourages exports and investment and allows the economy to operate at a high level of activity; and
- (ii) to further identify constraints and weaknesses in the economy to render it adaptable and competitive.

46. The tariff regime to be put in place will be concerned with providing protection to domestic activities considered to be viable or potentially viable in progressively more open trading conditions. It will allow for a level of protection which is adequate but not excessive, while also allowing

competitive forces to operate to the overall benefit of the economy. The tariff regime which will apply at the outset of trade liberalisation will be settled with regard to GATT rules and other regional and international legally binding commitments by Zimbabwe. A Tariff Commission will be set up to investigate the appropriateness of particular rates of duty and if justified to recommend revisions.

47. The trade liberalisation approach to be pursued will have the following major elements:-

a) The movement of selected input items onto Open General Import Licence over the transition period on a priority basis. The primary criteria for early OGIL for a sector are economic:-

- (i) The present and potential export capacity and ability to compete.
- (ii) The relative attractiveness of the export and domestic markets for producers as indicated by the domestic and export prices differentials.
- (iii) The linkages between sectors in the supply of imports and the direct and indirect employment effects.

The secondary criteria will be the balance of payments implications of alternative phasing of the liberalisation process.

b) The selective transfer of competing goods or outputs onto OGIL on a phased basis so as to safeguard less competitive domestic activities and give them time to adapt to open trading.

c) The continued use of the Export Revolving Fund and the Export Promotion Programmes. The agricultural and mining sectors will continue to have access to the Export Promotion Programmes and the manufacturing sector access to the Export Revolving Fund. Although the majority of the inputs for agriculture and mining will not be placed on early OGIL, adequate foreign exchange to meet current imports for these sectors will be provided. Over time the inputs of these sectors will be progressively put onto OGIL.

d) The introduction of an Export Retention Scheme for the productive sectors of the economy.

e) Direct local market allocations to the industrial and commercial sectors and new entrants. Special allocations will also be set aside:-

- (i) for the needs of sectors with strong linkages

to ensure that bottlenecks in the supply of domestically produced inputs do not disrupt exports; and

- (ii) for increased domestic production to meet local consumption needs particularly of lower income groups.

f) A Capital Sourcing Programme funded by external borrowing to finance the machinery and other capital equipment requirements.

48. The trade liberalisation programme will benefit both producers and consumers alike. Producers will benefit from the increased availability of inputs and greater opportunity to expand and earn a good return on their investment. Despite temporary hardships which may be experienced, consumers will, in time benefit from increased availability of products under more competitive conditions. This will ensure good quality products and lower prices.

G.2 Allocation for Investment

49. A Capital Sourcing Programme to finance the capital and machinery requirements of the economy has been put in place. Government has already negotiated an ADB line of credit (2\$300 million) which will facilitate the rehabilitation of the industrial sector and financial institutions will be signing a US\$130 million credit facility with the IFC for capita requirements of priority projects. Further borrowings will be negotiated to assist the investment needs of the country. Strict criteria will be applied with priority given to projects that increase exports, enhance competitiveness and promote restructuring.
50. Investment in the national infrastructure is necessary to complement productive investment and Government is therefore addressing the needs of the transport telecommunications, power and electricity sectors.

G.3 Export Policies

51. The success of the trade liberalisation programme is critically dependent on the achievement of rapid and sustained growth in exports. It may be worthwhile noting that a flexible exchange rate policy was adopted in December 1982, coupled with the introduction of the Export Incentive Scheme.
52. It is therefore imperative that the thrust of the trade liberalisation programme must be aimed at increasing the attractiveness of earning foreign exchange by removing the bias against exports, which is inherent in the current

protectionist regime. This must be done by giving priority in accessing foreign exchange to the export sectors to strengthen their export performance and to ensure that they obtain inputs at world prices so that they can be competitive internationally.

53. In addition to existing export incentives, Government will introduce an Export Retention Scheme for the productive sectors of the economy, based on actual export earnings. The modus operandi of the new scheme will be announced in due course. Government will also review the operation of the present export bonus scheme, with a view to rendering it more attractive to exporters. A decision to set up the National Export Agency has been taken by the Government. The Agency will be responsible for export promotion activities, including the training of manpower to spearhead these activities.
54. Government has accepted the concept of Export Processing Zones and/or Free Trade Zones, which facilitate incentives for priority sectors, such as those producing for export. The concept will be concretised during the course of the year and appropriate incentives introduced.

G.4 Financing Trade Liberalisation

55. The trade liberalisation programme will be funded by export earnings, new foreign investment or reinvestment of funds and external borrowed funds. Every effort will be made to maximise export growth and to encourage new investment or reinvestment so that reliance on borrowed funds, which have to be repaid, is minimised. Borrowed funds will be used for productive investment to permit the generation of export earnings to fund repayments in future years. The macro-economic measures being implemented, including demand management and appropriate exchange rate policies, have a key role to play in balancing the demand for foreign exchange with the present and future export capability of the economy. Export incentives will also play a key part in maximizing the realisation of export potential.

G.5 Managing Trade Liberalisation

56. The trade liberalisation programme will need to be actively managed for its successful implementation. Public representatives, economic agents, employers and workers, public officials and the general public must be made aware of the challenges and opportunities that trade liberalisation presents for Zimbabwe. A partnership between Government and economic agents in agriculture, mining, industry and other sectors must be established based on mutual trust and understanding so that the aims of the

programme will be understood and accepted and made to succeed.

57. Management of the programme will include monitoring and analysing its economic and social impact. Such monitoring will indicate where the programme should be adapted and what measures are taken to make sure that its benefits flow throughout the economy.

H. ECONOMIC REGULATIONS

58. While economic regulations have their advantages, these should be weighed against the costs incurred in enforcing them and other possible economic gains which the country has to forego as a result of such controls. With trade liberalisation and general structural adjustment programmes in place, Government has seen this to be the opportune time to do away with most of the economic regulations by allowing market forces to operate in directing the pace and course of economic activities in Zimbabwe.
59. In this respect, Government has already embarked upon a price decontrol exercise which has already seen many commodities removed from the price control list. However, it should be pointed out that the prices of basic food stuffs will remain under control in order to provide protection for vulnerable groups in society or to avoid monopolistic pricing. These controls will be reviewed from time to time as measures to alleviate the plight of the vulnerable groups are being implemented. Price decontrol means that firms will be able to give price signals which adequately reflect the cost of production giving a reasonable rate of return on investment and prices which are in line with the efficient operation of the firm.
60. The other area where decontrol is taking place is the area of wage and salary determination and the employment regulations. Following the aspiration of growth with equity and the protection of the worker from exploitation and unfair retrenchment, Government introduced regulations on minimum wages and withdrew the employer's right to fire.
61. In 1989, Government started moving away from Statutory wage increments to collective bargaining which takes into account the firm's ability to pay. However, this was done within set parameters. In 1990 the parameters were reduced further, such that collective bargaining is now a permanent feature in wage and salary increments negotiations. On the issue of hiring and firing, Government is going to streamline the procedures so as to reduce the time lag between the time an employer applies to retrench and when the responsible Minister grants permission to fire. Both the employers and workers representatives are being consulted on this issue.

62. In addition to reviewing price and income controls, Government will be studying other controls in the economy, with a view to introducing flexibility in areas where these controls act as constraints on investment.

I. INVESTMENT PROMOTION AND INCENTIVES

63. In order to achieve the target of 5% annual growth rate it will be necessary for the investment rate to increase to at least 20% of GDP from its current level of 14,3% in nominal terms. This requires a large amount of resources both in terms of local savings as well as foreign capital inflows. Government has embarked on an exercise to promote investment. The new thrust is reflected in the document published in April 1989: "THE PROMOTION OF INVESTMENT: POLICIES AND REGULATIONS." The new policy initiatives reflect a number of changes which are aimed at mobilising and encouraging both local and foreign investors. The publication of the policy document was also complemented by the publication of the Investment Register, which is an indicative outline of priority projects from which investors can choose.
64. Since the establishment of the Zimbabwe Investment Centre (ZIC) in mid-1989, progress has been encouraging, with a total of \$600 million worth of projects approved by the Centre to date. Government is in the process of defining legally the status of ZIC and strengthening it in terms of personnel and the process of investment approval so that investment projects approval can be expedited.
65. To reassure investors on the protection of investment in Zimbabwe, Government signed, in September, 1989, the World Bank's Multi-lateral Investment Guarantee Agency Convention, and in June, 1990 signed the US's Overseas Private Investment Corporation (OPIC) Agreement. The necessary arrangements are being made to sign the convention of the International Centre for Settlement of Investment Disputes. In addition, negotiations are underway with a number of countries with a view to entering into bilateral investment protection agreements. In some cases, these agreements also protect Zimbabwean investments in those countries. Further more, double taxation agreements have been signed with a number of countries and a few more are being negotiated.
66. Investment incentives have also been introduced through flexibility in exchange control regulations, with regard to dividend remittances, limitation on foreign owned companies and the use of blocked and surplus funds for investment.
67. Government is currently examining further incentives intended to introduce flexibility with regard to exchange

control regulations, and further fiscal and financial incentives in the context of export processing zones and the encouragement of investment into growth points and rural areas.

68. Government in its exchange control policy is cognisant of the importance any investor attaches to the flow of income in an investment decision. In this regard the foreign investor must be entitled to the remittance of net after tax profits without hindrance. However, the balance of payments situation has forced Government to reduce in recent years the level of dividend remittability for some of the old investments. The affected investments are those made prior to 1st September 1979. As a temporary measure, dividend and branch and partnership profits for these investments were lowered to 25% of net after tax profits in May, 1987 as a result of severe balance of payments problems experienced at the time.
69. Investments and profits made in Zimbabwe from external sources post 1st September, 1979 have not been affected by the 1987 exchange control change; and thus continue to be allowed dividend and profit remittability equivalent to at least 50% of net after tax profits.
70. It must be emphasised that the apparent discrimination of investments was introduced in the main, as a result of severe constraints on the country's balance of payments situation. Failure to take measures such as this one at the time would have implied a further deterioration in our ability to meet external obligations including satisfying, in some modest degree, the requirements of the economy.
71. This move has no influence of any ideological nature but rather one which had to be initiated in order to address the prevailing economic situation. Once the balance of payments situation improves this regulation will be reviewed with a view to according all investments from external sources equal opportunities particularly on the dividend and branch and partnership profits remittability levels without regard to the age of that investment.

J. SOCIAL ASPECTS OF ADJUSTMENT

72. Structural adjustment programmes are usually accompanied by social problems, especially to the vulnerable segments of the society such as the poor, and unemployed. With market forces determining price levels, in the short term prices are bound to increase beyond the reach of the poor and this can lead to social unrest. Government will therefore take measures to cushion the poor against such possible adjustment effects.
73. It is important that measures to reduce unemployment are

introduced and that small investors are given incentives to expand and take on new employees. There will be need to examine and promote the activities of the informal sector which equally has a potential of creating employment. It is certain that the unemployed will be the most affected hence more effort is required to create more employment during the programme period.

74. With reduced subsidies and a relaxation of the prices of parastatal output and services, price increases are expected and these will affect mostly the poor. There is need for targeted subsidies to be introduced to alleviate the hardships affecting the vulnerable groups. For the general public to appreciate the problem that might beset them, Government will devise an information system consisting of simplified literature, radio and television programmes, press reports as well as suitable public lectures to educate the people on the programme.

K. THE FINANCIAL SECTOR

75. One of the major pre-requisites to the successful implementation of the macro-adjustment programme and trade liberalisation will be a sound monetary policy that inflation is controlled but at the same time being promotive of exports, investment, employment.

K.1 Strengths and Weaknesses of the Financial System

76. The Zimbabwe Financial system, compared to a number of countries at a similar level of development, has a number of strong characteristics:-

- a) firstly, the institutional framework of the Zimbabwe financial system is quite broad, and sound, with diverse and well-established specialist institutions providing a wide range of financial services to borrowers and savers.
- b) second, the financial system has commercial, merchant banks and others, and is highly profitable by international standards.
- c) third, despite the substantial fiscal deficits experienced since independence, it has been possible to successfully finance government expenditures from non-bank sources (i.e. insurance companies and pension funds), thereby avoiding crowding out the private sector of domestic resources.

77. Despite the given strengths of Zimbabwe's financial system, a number of inherent weaknesses have been identified, including:

- a) first, the financial system has operated under a corset of controls for so long that the system has left little room for imagination and innovation and therefore limited competition among the market participants to the detriment of both savers and borrowers.
- b) second, because of the tight controls on the operations of these institutions and the resultant captive market it has bred, the market has remained complacent and inactive.
- c) third, due to Government's adopted policy of limiting entry by newcomers into the financial sector, the existing financial institutions have enjoyed cosy protection from the rough wind of more aggressive international market players. Hence their ability to generate substantial profits.
- d) fourth, the current lending policies of banking and financial institutions strongly favours established businesses and entrepreneurs whilst being somewhat biased against small and aspiring entrepreneurs and the rural sector.
- e) fifth, the capital market, e.g. the Stock Exchange, has not been used as an active vehicle for the redistribution and broadening of the ownership of the productive base of the economy. This leads to a greater concentration of wealth in fewer individuals while the majority remain excluded.

K.2 Monetary Policy Stance

78. Price stability will always remain one of the central objectives of Monetary Policy. In this respect, Monetary policy will be geared towards fighting inflation particularly from excessive money growth from whatever source.

For this purpose an array of instruments both traditional and non-traditional will be employed to achieve these goals. These will include:-

a) Interest Rates

An interest rate policy adequate enough for efficient mobilisation of savings, attractive enough to offer positive returns to savers and realistic enough to promote investment has been designed. Interest rates will however, continue to be managed in such a manner as to achieve the above and in the same vein, active enough to achieve some degree of optimality in resource allocation.

b) Credit

Banks will continue to be persuaded through various means to display a national character in their allocation of credit without of course compromising prudence and sound banking practices. The latter, however, should not be equated to risk aversion and avoidance but directed to ensure greater risk management and aggressiveness. The allocation of credit should be profit based, rather than sectarian. To improve accessibility to credit, collateral requirements are to be reviewed.

As far as credit controls are concerned, they will be relaxed enough to encourage productive borrowing while at the same time remaining strict enough to dampen any potential inflationary pressures. The relaxations and restrictions will manifest themselves in interest rates where applicable, downpayment requirements and effective credit periods. The details pertaining to these policy dictates shall shortly be announced.

In this respect, therefore, Government will maintain greater co-operation and consistency between the fiscal and monetary aggregates.

K.3 Institutional Arrangements

79. While commending efforts so far expended by the financial sector, there is still, however, greater need for more flexibility and adaptability to change. In this respect the high level of concentration of financial and banking activities in the major cities should be complemented by a countrywide provision of such services through a rural or growth point bank branch network. This branch network would not only be used effectively as points for deposits but would be used effectively as instruments of development through provision of loan facilities, particularly for productive purposes.

80. To encourage savings mobilisation, quality service and competition, Government has approved new entry into the financial sector, by other banking institutions, both local and foreign. There will be set guidelines for the determination of entry by local entrepreneurs, while for foreign banking institutions, there will be need on the part of the foreign banks to demonstrate how Zimbabwe will benefit from their entry. In other words entry will be targeted. The initiative will come from the banks or at invitation by Government.

K.4 Stock Exchange

81. Traditional methods of investment financing alone can no

longer be considered adequate. In this respect, the active use of the stock exchange as a medium for raising investment funds is envisaged. Deliberate policy measures will be taken shortly to increase availability of attractive scrip on the market. Further fiscal incentives to encourage companies to go public and the public to hold shares on and through the Stock Exchange are being considered.

It should however, be stressed at this point that developments stated above should be viewed as consistent elements of broader objectives of capital market development.

K.5 Investment by Small Scale Entrepreneurs

82. There is a perceived large gap for long term financing needs of small to medium scale enterprises and it is recognised that the existing financial institutions may not change their lending attitudes sufficiently enough to address the special needs of start-up businesses. To redress this problem a study on the feasibility of setting up a venture capital company in Zimbabwe has been completed and its conclusions are very positive and its implementation not far off. It is envisaged that a public announcement on this institution will be made soon. The venture capital company will be in addition to facilities already in place (i.e. the Zimbabwe Development Bank Fund and the Small Enterprises Development Corporation).

L. FINANCING THE STRUCTURAL ADJUSTMENT PROGRAMME

83. Government, on an informal basis, kept potential donors informed about its approach to economic reform. A formal approach will soon be made to various donors, who will be presented with the total package of reforms, and details of the financing requirements of the programme. Funding arising from these approaches will be additional to facilities already granted by the African Development Bank and the International Finance Corporation.

SOUTH AFRICA - THE NEGOTIATION PROCESS

TEXT OF THE GROOTE SCHUUR MINUTE

CAPE TOWN - 4 MAY 1990

The Government and the ANC agree on a common commitment towards the resolution of the existing climate of violence and intimidation from whatever quarter as well as a commitment to stability and to a peaceful process of negotiations. Flowing from this commitment, the following was agreed upon:

1. The establishment of a working group to make recommendations on a definition of political offences in the South African situation; to discuss, in this regard, time scales; and to advise on norms and mechanisms for dealing with the release of political prisoners and the granting of immunity in respect of political offences to those inside and outside South Africa. All persons who may be affected will be considered. The working group will bear in mind experiences in Namibia and elsewhere. The working group will aim to complete its work before 21st May 1990. It is understood that the South African Government in its discretion, may consult other political parties and movements and other relevant bodies. The proceedings of the working group will be confidential. In the meantime the following offences will receive attention immediately:
 - a) The leaving of the country without a valid travel document.
 - b) Any offences related merely to organisations which were previously prohibited.
2. In addition to the arrangements mentioned in paragraph 1 temporary immunity from prosecution for political offences committed before today, will be considered on an urgent basis for members of the National Executive Committee and selected other members of the ANC from outside the country, to enable them to return and help with the establishment and management of political activities, to assist in bringing violence to an end and to take part in peaceful political negotiations.
3. The Government undertakes to review existing security legislation to bring it into line with the new dynamic situation developing in South Africa in order to ensure normal and free political activities.
4. The Government reiterates its commitment to work towards the lifting of the state of emergency. In this context

the ANC will exert itself to fulfill the objectives contained in the preamble.

5. Efficient channels of communication between the Government and the ANC will be established in order to curb violence and intimidation from whatever quarter effectively.

The Government and the ANC agree that the objectives contained in this minute should be achieved as early as possible.

Groote Schuur
4 May 1990

SOUTH AFRICA - THE NEGOTIATION PROCESS

THE PRETORIA MINUTE

The Government and the ANC have held discussions at the Presidency, Pretoria today, August 6, 1990.

1. The Government and the ANC have again committed themselves to the Groote Schuur Minute.
2. The final report of the Working Group on political offences dated 21 May 1990, as amended, was accepted by both parties. The guidelines to be formulated in terms of the Report will be applied in a phased manner. The Report makes provision for the formulation of guidelines which will be applied in dealing with members of all organisations, groupings, or institutions, governmental or otherwise, who committed offences on the assumption that a particular cause was being served or opposed. The meeting has instructed the Working Group to draw up a plan for the release of ANC-related prisoners and the granting of indemnity to people in a phased manner and to report before the end of August.

The following target dates have in the meantime been agreed upon:

- * The body or bodies referred to in paragraph 8.2 of the Report of the Working Group will be constituted by 31 August 1990.
- * The further release of prisoners which can be dealt with administratively will start on 1 September 1990.
- * Indemnity which can be dealt with in categories of persons and not on an individual basis will be granted from 1 October 1990. This process will be completed not later than the end of 1990.
- * In all cases where the body or bodies to be constituted according to paragraph 8.2 of the Report of the Working Group will have to consider cases on an individual basis, the process will be completed within six months, but the latest date envisaged for the completion of the total task in terms of the Report of the Working Group is not later than 30 April 1991.

This programme will be implemented on the basis of the Report of the Working Group.

3. In the interest of moving as speedily as possible towards a negotiated peaceful political settlement and in the

context of the agreements reached, the ANC announced that it was now suspending all armed actions with immediate effect. As a result of this, no further armed actions and related activities by the ANC and its military wing Umkhonto we Sizwe will take place.

It was agreed that a working group will be established to resolve all outstanding questions arising out of this decision to report by 15 September 1990. Both sides once more committed themselves to do everything in their power to bring about a peaceful solution as quickly as possible.

4. Both delegations expressed serious concern about the general level of violence, intimidation and unrest in the country, especially Natal. They agreed that in the context of the common search for peace and stability, it was vital that understanding should grow among all sections of the South African population that problems can and should be solved through negotiations. Both parties committed themselves to undertake steps and measures to promote and expedite the normalisation and stabilisation of the situation in line with the spirit of mutual trust obtaining among the leaders involved.
5. With due cognisance of the interest, role and involvement of other parties the delegations consider it necessary that whatever additional mechanisms of communication are needed should be developed at local, regional and national levels. This should enable public grievances to be addressed peacefully and in good time, avoiding conflict.
6. The Government has undertaken to consider the lifting of the State of Emergency in Natal as early as possible in the light of positive consequences that should result from this accord.
7. In view of the new circumstances now emerging there will be an ongoing review of security legislation. The Government will give immediate consideration to repealing all provisions of the Internal Security Act that:
 - (a) refer to communism or the furthering thereof;
 - (b) provide for a consolidated list;
 - (c) provide for a prohibition on the publication of statements or writings of certain persons; and

- (d) provide for an amount to be deposited before a newspaper may be registered.

The Government will continue reviewing security legislation and its application in order to ensure free political activity and with the view to introducing amending legislation at the next session of Parliament. The Minister of Justice will issue a statement in this regard, *inter alia* calling for comments and proposals.

8. We are convinced that what we have agreed upon today can become a milestone on the road to true peace and prosperity for our country. In this we do not pretend to be the only parties involved in the process of shaping the new South Africa. We know there are other parties committed to peaceful progress. All of us can henceforth walk that road in consultation and co-operation with each other. We call upon all those who have not yet committed themselves to peaceful negotiations to do so now.
9. Against this background, the way is now open to proceed towards negotiations on a new constitution. Exploratory talks in this regard will be held before the next meeting which will be held soon.

Pretoria
6 August 1990

Publications of the South African Institute of International Affairs

Occasional Papers/Geleentheidspublikasies

Issued on an irregular basis, and containing the text of addresses at Institute meetings or original articles. Price per copy: R7,50 (plus postage).

Latest titles are:

Susan Strange: *Europe 1992: Some Personal Observations*.

Conrad B. Strauss: *South Africa in a Southern African Context*.

O. Dhlomo & F.A. Sonn: *Perspectives on Negotiations and Reconciliation – Two Views on the Process*.

International Affairs Bulletin

Three issues per year and supplied free of charge to members. 1990 subscription rate R21,00 per annum South Africa; R31 overseas (surface mail), R50 overseas airmail). Price per copy R8 (plus postage).

Vol. 14–No. 2 is devoted entirely to articles on the changing face of international relations and also its implications for South Africa. Contributors include Pat McGowan, Robert Schrire and Peter Vale.

Bibliographical Series/Bibliografiesereeks

No. 18. *South African Sanctions Directory, 1946-1988: Actions by Governments, Banks, Churches, Trade Unions, Universities, International and Regional Organizations*. Compiled by Elna Schoeman. R50,00 plus postage.

No. 19. *South Africa's Intra-Regional Security: The Military and Intelligence Dimensions, 1961-1988*. Compiled by Marie C. Hersch. R55,00 plus postage.

No. 20. *Economic Interdependence in Southern Africa, 1961-1989*. A Select and Annotated Bibliography compiled by Elna Schoeman. R60,00 plus postage.

Bradlow Series

No. 6. Delays are still being experienced at source. The topic related broadly to South Africa's changing international economic relationships.

Southern African Issues

Alan Whiteside on *Labour Migration*. R15,00 plus postage.

Tom Kennedy on *Transport in Southern Africa*. R30,00 plus postage.

The United Nations and Southern Africa Series

No. 1. *The Apartheid Issue at the Security Council*, by Newell M. Stultz, September 1989. R25,00 plus postage.

What Do We Think? No. 5

The fifth report on White South Africa's foreign policy views. Analysed by André du Pisani. R15,00 plus postage.