



# ANC Whip

The bi-weekly newsletter of the ANC Caucus

08 Sept 06

## Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Bill

### Background

SINCE 1994 certain ex members of the apartheid state apparatus, namely, the army, police, intelligence and private security industry have regrouped in pursuit of private profits.

Some of these people, who possess huge financial and military resources as well as knowledge and expertise in armed conflict, get involved in mercenary activities.

As a consequence, the Regulation of Foreign Military Assistance Act, No 15 of 1998 was enacted. However, despite the Act having been in operation for the past eight years, levels of prosecutions regarding such offences have not improved.

It is believed that most cases with successful convictions are those where there was a plea bargaining process between the state and the defence/accused.

In this regard the recent arrest of a number of South Africans, involved in a planned coup d'état directed at the Government of Equatorial Guinea, confirms that mercenary activities are taken from within the borders of the Republic.

There seem to be an ongoing recruitment of South Africans by the 'private military companies from outside the Republic in order to provide military and security services in areas of armed conflict such as Middle East/ Iraq, DRC, etc.

As revealed by the low levels of prosecutions and convictions within the ambit of the Regulation of Foreign Military Assistance Act, 15 of 1998, it appears that the Act is not able to prevent such activities.

It is in this background that the Act has to be repealed and be replaced with the Prohibition of Mercenary Activities Regulation of Certain Activities in Country of Armed Conflict Bill.

### Key underlying issues

◆ The Bill prevents mercenary activity at the same time it conveys South Africa's commitment to meet international obligations. Key to this idea is the entrenchment of reasoning premised on the Bill of Rights.

◆ To regulate the recruitment of South African citizens and permanent residents in other armed forces and to regulate the provision of military related services.

The authorization to recruit in armed forces other than the defence Force may be revoked in certain circumstances.

◆ It is important to note that the Bill entrenches relations along the guidelines of international law particularly humanitarian law. It perceives this process in line with the security services as contemplated in section 199 of the constitution.

◆ It appears that the extraterritorial jurisdiction in respect to citizens or in the event of committed crime outside the borders of the Republic could be promoted.

This relate with prosecution of the reprehensible behaviour and punishment proportionate to the seriousness of offences.

◆ More importantly the Act seeks to empower the President to proclaim a country in line with regulations.

◆ In circumstances of armed conflict there could be provision of humanitarian aid.

### **Political implications**

In line with the ANC 51<sup>st</sup> conference resolutions the Bill seeks to protect the sovereignty and the territorial integrity of South Africa, humanitarian assistance among countries of the world. It entrenches a culture of co-operation and the right to self determination and sovereignty of each nation without undue interference or invasion.

The involvement of South African citizens in country of armed conflict should be within the framework of this Bill. This Bill has a

fundamental basis to build progressive relationships with other countries as it seeks to combat mercenary activities. Indeed, it has a political significance in creating conditions for internal progressive forces to carry their struggles without mercenary involvement that is about private gains. It is noticeable that the Bill seeks to promote a peaceful and political stability in order to ensure that the rule of law and economic development permeates among countries for the welfare of their citizens.



# **2010 FIFA World Cup South Africa Measures Bill**

### **Historical Background**

THE FOCUS OF THE BILL IS ON the guarantees issued by Government to FIFA for the hosting and staging of the 2010 FIFA World Cup. The Bill gives effect to measures that have to be put in place for the organizing of the 2010 FIFA World Cup. These include granting FIFA the right to protect itself from 'ambush marketing', as FIFA itself would have to designate sponsors that would run the tournament and these sponsors would have to be protected from those who for economic reasons would want to opportunistically extract financial gain from the event without financially contributing towards it. The responsibilities that each department will need to undertake to ensure the success of the event are also outlined.

### **Objectives of the Bill**

The Bill empowers the Minister of Sports and Recreation to declare certain stadiums and venues to host matches under the auspices of the 2010 FIFA World Cup. That the only flags and National Anthem that will be flown and played are those that are recognized internationally and agreed upon by the respective participating country. The facilitation of visas, work permits, visitor's permits and business permits by

the Department of Home Affairs to persons coming to the 2010 FIFA World Cup are also contained in the Bill. Access control measures and the designation of traffic-zones at stadiums are part of the Bill in so far that they provide for the promulgation of regulations by Minister of Sports and Recreation and the Minister of Safety and a Security.

### **Content of the Bill**

"The Minister of Sports & Recreation upon written confirmation by the Local Organizing Committee (LOC) recognizes the venues and stadiums that have been selected and identified for matches.

"No person may prevent the playing of the National Anthem of any country and the flying of the National Flag of any country represented by a team during a match and that any person that does so may be prosecuted.

"Visas must be granted in accordance with the parameters of the Department of Home Affairs and should anyone need more time to do work that is related to the event, that person be granted a visa that will not exceed six months.

"No person may enter a designated area unless he or she is in possession of an accreditation card allowing him or her to enter and be in that area.

◆ No person may drive a vehicle into or be in a traffic-free zone or park such a vehicle

unless a prescribed notice authorizing the presence of the vehicle in that zone is displayed.

"Search and seizure has been granted to the police officers for them to break into a car or container parked in the traffic-free zone.

#### **Political implications**

This bill provides a legal framework for the 2010 FIFA World Cup.

Through this Bill, Government affirms that South Africa is serious about fulfilling its commitments to FIFA .



## **Second 2010 FIFA World Cup South Africa Special Measures Bill**

#### **Background and objectives**

THE HOSTING AND STAGING of FIFA 2010 World Cup in South Africa requires the country to provide a range of guarantees to host a successful World Cup. These guarantees follow the submission of an economic and social impact assessment report to government.

This assessment report precedes any consideration of support for the 2010 bid. The report includes a diverse range of stakeholders.

"When the FIFA Executive resolved that South Africa should host the 2010 World Cup, it took into consideration the country's logistical and financial capacity to discharge this obligation.

Moreover, it sought to place the decision that Africa must host the next World Cup within the context of the African Renaissance.

"The African National Congress led government has since the dawn of democracy in 1994, created the basis for the confidence the world is showing in us. In hosting this world event the government to ensure that 2010 will economically contribute, in part, to realizing the strategic objectives of the developmental state.

#### **Content of the Bill**

##### *Clause 2*

"Department of Trade and Industry to designate 2010 FIFA World Cup as a

protected event in terms of the Merchandise Marks Act, 1941 Section 15 A.

##### *Clause 3*

"Empowers the Minister of Health to provide guarantees and accredit, after consultation with the relevant statutory health council, for the approval of the importation of medicines. The full names of accredited members, country of origin, the rendering of health services and other conditions necessary are also stipulated in the Bill.

##### *Clause 4*

"Seeks to determine the timelines for any foreign medical contingent to render medical services.

##### *Clause 5*

◆ Ensures that all medicines and medical equipment used by foreign medical contingents are in line with the health legislation of our country and prohibitions connected thereto.

##### *Clause 6*

◆ Provides for the Minister of Sports & Recreation, in consultation with the Minister of Health and/or Trade and Industry, to make regulations regarding any matters pertaining to the event, provided that it is published in the Government Gazette and is subject to written comment by interested persons in submission to Parliament.

# National Sport and Recreation Amendment Bill

## Background

This Bill seeks to amend the National Sport and Recreation Act of 1998 (Act No. 110 of 1998) so as to delete, insert or amend certain definitions and to substitute the South African Sports Confederation and Olympic Committee (SASCOC) for the Sports Commission wherever it appears in the Act. Secondly given the many challenges that have arisen during the process of transformation in the field of Sports and Recreation, the need had arisen to give the Minister powers to deal with these transformative challenges. In addition administrative disfunctioning has lead to a poor image being created of respective Federations and sports bodies and the need arose for corrective measures.

## Objectives

The Bill makes provision for the Minister, at his discretion, powers to intervene in disputes, alleged mismanagement, issue directives where necessary, and save for matters relating to selection of teams, and issue guidelines for transformation. This Bill also seeks to empower the Minister to issue guidelines or policies to promote the values of equity, representivity and broadly transformation in sport.

The Bill provides for all sports bodies to submit annual reports to the Minister on transformation issues and good governance.

The Bill makes provision for a service level agreement to be entered into between the Department and SASCOC, in order to create a legal relationship between the two.

The Bill gives the Minister powers to develop regulations after consultation with SASCOC, with regards to programmes, training, provision of resources and support services, funding of sport and recreation, etc. and matters related to the Act(as amended).

## Content

On training of sport and recreation leaders SASCOC may, in order to address the education and training

needs in sport and recreation provide support in organizing training workshops and courses and seminars to empower the sport and recreation leaders.

Further they can take steps to ensure that the training material is standardized in compliance with the unit standards as developed by the Standard Generating Bodies for Sport, Recreation and Fitness.

A party that is aggrieved may lodge a dispute to SASCOC and in cases of mismanagement the Minister may intervene and refer the matter to mediation.

If needs be, the Minister may issue a directive upon giving a written notice to the parties on allegations leveled against them. Details on the membership statistics of sports bodies have to be submitted annually.

## Political Implications

This Bill seeks to advance the transformation agenda of the African National Congress, in so far that it creates a conducive environment that opens up sports and recreation benefits to all South Africans.

It promotes equity and democracy in sport and recreation, designed to do away with notions and restrictive practices.

This Bill seeks to provide for measures aimed at correcting imbalances in sport and recreation.

The eventual Act will operate in tandem with Transformation Charters.

---

*ANC Whip is a bi-monthly newsletter of the ANC Parliamentary Caucus that publishes a synopsis of the ANC work in Parliament. It is issued fortnightly while Parliament is in session by the Media & Communications and the Research Units in the Office of the Chief Whip. Contact the Media Unit @ 021 403 2758*