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LETTER DATED 1 SEPTEMBER 1977 FROM THE PERMANENT REPRESENTATIVE OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO THE UNITED
NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour, on instructions from Her Majesty's Secretary of State for Foreign and Commonwealth Affairs, to communicate to Your Excellency certain proposals for the restoration of legality in Rhodesia and the settlement of the Rhodesia problem. These proposals, which are set out in the enclosure to this letter, have been drawn up by the Government of the United Kingdom with the full agreement of the Government of the United States of America and after consulting all the parties concerned. I have the honour to request Your Excellency to cause this letter, with its enclosure, to be circulated as a document of the Security Council.

(Signed) Ivor RICHARD

Enclosure

R H O D E S I A
PROPOSALS FOR A SETTLEMENT

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RHCDESIA

PROPOSALS FOR A SETTLEMENT

Foreword

The British Government, with the full agreement of the United States Government and after consulting all the parties concerned, have drawn up certain proposals for the restoration of legality in Rhodesia and the settlement of the Rhodesian problem. These proposals are based on the following elements:

1. The surrender of power by the illegal regime and a return to legality.
2. An orderly and peaceful transition to independence in the course of 1978.
3. Free and impartial elections on the basis of universal adult suffrage.
4. The establishment by the British Government of a transitional administration, with the task of conducting the elections for an independent government.
5. A United Nations presence, including a United Nations force, during the transition period.
6. An Independence Constitution providing for a democratically elected government, the abolition of discrimination, the protection of individual human rights and the independence of the judiciary.
7. A Development Fund to revive the economy of the country which the United Kingdom and the United States view as predicated upon the implementation of the settlement as a whole.

A full account of the proposals is attached. The first of the Annexes to the proposals outlines the principal points of the proposed Independence Constitution; the second Annex deals with the constitutional arrangements during the transition period; and the third Annex relates to the Development Fund. The precise provisions of the Independence Constitution will have to be elaborated in further detailed discussions with the parties and in due course will be considered at a Constitutional Conference to be held during the transition period.

It is impossible at this stage to lay down an exact timetable: but it is the intention of the British Government that elections should be held, and that Rhodesia should become independent as Zimbabwe, not later than six months after the return to legality. To achieve this it will be necessary to proceed as quickly as possible after the return to legality to the registration of voters, the delimitation of constituencies, the detailed drafting of the Constitution and its enactment under the authority of the British Parliament.

PROPOSALS FOR A SETTLEMENT IN RHODESIA

1. On 10 March 1977 the British and United States Governments agreed to work together on a joint peace initiative to achieve a negotiated settlement in Rhodesia. The objective was an independent Zimbabwe with majority rule in 1978.

2. To succeed, any settlement must command the support of those people of goodwill of all races and creeds who intend to live together in peace as citizens of Zimbabwe. Amongst these people there are now many conflicting interests and views. There is an atmosphere of deep distrust. The armed struggle has led to the loss of many lives and to much human suffering. The economy has been gravely weakened. But there is surely one overriding common interest, that peace should be restored and that government with the consent and in the interest of all the people should be established.

3. In April the British Foreign and Commonwealth Secretary, Dr. Owen, toured the area and met all the parties to the problem as well as the Presidents of the five Front-Line States, the Prime Minister of South Africa and the Commissioner for External Affairs of Nigeria. He set out the elements which, taken together, could in the view of the two Governments comprise a negotiated settlement, as follows:

(a) A Constitution for an independent Zimbabwe which would provide for -

- (1) a democratically elected government, with the widest possible franchise;
- (2) a Bill of Rights to protect individual human rights on the basis of the Universal Declaration of Human Rights. The Bill would be "entrenched" so that amendment of it would be made subject to special legislative procedures and it would give the right to an individual who believed his rights were being infringed to seek redress through the courts;
- (3) an independent judiciary.

(b) A transition period covering the surrender of power by the present regime, the installation of a neutral caretaker administration whose primary role, in addition to administering the country, would be the organisation and conduct of elections in conditions of peace and security and the preparation of the country for the transition to independence. This period, it was envisaged, would be as short as possible, and in any case not more than six months.

(c) The establishment of an internationally constituted and managed development fund (the Zimbabwe Development Fund).

4. Following that tour, Dr. Owen and the United States Secretary of State, Mr. Vance, met in London on 6 May and agreed to carry forward their consultations with the parties on the basis of these proposals. To this end they established

a joint consultative group. This group met all the parties on a number of occasions in London and in Africa and carried out detailed technical discussions with them. In parallel, the Governments of interested countries have been kept informed generally of the progress of the consultations.

5. On the basis of these consultations the British Government in full agreement with the United States Government, have now decided to put firm proposals forward, covering the three aspects of the problem described in paragraph 3 above. In doing so they emphasize that the three aspects are intimately linked and must be judged as a whole. It is impossible for every single aspect of a settlement to be acceptable to everyone. The best, if not the only hope for a settlement is a balanced and fair package in which, though no one may achieve all their aims, everyone can see hope for the future.

The Constitution

6. It is proposed that the Independence Constitution should provide that Zimbabwe would be a sovereign republic. Provision would be made for democratic elections on the basis of one man, one vote and one woman, one vote, for a single-chamber National Assembly. Elections would be on the basis of single-member constituencies. Detailed constitutional proposals are set out at Annex A. The proposals should not necessarily be taken as excluding alternative possibilities in certain areas which do not go to the heart of the Constitution: e.g., provision is made for an executive President with a Vice-President, but there might instead be a constitutional President and a Prime Minister, in which case many of the powers which it is proposed to vest in the President would be vested in the Prime Minister or would be exercised by the President on the advice of the Prime Minister.

7. Discrimination would be forbidden by a Bill of Rights protecting the rights of individuals. As described above (para. 3(a)(2)), this Bill of Rights would be entrenched in the Constitution and would be justifiable so that aggrieved individuals could enforce their rights through the courts. The Bill of Rights would permit the Government of Zimbabwe to introduce measures of land reform while guaranteeing the right to private property. The Constitution would also establish an independent judiciary and an independent Public Service Commission to ensure an efficient and non-political civil service.

8. The Government of Zimbabwe would inherit the assets and debts of the Government of Southern Rhodesia and would take over past and present pensions obligations in the public sector, the rights of the pensioners being guaranteed by the Constitution. The Constitution would contain the basic provisions regulating Zimbabwe citizenship and these would be entrenched. The question whether there should be any restrictions on the possession of dual citizenship and, if so, whether there should be an extended period during which the choice would have to be made, would be a matter for further discussion with the parties.

9. The Commonwealth Governments in London expressed the unanimous hope that Zimbabwe would soon become a member of the Commonwealth. The British Government will do everything to facilitate this.

The Transition

10. It is a basic premise of the British and United States Governments that the present illegal régime will surrender power so that the transitional administration may be installed peacefully. The two Governments will take such steps as seem to them appropriate to secure the transfer of power by Mr. Smith (or his successor) on a day to be agreed.

11. The British Government will place before the Security Council their proposal for the Independence Constitution (Annex A) and also their proposal for the administration of the territory of Rhodesia during the transition period leading up to independence. The latter will comprise the following elements:

- (a) The appointment by the British Government, either under existing statutory powers or under new powers enacted for the purpose, of a Resident Commissioner and a Deputy. The role of the Resident Commissioner will be to administer the country, to organise and conduct the general election which, within a period not exceeding six months, will lead to independence for Zimbabwe, and to take command, as Commander-in-Chief, of all armed forces in Rhodesia, apart from the United Nations Zimbabwe Force (see below).
- (b) The appointment by the Secretary-General of the United Nations on the authority of the Security Council, of a Special Representative whose role will be to work with the Resident Commissioner and to observe that the administration of the country and the organisation and conduct of the elections are fair and impartial.
- (c) The establishment by resolution of the Security Council of a United Nations Zimbabwe Force whose role may include:
 - (1) the supervision of the cease-fire (see below);
 - (2) support for the civil power;
 - (3) liaison with the existing Rhodesian armed forces and with the forces of the Liberation Armies.

The Secretary-General will be invited to appoint a representative to enter into discussions before the transition period with the British Resident Commissioner designate and with all the parties with a view to establishing in detail the respective roles of all the forces in Rhodesia.

- (d) The primary responsibility for the maintenance of law and order during the transition period will lie with the police forces. They will be under the command of a Commissioner of Police who will be appointed by and responsible to the Resident Commissioner. The Special Representative of the Secretary-General of the United Nations may appoint liaison officers to the police forces.

- (e) The formation, as soon as possible after the establishment of the transitional administration, of a new Zimbabwe National Army which will in due course replace all existing armed forces in Rhodesia and will be the army of the future independent state of Zimbabwe.
- (f) The establishment by the Resident Commissioner of an electoral and boundary commission, with the role of carrying out the registration of voters, the delimitation of constituencies and the holding of a general election for the purposes of the Independence Constitution.

On the agreed day on which power is transferred to the transitional administration (para. 10 above), a cease-fire will come into effect within Rhodesia and measures will be taken to lift sanctions.

12. An outline of the Transitional Constitution is at Annex B.

The Zimbabwe Development Fund

13. The Zimbabwe Development Fund, jointly sponsored by the British and United States Governments, will have as a target a minimum approaching US\$ 1,000 million and a maximum rather less than US\$ 1,500 million to which Governments in many parts of the world will be asked to contribute. Its purpose will be to provide funds for the economic stability and development of an independent Zimbabwe through assistance to various sectors and programmes such as rural development, education, health, social and economic infrastructure, and resettlement and training schemes for Africans, including those affected by the present conflict. The operations of the Fund would help to ensure that the obligations of the Zimbabwe Government under the settlement will not inhibit economic development in Zimbabwe for lack of foreign exchange and would thereby also help to reassure those who might fear that the new Government might be unable to carry out these obligations. The establishment and continued operation of the Fund are predicated upon the acceptance and implementation of the terms of the settlement as a whole. A more detailed account of the proposed Fund is at Annex C.

Conclusion

14. The British and United States Governments believe that the above proposals provide for all the citizens of the independent Zimbabwe security, but not privilege, under the rule of law, equal political rights without discrimination, and the right to be governed by a government of their own choice. They also believe that the proposed arrangements for the transfer of power are calculated to ensure a quick, orderly and peaceful transition to independence. They have agreed to use their joint influence to the full to put the proposals into effect. But a lasting settlement cannot be imposed from outside: it is the people of Zimbabwe who must achieve their own independence. These proposals offer them a way. The two Governments urge them to seize the opportunity.

Annex A

INDEPENDENCE CONSTITUTION

Status of Zimbabwe

1. On independence Southern Rhodesia will become legally known as Zimbabwe. The Constitution will provide that Zimbabwe will be a sovereign Republic with the Constitution as its supreme law.

The Head of State

2. (a) There will be a President of the Republic. Candidates for President will have to be citizens of Zimbabwe and will be subject to the same qualifications and disqualifications as candidates for election to the National Assembly.

(b) Elections to the office of President will take place at the same time as general elections to the National Assembly and the Constitution will provide that the successful presidential candidate will be the one who has been endorsed by at least half of the successful candidates for election as Elected Members of the National Assembly.

(c) A President will usually hold office until a new President is elected (or he himself is re-elected) at the next general election to the National Assembly. However, there will be provision for his removal from office for physical or mental incapacity or because of his violation of the Constitution or other gross misconduct. Such removal will take place if (but only if) a recommendation to that effect is made by a judicial tribunal appointed on the initiative of the National Assembly: the Constitution will prescribe the procedure to be followed.

(d) When the President's office has become vacant in the above way or because of death or resignation, the Vice-President (see paragraph 3 (b) below) will succeed to the office. The Vice-President will also discharge the functions of the office of President during the latter's absence from the country or during any temporary incapacity.

(e) The President's emoluments, which will be determined by Parliament, will be charged on the Consolidated Fund and may not be reduced during his tenure of office. The Constitution will also provide for the President's personal staff.

(f) The President will be immune from suit or legal process during his tenure of office.

The Executive

3. (a) The executive powers of the Republic will be vested in the President who will discharge them, subject to the Constitution, either directly or through officers subordinate to him.

(b) The President will appoint a Cabinet, consisting of a Vice-President and a limited number of other Ministers, from among the Members of the National Assembly. The President will himself preside over the Cabinet. The Vice-President and other Ministers will hold their offices at the President's pleasure.

(c) Each department of government will be in the charge of a Minister (though the President may himself take charge of one or more departments) and the Cabinet will be collectively responsible to the National Assembly for the government of the Republic.

(d) The Vice-President will be the Government leader in the National Assembly but the President himself will have the right to participate in its proceedings though not to vote.

(e) The President may also appoint a limited number of junior Ministers from among the Members of the National Assembly.

(f) The Constitution will establish the offices of the Secretary to the Cabinet and Permanent Secretaries of departments. All these will be civil service offices but there will be special provisions (see paragraph 7 (e) (v) below) regulating the appointment and tenure of the holders.

(g) The office of Attorney-General, who will be the principal legal adviser of the Government of the Republic, will be held by a Minister.

(h) There will be a separate office of Director of Public Prosecutions which will be an office in the civil service. The Director of Public Prosecutions will have final control over the initiation, conduct and discontinuance of prosecutions and, in the exercise of that power, will not be subject to direction or control by any other person or authority. However, the Attorney-General will be entitled to bring to his attention any considerations of public interest which may be relevant to any particular case. The appointment, tenure and terms of office of the Director of Public Prosecutions will be specially provided for (see paragraph 7 (e) (vi) below).

(i) The Prerogative of Mercy will be vested in the President. There will be an Advisory Committee on Prerogative of Mercy which the President will be obliged to consult in all capital cases and which he will be able to consult in any other case. But he will not be bound to act in accordance with its advice.

(j) The President will be the Supreme Commander of the armed forces of Zimbabwe.

Parliament

4. (a) The Parliament of Zimbabwe will consist of the President and a single-Chamber National Assembly.

(b) The National Assembly will consist of /100/ 1/ Elected Members (but see sub-paragraph (f) below).

(c) The Elected Members will be returned, in elections conducted on the "simple majority" principle, by single-Member constituencies containing as nearly as possible equal numbers of registered voters.

(d) The delimitation of constituencies will be carried out at prescribed intervals by an independent Electoral Commission which will also supervise the registration of voters and the conduct of elections.

(e) The franchise for the election of the Elected Members will be based on universal adult suffrage, i.e. all Zimbabwe citizens of the age of 21 upwards who have been registered as voters and who are not specifically disqualified (e.g., on grounds of insanity, criminal conviction, etc.).

(f) The Constitution will also provide for /20/ 2/ Specially Elected Members who will be elected by the Elected Members of the Assembly after each general election. The purpose of providing for the Specially Elected Members will be to give adequate representation to minority communities. The exact way in which the Constitution should achieve this will be a matter for further discussion. After an initial period (the life of two Parliaments or eight years, whichever is the longer) Parliament may abolish the seats of the Specially Elected Members or alter the arrangements which are designed to secure minority representation. Such a provision may be made by a simple Act of Parliament requiring no special majority and no special procedure and it will take effect at the next succeeding dissolution of Parliament. But no such change may be made during the initial period and the relevant provisions of the Constitution will, during that period, be unamendable.

(g) All Members of the National Assembly must be citizens of Zimbabwe who are themselves qualified as voters and are not subject to one of the specified disqualifications (e.g., insanity, criminal conviction, holding public office, etc.).

(h) Subject always to the provisions of the Constitution, Parliament will have full power to make laws for Zimbabwe.

1/ The precise number of seats remains to be decided in negotiation with the parties.

2/ The precise number of Specially Elected Members will be one-fifth of the number of ordinary Elected Members (see foot-note (1), paragraph 4 (b) above).

(i) Parliament's power to make laws will be exercised by bills passed by the National Assembly and assented to by the President.

(j) When a bill is presented to the President for his assent, he will be free, acting in his discretion, to give or withhold his assent. But if he withholds his assent, the bill will be returned to the National Assembly which may, within six months, present it once more for the President's assent. If a bill is so represented, the President must then either give his assent or dissolve Parliament.

(k) The President may summon, prorogue or dissolve Parliament at any time but there must be a session of Parliament at least once in every year and not more than six months may elapse between sessions. There must be a general election within two months of any dissolution. If Parliament has not been earlier dissolved by the President, it will stand dissolved automatically at the end of five years after a general election.

(l) If the National Assembly at any time passes a vote of no confidence in the Government, the President must either dissolve Parliament or resign his own office.

Fundamental rights

5. (a) The Constitution will contain provisions ("the Bill of Rights"), on the lines of those in the Constitutions of other recently independent Commonwealth countries, protecting fundamental human rights and freedoms. These will guarantee:

- (i) the right to life;
- (ii) the right to liberty of the person;
- (iii) protection from slavery and forced labour;
- (iv) protection from inhuman treatment;
- (v) protection from deprivation of property: this will confer protection from expropriation of property except on specified grounds of public interest and even then only on condition that there is prompt payment of adequate compensation (the amount of which, if not agreed, can be determined by an independent tribunal) and that the compensation may be remitted abroad within a reasonable period. It will be expressly provided that, where undeveloped agricultural land is compulsorily acquired for the purpose of encouraging its development, the compensation payable to the former owner may disregard any value which might attach to the land by reason of its potential development and should take into account only the original purchase price and any other actual expenditure on it, e.g., the cost of physical improvements;

- (vi) the right of privacy of home and other property;
- (vii) the right to a fair trial in civil and criminal proceedings;
- (viii) freedom of conscience;
- (ix) freedom of expression;
- (x) the right of individuals, groups or communities to establish and maintain schools at their own expense, provided that such schools are not operated on a discriminatory basis;
- (xi) freedom of association (especially to form and operate trade unions);
- (xii) freedom of movement (including the freedom to leave Zimbabwe and the immunity of Zimbabwe citizens from expulsion from Zimbabwe);
- (xiii) freedom from discrimination.

(b) These fundamental rights will be justiciable, i.e., any person who asserts that they have been, are being or are likely to be infringed in his case will be able to apply to the High Court for that question to be determined and, when appropriate, for redress.

(c) It follows from the fact that the Constitution is to be the supreme law of Zimbabwe (see paragraph 1 above) that any law which conflicts with the Bill of Rights will, to the extent of that conflict, be void and that any executive action that so conflicts will, to the same extent, be unlawful. This applies in particular to laws or practices that are discriminatory. Most of the discriminatory laws and practices now in operation will in fact have been terminated by the transitional administration before independence (see paragraph 9 (a) of Annex B) but there may be a few which are still in existence when the independent Government of Zimbabwe takes over. It will presumably be the intention of that Government to terminate them as soon as possible thereafter but in some cases it may still not be possible to do so at once since the first Government of Zimbabwe may need a little further time in which to work out the new laws or new arrangements to take their place. To this limited extent, therefore, the Constitution will permit the Government of Zimbabwe to continue these existing laws and practices, notwithstanding the Bill of Rights, for such time as it takes to replace them but in any case for no longer than two years from the date of independence. No new discrimination will, of course, be lawful and the Constitution will expressly provide that, if any existing law or practice is amended or replaced during that period, no greater degree of discrimination may be introduced than was lawful before that amendment or replacement.

(d) The Constitution will permit certain of the provisions of the Bill of Rights to be derogated from during periods of public emergency. For this purpose, a public emergency will be deemed to exist when it has been proclaimed by the President but any such proclamation must either have received prior approval by a resolution supported by two-thirds of all the Members of the

National Assembly or must be ratified by such a resolution within a week after it was made. The proclamation will lapse within a further three months unless the National Assembly's approval has in the meantime been renewed by a similar majority.

The Judicature

6. (a) The Constitution will establish a High Court, which will be divided into an Appellate Division and a General Division, and there will also be such subordinate courts as Parliament may from time to time provide for.

(b) The judges of the High Court will be a Chief Justice and such other judges (either Justices of Appeal or Puisne Judges) as Parliament may prescribe.

(c) The Chief Justice will be appointed by the President, acting in his discretion.

(d) The other judges of the High Court will be appointed by the President in accordance with the advice of the Judicial Service Commission (see sub-paragraph (h) below).

(e) The Chief Justice and other judges of the High Court will not be removable from office (until retiring age) except on grounds of physical or mental incapacity or misconduct, as determined by a judicial tribunal in accordance with a procedure which the Constitution will prescribe.

(f) The terms of service of the judges of the High Court (including their emoluments, which will be charged on the Consolidated Fund) may not be altered to their disadvantage during their tenure of office.

(g) The power to appoint, exercise disciplinary control over, and remove from office the judges of the subordinate courts and certain other officers connected with the High Court (e.g. Registrar) will vest in the Judicial Service Commission.

(h) The Constitution will establish an independent Judicial Service Commission, consisting of the Chief Justice, another judge of the High Court designated by the Chief Justice, and a member of the Public Service Commission (see paragraph 7 below) designated by the Chairman of that Commission.

The Public Service

7. (a) The Constitution will establish an independent Public Service Commission consisting of a Chairman and four other members.

(b) The members of the Public Service Commission, who must not be (or have recently been) public officers or Members of the National Assembly or otherwise actively engaged in politics, will be appointed by the President for a fixed term and will not be removable during that term except for physical or mental incapacity

or misconduct, as determined by a judicial tribunal in accordance with a procedure to be prescribed by the Constitution.

(c) The terms of service of the members of the Commission (including their emoluments, which will be charged on the Consolidated Fund) may not be altered to their disadvantage during their tenure of office.

(d) Subject to certain specified exceptions, the power to appoint persons to hold or act in public offices, to exercise disciplinary control over persons so appointed and to remove them from office will vest in the Public Service Commission. (The term "public offices" includes all civil service offices and offices in the police force but not offices in the armed forces.)

(e) The specified exceptions are as follows:

- (i) offices on the President's personal staff: these will be within the President's personal control, though he may arrange with the Public Service Commission for regular public officers to be seconded to his staff;
- (ii) offices of the judges of the High Court and other offices within the jurisdiction of the Judicial Service Commission;
- (iii) officers on the staff of the National Assembly: before exercising the relevant powers in the case of these officers, the Public Service Commission will need to obtain the concurrence of the Speaker of the Assembly;
- (iv) offices in the police force: the relevant powers in the case of the Commissioner of Police himself will be vested in the President, acting after consultation with the Public Service Commission; in the case of other members of the police force they will be vested in the Commissioner of Police or in such officers subordinate to him as may be provided for by any law in that behalf or, subject to any such law, as he may delegate them to;
- (v) the offices of Secretary to the Cabinet, Permanent Secretaries and Zimbabwe Ambassadors abroad: the relevant powers will be vested in the President, acting after consultation with the Public Service Commission;
- (vi) the office of Director of Public Prosecutions: the power to appoint a person to this office will be vested in the President, acting after consultation with the Public Service Commission and the Judicial Service Commission; but a Director of Public Prosecutions will not be removable from office (until retiring age) except for physical or mental incapacity or misconduct, as determined by a judicial tribunal in accordance with a procedure to be prescribed by the Constitution; and his terms of service (including his emoluments, which will be charged on the Consolidated Fund) may not be altered to his disadvantage during his tenure of office;

(vii) the office of Auditor-General: the power to appoint a person to this office will be vested in the President, acting after consultation with the Public Service Commission: once appointed, the Auditor-General will be protected in the same way as the Director of Public Prosecutions.

(f) The Constitution will protect the pensions of all public officers (including past officers) by:

- (i) charging them on the Consolidated Fund;
- (ii) a provision which will ensure that the pensions of officers who are compulsorily retired to facilitate the reconstruction of the public service can be freely remitted abroad; and
- (iii) preventing the law regulating the payment of a public officer's pension from being altered to his disadvantage after the commencement of his service.

Finance

8. (a) The Constitution will establish a Consolidated Fund into which all public revenues (not otherwise payable by law into some other public fund) will be paid.

(b) The Constitution will require annual estimates of expenditure to be laid by the Government before the National Assembly for its approval and will provide for the passage by Parliament of Appropriation Acts to authorise such expenditure. No monies will be allowed to be withdrawn from the Consolidated Fund or any other public fund except under the authority of such an appropriation or when they are charged by the Constitution or some other law on that fund.

(c) The Constitution will provide for a Contingencies Fund and for other procedures for authorising unforeseen expenditure.

(d) The Constitution will establish the office of Auditor-General whose duty it will be to monitor the above requirements, to audit the accounts of Government and other public authorities and to report on these matters direct to the National Assembly.

Citizenship

9. (a) The Constitution will establish Zimbabwe citizenship and will contain the basic provisions relating to it. Parliament will be authorised to make supplementary legislation regulating the acquisition and loss of Zimbabwe citizenship within the limits permitted by the Constitution.

(b) All persons who are citizens of Southern Rhodesia (whether by birth, descent, adoption, naturalisation or registration) immediately before independence will become Zimbabwe citizens automatically on independence.

(c) All persons who have the right immediately before independence to apply to become citizens of Southern Rhodesia will have a similar right, within a specified period after independence, to apply to become Zimbabwe citizens.

(d) All persons born in Zimbabwe after independence will be Zimbabwe citizens by birth.

(e) Any person born outside Zimbabwe after independence whose father is a citizen of Zimbabwe by virtue of his birth in Zimbabwe (or in Southern Rhodesia) will be a Zimbabwe citizen by descent.

(f) A woman who is married to a citizen of Zimbabwe after independence will have the right to become a citizen of Zimbabwe herself.

(g) Whether the Constitution should permit dual citizenship (with or without restrictions) is a matter for further discussion. If it is not permitted, a citizen of Zimbabwe who acquires the citizenship of another country by voluntary act (other than marriage) will automatically lose his Zimbabwe citizenship, while a citizen of Zimbabwe who involuntarily acquires the citizenship of another country (e.g., by birth) must either renounce that other citizenship (or, if that is not possible, make a prescribed declaration) within, say, five years of the relevant event (or of attaining the age of 21 years) or lose his citizenship of Zimbabwe. Similarly, a person who, at independence, automatically becomes a citizen of Zimbabwe and is also a citizen of another country will have to renounce his other citizenship (or make the prescribed declaration) within five years of independence, failing which he will lose his Zimbabwe citizenship, and a person applying for Zimbabwe citizenship will have to renounce his existing citizenship (or make the prescribed declaration).

(h) Parliament will be empowered to provide for additional grounds upon which persons may acquire Zimbabwe citizenship or lose that citizenship (but may not take away the citizenship of persons who have it by birth or descent or who have automatically acquired it at independence).

Amendment of Constitution

10. (a) All provisions of the Constitution will be amendable by Act of the Zimbabwe Parliament. But the Constitution will prescribe the procedure to be followed for effecting such an amendment. These will vary according to the extent to which the provisions to be amended go to the basic structure of the Constitution or are especially sensitive.

(b) Some provisions, e.g., those prescribing the maximum number of Ministers, will be amendable by simple Act of Parliament: no special majority and no special procedure will be required.

(c) Most provisions will be amendable by an Act of Parliament which has been passed at its final reading in the National Assembly by a majority of two-thirds of all the Members of the Assembly. But a Bill for an Act to amend such a

provision must also have been published in the Official Gazette at least thirty days before first reading and a period of at least three months must elapse between first reading and final reading.

(d) A limited number of provisions (e.g., those dealing with citizenship, with fundamental rights and with the judicature and, of course, those prescribing the procedure for constitutional amendments) will be amendable only by a bill which has satisfied the requirements in (c) above in two successive sessions, in between which Parliament has been dissolved and a general election has taken place.

(e) In addition, there will be a very few provisions which will not be amendable at all for a specified limited period after independence. These will be the provisions dealing with fundamental rights, the provisions relating to the Specially Elected Members in the National Assembly and the provisions prescribing the procedure under (d) above. A bill to amend any of these provisions will not be capable of being introduced in the National Assembly until after the end of the specified period. In the case of the provisions dealing with fundamental rights this period will be the life of the first Parliament or four years from independence, whichever is the longer: in the case of the other provisions the specified period will be the life of the first two Parliaments or eight years from independence, whichever is the longer.

Annex B

TRANSITIONAL CONSTITUTION AND RELATED LEGAL PROVISIONS

1. The Transitional Constitution will be contained in an Order in Council made under an Act of the United Kingdom Parliament. It will come into operation on a day to be appointed by the British Foreign and Commonwealth Secretary, and on that day Southern Rhodesia will return to legality.

The Resident Commissioner

2. The Transitional Constitution will establish the office of Resident Commissioner. The Resident Commissioner will be the representative of the Crown in Southern Rhodesia and in him will be vested responsibility for all executive and legislative functions of the Government of Southern Rhodesia. In exercising his functions, the Resident Commissioner will at all times be subject to any instructions that he may be given by the United Kingdom Government except so far as the Constitution otherwise expressly provides. The holder of the office of Resident Commissioner will be appointed and removable by the British Government. The Constitution will also establish the office of Deputy Resident Commissioner, the holder of which will similarly be appointed and removable by the British Government. The Deputy Resident Commissioner will generally assist the Resident Commissioner in his duties and will ordinarily act as Resident Commissioner if the latter has to be absent from Southern Rhodesia or is temporarily incapacitated. The Constitution will also provide for the emoluments of the Resident Commissioner and the Deputy Resident Commissioner and for the Resident Commissioner's staff.

Legislative powers

3. There will be no separate Legislative Assembly or other similar body during the transition period and, in its place, the Resident Commissioner will himself be the legislature. He will have full power to make laws for the peace, order and good government of Southern Rhodesia. This power will be exercisable by Ordinance signed by the Resident Commissioner and published in the Official Gazette. All Ordinances made by the Resident Commissioner (and all subordinate legislation made under them or under any existing law) will be subject to the provisions of any applicable Act of the British Parliament or any Order in Council or other instrument made under such an Act and, in particular, will be subject to the provisions of the Transitional Constitution Order itself, especially the provisions of the Bill of Rights which will form part of the Transitional Constitution (see paragraph 8 below).

Executive powers

4. The Transitional Constitution will provide that the executive authority of Southern Rhodesia will be exercisable by the Resident Commissioner, as the representative of the Crown, either directly or through officers or authorities

subordinate to him. Since there will be no Ministers during the transition period, the Resident Commissioner will exercise all powers that are currently vested by any law in a Minister and he will, either directly or through officers subordinate to him, exercise supervision and control over all Ministries and departments of government. The Constitution will specifically give him power to give binding directions to all public officers and authorities.

5. The Resident Commissioner will be the Commander-in-Chief of all armed forces which may be lawfully operating in Southern Rhodesia during the transition period and, through the Commissioner of Police, he will also have ultimate command of the police forces. (References in this paragraph to armed forces do not include the United Nations Zimbabwe Force). All members of all armed and police forces will be required to comply with the orders or directions given by the Resident Commissioner directly or through their superior officers. The Resident Commissioner will be empowered to require any member of any such force to swear an oath of allegiance to the Crown and an oath to uphold the Constitution and obey the laws of Southern Rhodesia. All powers relating to appointments in, disciplinary control over, and removal from office in any of these forces will be vested in the Resident Commissioner. Subject to any provision that he may make, they will be exercisable by the like authorities and in the like manner, as nearly as may be, as they were immediately before the coming into operation of the Transitional Constitution but the exercise by those authorities of any such power will be subject to any general or special direction that the Resident Commissioner may give.

6. The Resident Commissioner will be able, if he considers it desirable, to set up one or more Advisory Councils or Committees to assist him in the performance of any specific function or of his functions generally. But he will be free to act without having consulted any such body or to act otherwise than in accordance with its advice if he does consult it.

Bill of Rights

7. The Transitional Constitution will contain a Bill of Rights (i.e. provisions guaranteeing fundamental human rights) on the lines of the one to be included in the Independence Constitution but adapted to take account of the fact that, during the transition period, the Resident Commissioner will take the place both of an elected legislature and of a Ministerial government. For a more detailed description of the rights to be guaranteed, see paragraph 5 (a) of Annex A.

8. Every law (whether an existing law that is continued in force during the transition period or a law made by the Resident Commissioner) will have to be read subject to the Bill of Rights and, if there is any conflict, will be invalid to the extent of the conflict. The Bill of Rights will be justiciable, i.e., any person who asserts that his rights under it have been, are being or are likely to be infringed by any law or by any government action will be able to apply to the High Court for that question to be determined and, when appropriate, for redress.

9. However, as in the case of the Bill of Rights in the Independence Constitution, there are two necessary qualifications to the position as described above:

- (a) Some existing laws or administrative practices will be contrary to the Bill of Rights because they are discriminatory. It will be the intention of the Transitional Administration to abolish all discrimination, whether by legislation or by administrative practice, at as early a date as possible. However, it may be that some existing discriminatory laws or administrative practices cannot simply be invalidated without providing a new system to take their place; and that such new system, or systems, will take some time to work out. Indeed, in some cases it may be thought right that the task of creating the new system should fall to the Government of Zimbabwe and not be undertaken by the Transitional Administration. In these limited cases, therefore, the Transitional Administration (and subsequently the Government of Zimbabwe: see paragraph 5 (c) of Annex A) will be permitted to continue these existing laws and practices, notwithstanding the Bill of Rights, for such time as it takes to replace them but in any case for no longer than two years from the date of independence.
- (b) The Transitional Constitution (like the Independence Constitution) will permit certain of the provisions of the Bill of Rights to be derogated from during periods of public emergency. For this purpose, a public emergency will be recognised as in existence whenever it has been proclaimed by the Resident Commissioner and until such time as he withdraws the proclamation. As a precautionary measure, a number of the emergency powers now operating in Southern Rhodesia will need to be available to the Resident Commissioner immediately upon the commencement of the Transitional Constitution, which will therefore deem a proclamation of emergency to be in force as from that date and until the Resident Commissioner himself otherwise provides. But it is the intention of the British Government that this period of emergency should be brought to an end as soon as it is prudent to do so and that, in any event, the Resident Commissioner should take very early steps to release existing detainees and also to release those undergoing sentences of imprisonment for offences for which, if proceedings had not already taken place, criminal liability would be extinguished by the amnesty (see paragraph 18(c) below).

Judicature

- 10. The Transitional Constitution will establish a High Court of Southern Rhodesia, staffed by a Chief Justice and other judges and organised into a General Division and an appellate Division substantially as at present. It will also recognise such subordinate courts as are at present constituted under existing law.
- 11. The Transitional Constitution will provide that the judges of the High Court and the subordinate courts will be the persons who are serving in those respective

capacities immediately before it comes into operation. (The office of Chief Justice, however, will be vacated by the present incumbent before the date of the return to legality and will not be filled until after that date.) Any new judge of the High Court will be appointed by the Resident Commissioner but a judge of the High Court, once appointed (and this includes such a judge who has been continued in office at the commencement of the Transitional Constitution), may not be removed until he reaches retiring age except for proved misconduct or incapacity, established by a judicial tribunal appointed by the Resident Commissioner. Nor can his terms of service be altered to his disadvantage during his tenure of office.

12. All powers relating to the appointment, disciplinary control and removal from office of the subordinate judiciary and the more senior staff of the High Court other than the judges (e.g., the Registrar) will be vested in the Resident Commissioner. Their exercise, subject to the overall control of the Resident Commissioner, by other persons and authorities in accordance with existing law will be regulated in the same way as for other offices in the public service (see paragraph 14 below).

13. During the transition period, appeals will lie from the High Court to the Judicial Committee of the Privy Council but only by leave of the High Court or by special leave of the Judicial Committee.

The Public Service

14. All powers concerning appointments to offices in the public service, disciplinary control over persons holding or acting in such offices or their removal from office will be vested in the Resident Commissioner. Subject to any provision that he may make, they will be exercisable by the like authorities and in the like manner, as nearly as may be, as they were immediately before the coming into operation of the Transitional Constitution but the exercise by those authorities of any such power will be subject to any general or special directions which the Resident Commissioner may give. The foregoing is without prejudice to the special provisions relating to the judges of the High Court (see paragraph 11 above).

15. The Transitional Constitution will provide that all persons holding or acting in public offices immediately before the coming into operation of the Constitution will continue to hold or act in the like offices under the Transitional Constitution. (There will, however, be a few offices, such as that of Secretary to the Cabinet, which will be vacated by the present incumbents before the date of the return to legality and will not be filled until after that date.) The Resident Commissioner will be empowered to require any person holding or acting in a public office to swear an oath of allegiance to the Crown and an oath to uphold the Constitution and observe the laws of Southern Rhodesia.

16. The pensions of all public officers (including past officers) will be guaranteed by the Transitional Constitution by:

- (i) being charged on the Consolidated Fund;
- (ii) a provision which will ensure that the pensions of officers who are compulsorily retired to facilitate the reconstruction of the public service can be freely remitted abroad; and
- (iii) a provision which will prevent the law regulating a public officer's pension from being altered to his disadvantage after the commencement of his service.

Finance

17. The Transitional Constitution will contain provisions adapting the existing procedure for authorising the expenditure of public funds (e.g., annual Appropriation Acts).

Miscellaneous provisions

18. In addition to the above matters which directly relate to the constitutional structure of the government of Southern Rhodesia during the transition period, there will be a number of other matters, necessarily consequential upon or incidental to the restoration of legality, which will have to be regulated by the Transitional Constitution Order. The relevant provisions will include the following:

- (a) Validation of existing laws and previous transactions. So that Southern Rhodesia may return to legality with a coherent and workable legal and administrative system, there will be a general validation of all laws which were purported to have been made during the period since 11 November 1965. There will be an exception for specified laws which would not be compatible with the restoration of legality, e.g., those relating to membership of the "Parliament" that functioned during that period. Similarly, transactions which have taken place since 11 November 1965 and which might otherwise be regarded as invalid merely because they were carried out in reliance on any such law, or because (owing to the constitutional situation in Southern Rhodesia at the time) there was some defect in the authority by which they were performed or in the procedure employed or some other similar defect, will be deemed to have been validly performed.
- (b) Adaptation of existing laws. A number of laws which will be in force on and after the day appointed for the coming into operation of the Transitional Constitution will be in terms which will not be literally applicable to the new constitutional arrangements. This will apply not only to laws made since 11 November 1965 which will have been validated as explained above but also to laws enacted by the competent legal authorities under the 1961 Constitution and, indeed, earlier. For example, references in laws to "the Minister" will no longer be

appropriate. The reference will, during the transition period, have to be to "the Resident Commissioner". There will therefore be provision for the adaptation of existing laws to make them conform with the new constitutional structure.

- (c) Amnesty. In order to bring to a close the unhappy chapter of the past 12 years and to open a new chapter which will be marked, it is hoped, by a spirit of reconciliation and the desire of all Rhodesians to work together for the construction of a peaceful and prosperous Zimbabwe, it will be necessary to "wipe the slate clean" when legality is restored and to prevent punitive or recriminatory action being taken thereafter in respect of acts arising out of the political situation which obtained during that period. In practice it will be necessary to extinguish both civil and criminal liability for such acts. This applies to the acts of both sides, that is, both those committed in furtherance of the rebellion and those committed in resistance to it. The Transitional Constitution Order will therefore contain a provision to this end which will prevent prosecutions being brought or civil actions being pursued in the courts of Southern Rhodesia in respect of such acts. In addition, it will be a priority task of the Resident Commissioner to review the cases of all persons undergoing imprisonment and to order the immediate release of those serving sentences for offences for which, if proceedings had not already taken place, criminal liability would be extinguished by this provision.
- (d) Rights and liabilities of the Government of Southern Rhodesia. The Transitional Constitution Order will make it clear, for the avoidance of doubt, that the Government of Southern Rhodesia, as set up by that Order, is entitled to all the rights, and is subject to all the obligations, now appertaining to the Government of Southern Rhodesia as set by the 1961 Constitution. Furthermore, as a corollary of the provision explained above for the validation of existing laws and of past transactions, it will also be expressly declared that the lawful Government of Southern Rhodesia, as established by the Transitional Constitution, will succeed at the same time to the rights and assets (and, correspondingly, to the obligations) in municipal law which would, immediately before the coming into operation of that Constitution, have been recognised by the courts then operating in Southern Rhodesia as belonging to "the Government of the Republic of Rhodesia".

Annex C

THE ZIMBABWE DEVELOPMENT FUND

1. A political settlement in Rhodesia, involving first a transitional administration and later an independent Government of Zimbabwe, would remove a source of acute conflict and help establish a climate conducive to economic development in central and southern Africa. A political settlement, however, will set in motion an economic transition which will be most effective if accompanied by measures designed to realize the growth potential of the economy and rapidly improve opportunities for all the population of Zimbabwe. The responsibility for the necessary economic measures after independence will rest primarily with the new Government, but it is already evident, in spite of the sparse detail at present available about the present state and future prospects of the economy, that substantial international economic assistance and external private investment will be needed.

2. When a political settlement is achieved, the lifting of sanctions, combined with aid, will provide both Zimbabwe and its neighbours with new development prospects. Different trade and transport patterns will be established. African Zimbabweans should have expanded access to better jobs in mining, industry, commerce and the public service. More balanced patterns of ownership for farms, houses and businesses will emerge. External assistance can help the people of Zimbabwe effect the social and economic changes required to take advantage of these new opportunities for a more prosperous and balanced economy.

3. The ability of an independent Government of Zimbabwe to raise the living standards of the poor majority depends not only on the development of the traditional sector but also on effective administration and a high level of output in the modern sector, which accounts for the greater part of Rhodesia's export earnings, internal revenues, domestic production of consumer goods, and wage employment of African Zimbabweans. It is, therefore, of the greatest importance to find ways to facilitate the economic transition while minimizing its disruptive effect on the potential for economic growth. It is crucial that skilled workers and managerial personnel are encouraged to continue to contribute to the welfare and prosperity of the economy.

4. The United Kingdom and the United States have, therefore, agreed to co-operate in helping to organize an international economic effort in support of a Rhodesian settlement. They propose the establishment of a Zimbabwe Development Fund. The purpose of this Fund would be to assist the new government to promote:

- (i) balanced economic and social development in Zimbabwe;
- (ii) rapid expansion of economic opportunities for and skills of the African majority;

- (iii) basic economic security for all sections of the population so that they might continue to contribute their skills and enthusiasm to the development of the country.

5. The Fund would respond to requests from the Zimbabwe Government to support specific proposals for development projects and programmes, for example, in agricultural and land reform, education and training, and social and economic infrastructure. Its efforts should encourage commercial capital flows, especially in extractive, processing, and manufacturing industries, supported as appropriate by national export credit and investment insurance agencies. The Fund should be prepared to provide balance of payments support during the period of economic transition, especially to enable the gradual return to normal external relations after the lifting of sanctions. The Fund could also provide support for, and take into account the balance of payments implications of, programmes designed to encourage skilled labour and managerial personnel to contribute to Zimbabwe development and to effect a smooth transition to a more balanced pattern of access to ownership of farms, houses, and businesses.

6. The Fund should be established as soon as possible after the establishment of a transitional administration in Rhodesia. Even before it began to be funded to any considerable extent, the Fund could begin working with developmental institutions, either already existing or to be established by the Zimbabwe Government. The Fund could assist both the transitional administration and the independent Government of Zimbabwe to plan development projects and programmes consistent with the political changes which will have taken place without disruption of the economy. The Fund could, in the initial period, also co-ordinate bilateral development assistance, especially in the training of Africans in technical and administrative skills.

7. Since specific development projects and programmes for an independent Zimbabwe are not available, a precise quantification of the resources needed by the Fund is not possible. A preliminary assessment, however, suggests that the target for total contributions, on concessionary terms, from those Governments willing to participate in the Fund should be at a minimum approaching \$US 1,000 million and at a maximum rather less than \$US 1,500 million. The Fund's objectives, and the fact that experience shows that economic development projects take a long time to mature, will make it necessary to envisage a fairly long period of disbursement of the Fund's resources. It is suggested, however, in order that the management of the Fund can plan its operations in the knowledge of the total amount of its resources and so that it can meet extraordinary balance of payments demands on its resources during an economic transition, that contributions by participating Governments should be made over a five-year period with the likelihood of a longer period of actual disbursement in mind.

8. Flows of bilateral concessional aid could, it is suggested, be counted as part of their contribution to the Fund, but the greater part of each country's contribution, at least during the first five years of its operation, should be direct to the Fund. On this basis, initial finance envisaged for the Fund might be, say, two-thirds over a five-year period in cash or in promissory notes, and,

say, one-third on call if the management of the Fund should require it for the fulfilment of its longer-term objectives. The method by which the contributions were made can be discussed between Governments and need not necessarily be uniform. For example, some Governments might prefer to contribute cash at regular intervals in equal instalments. Others might prefer to make available promissory notes for encashment as disbursements by the Fund require, a method permitted in replenishment of the resources of the International Development Association. The questions of the currencies in which contributions should be made, the degree and structure of any arrangement for tying of procurement in the participating countries and provision for the local costs of development projects can be the subject of intergovernmental consultation. The nature of the economic assistance extended by the Fund should be such that the contributions of participating Governments would be expected to qualify as official development assistance in accordance with the criteria of the Development Assistance Committee.

9. On this basis, the Government of the United Kingdom would be prepared, subject to Parliamentary approval, to contribute 15 per cent of the resources provided directly to the Fund, up to a maximum of £75 million, and in addition to provide £41 million of bilateral aid over a five-year period; and the Government of the United States would, subject to the authorization and appropriation of funds by Congress, be prepared to contribute 40 per cent to the total resources of the Fund, up to a maximum of \$520 million, the major part a direct contribution to the Fund and the rest in the form of bilateral assistance. The British and United States contributions would be conditional on each other and on contributions being forthcoming from other countries on an equitable basis.

10. The Fund will also facilitate action by agencies of donor countries to make appropriate non-concessional loans and guarantees to encourage commercial trade and private investment flows to Zimbabwe. These would be additional to the concessionary contributions discussed above. The Fund could also provide support for regional development projects and take part in any consortium or consultative group established to co-ordinate development assistance to Zimbabwe and relate it to development aid to the southern Africa region as a whole.

11. It is envisaged that the World Bank would manage the Fund's resources as an agent of the Fund. Matters of policy would be discussed and decided by a governing body, which might be composed of the IBRD Executive Directors representing the Governments contributing to the Fund, together with representation from the Zimbabwe Government.
