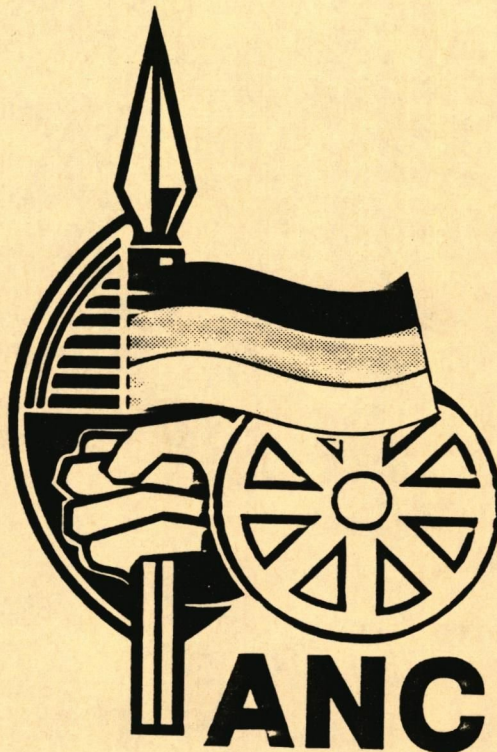


MCH 91-21-6-3



NATIONAL WORKING COMMITTEE

DOCUMENTS

27 OCTOBER 1992

**PLEASE NOTE THAT THE MEETING WILL
COMMENCE AT 14:30.**

**WE REQUEST THAT THIS
DOCUMENTATION
BE READ BEFORE THE START OF THE
MEETING.**

khulu mbatha co-ordinator

AFRICAN NATIONAL CONGRESS

NATIONAL WORKING COMMITTEE

DATE: Tuesday, 27 October 1992

VENUE: Boardroom, 10th Floor

TIME: 14:30

DRAFT AGENDA

- 1. Dates for the next NEC Meeting*
- 2. Negotiations Commission Report*

NEGOTIATION - STRATEGIC PERSPECTIVE.

OCTOBER 1992

1. Balance of forces

1.1 Strategic balance of forces:

By the end of the eighties, the strategic balance of forces was characterised by

- 1.1.1 The apartheid power bloc was no longer able to rule in the old way. The balance of forces internally and internationally were such that the regime would be forced, sooner or later, to sue for negotiations.
- 1.1.2 The crisis in Eastern Europe, and the resultant change in the relations between world powers brought the issue of a negotiated resolution of regional conflicts to the fore - in this context, South Africa was not going to be treated as an exception. This was reinforced by the all-round crisis in the Southern African region itself.
- 1.1.3 By the mid eighties, the liberation movement enjoyed many advantages over the regime, both internally and internationally. All the pillars of the struggle had grown from strength to strength. But by the late eighties, a number of key factors made it both desirable and imperative that the liberation movement pursue the path of a negotiated resolution of the South African conflict:
 - 1.1.3.1 The possibility of a revolutionary seizure of power and of a sustained and generalised people's war had become remote.
 - 1.1.3.2 The possibility existed that the international community would itself attempt to impose a settlement plan.
 - 1.1.3.3 The regime had no option but to itself seek negotiations with the liberation movement.

1.2 Shifts in the balance of forces:

- 1.2.1 The balance of forces are not completely static. However, for the foreseeable future, actions of the liberation movement can

result only in "quantitative" or tactical shifts in the balance of forces. Essentially changes would only take place within the context described in 1.1 and not outside it.

- 1.2.2 Nonetheless, "quantitative" shifts in the balance of forces can play a crucial role in influencing the final outcome of the negotiations. The most dramatic example of this is the impact of rolling mass action, mobilisation of the international community and the NPA (National Peace Accord) process over the past few months.

2. Negotiations the preferred option of the liberation movement.

- 2.1 Negotiations has always been the first option of the liberation movement - it was only when the prospect of any peaceful settlement vanished that we resorted to arms, while for the regime, it was the failure of arms that imposed the obligation to concede that need for negotiations.
- 2.2 Consequently, it must remain one of our strategic tasks to deny the regime the possibility of reverting to repression and a resort to arms by defining the parameters of acceptable political activity as being confined within the field of free political activity, peaceful democratic action and genuine negotiations.
- 2.3 Negotiations therefore represents a victory for the democratic movement and a defeat for the forces of apartheid.
- 2.4 Delays in the process of peaceful transformation are not in the interests of the masses who seek liberation now, and do not enhance our possibilities to effect this transformation as effectively and as speedily as we should.

3. Phases of the Democratic Revolution:

- 3.1 Our strategic perspective should take into account that the Democratic Revolution will proceed in various phases, our possibilities relevant to each specific phase should not be pursued in a manner that produces defeats later, because of a failure to recognise the dialectical inter-connection between various phases.
- 3.2 This strategic perspective could recognize the following phases, each one of which has its regularities and objective and subjective demands:

3.2.1 **PHASE 1:** The period prior to the establishment of the Transitional Executive Council

3.2.2 **PHASE 2:** The period from the establishment of the Transitional Executive Council leading up to the election of the Constituent Assembly and the establishment of an elected Interim Government of National Unity;

3.2.3 **PHASE 3:** The period of the drafting and the adoption of the new constitution by the Constituent Assembly;

3.2.4 **PHASE 4:** The period of the phasing in of the new constitution, which will include the restructuring of the state machinery and the general dismantling of the system of apartheid;

3.2.5 **PHASE 5:** The period of the consolidation this process of democratic transformation and reconstruction.

3.3 At all stages, we should determine the goals we seek to achieve, consider carefully the balance of forces in these dynamic situations and therefore place ourselves in the position in which we can determine the correct path to follow to further the process of democratic change.

3.4 The balance of forces, our specific objectives and our long term goals would at each stage dictate the need to : make certain compromises; and, enter into specific, and perhaps changing, alliances in order to protect and advance this process.

4. **Goals of the National Liberation Struggle and our immediate objectives.**

4.1 The long-term goals of the National Liberation Struggle should not be confused with the immediate objectives we set for ourselves in each phase of the transition.

4.2 The objectives we set depend on the balance of forces at each stage.

4.3 By entering a new phase (e.g. the establishment of an Interim Government) the balance of forces themselves transform qualitatively in favour of the Democratic Movement. Negotiations therefore can result in the possibility of bringing about a radically transformed political framework in which the struggle for the achievement of the main goals of the National Democratic Revolution will be advanced in more favourable conditions.

- 4.4 In setting objectives for the present round of negotiations we must bear in mind that in the main one would not achieve at the table that which one could not achieve on the ground. This simply means that neither the ANC nor the regime can enforce a complete surrender of either party at the negotiating table.
- 4.5 In setting objectives today, our strategy should not focus narrowly on only the initial establishment of democracy, but also, (and perhaps more importantly) on how to nurture, develop and consolidate that democracy. Our strategy must at once also focus on ensuring that new democracy is not undermined.
- 4.6 Our broad objectives for the current phase (as distinct from longer-term goals) should therefore be:
- 4.6.1 The establishment of a democratic constitution-making process.
 - 4.6.2 Ending the National Party's monopoly of political power.
 - 4.6.3 Ensuring a continuing link between democracy and socio-economic empowerment.
 - 4.6.4 Minimising the threat to stability and democracy.

5. The need for government of National Unity:

- 5.1 The objective reality imposes a central role for the ANC and NP in the transition. Without cooperation between these two forces it will not be possible to move the peace process forward.
- 5.2 This must mean that the balance of forces has forced onto the South African political situation a relationship between these two leading players characterised by contradictory elements of cooperation in pursuit of common goals and competition in pursuit of divergent objectives.
- 5.3 How to manage this contradiction, which arises from the fact that neither side has been defeated is one of our challenges of leadership.
- 5.4 We have already accepted the desirability of an Interim Government of National Unity - in which, of course, the ANC and the NP would be the major components.

- 5.5 However, we also need to accept the fact that even after the adoption of the new constitution, the balance of forces may still be such that we would need to consider the establishment of a government of National Unity in which the ANC and NP are the main players.

6. Laying the basis to minimise the threat to stability and democracy:

- 6.1 The new democratic government would need to adopt a wide range of measures in order to minimise the threat to the new democracy. However, some of these measures may have to be part and parcel of a negotiated settlement.
- 6.2 Strategic forces we need to consider right now are the SADF, SAP, all other armed formations and the Civil Service in general. If the transition to democracy affects the interests of the individuals in these institutions wholly and purely negatively, then they would serve as fertile ground from which the destabilisers would recruit.
- 6.3 Not only do these forces have vast potential to destabilise a fledgling democracy in the future, but more importantly, they have the potential to delay the transition for a lengthy period of time or even make serious attempts to subvert the transition.
- 6.4 It may therefore become necessary to address the question of job security, pensions and a general amnesty at some stage as part of a negotiated settlement.

7. Reaching the negotiated settlement.

- 7.1 Some elements of the final negotiated settlement would take the form of a multi lateral (CODESA type) agreements. Other elements of the settlement package would take the form of bilateral agreements between the ANC and the NP - such agreements would bind the two parties.
- 7.2 The thorny question of the powers, functions and boundaries of regions in a new South Africa may be an issue on which we would enter into a bilateral discussions with the NP.
- 7.3 The question of a government of National Unity after adoption of a new constitution, and the future of members of the security forces and the civil service could be dealt with either as part of a bilateral agreement or could be part of multi-lateral agreement.

OUTSTANDING ISSUES IN THE NEGOTIATIONS PROCESS

1. Free Political Activity

- 1.1 *Climate for free political activity on KwaZulu, Ciskei and Bophothatswana:* This matter needs to be dealt with mainly at a bilateral level with the regime as the responsibility for ensuring a climate for free political activity in the Bantustans rests with the regime.
- 1.2 *Covert operations and special forces:*
The termination of covert operations and the confinement of the special forces to barracks need to be dealt with prior to the establishment of the TEC.
- 1.3 *Repressive legislation:*
All repressive legislation needs to be repealed prior to the establishment of the TEC.
- 1.4 *State -controlled media:*
The independent Media Commission which would be established when the TEC is established would seek to ensure state-owned media plays a neutral role during the run--up to the elections. However, certain important steps need to be taken the in present period, i.e even before the TEC is established. In this regard we should seek to negotiate a Media Accord with the regime. The Accord would seek to (a) stop all unilateral restructuring of the SABC, and (b) ensure fair coverage in news and current affairs programs, and adequate access to the media for all political parties.

2. Unilateral Restructuring

The regime is hurriedly restructuring in the following fields: Economy, Education, Health, Local governments, Arts and culture, Land, Media, Forestry, etc

It has now become imperative that this matter became a subject of the bilateral negotiations. This would be in addition to the negotiations on these matters in the following forums: The National Economic Forum, National Negotiations Forum on Local Government, and; the Education Forum.

3. Elections Related Issues

- 3.1 We need to fine-tune our position on the composition, powers and functions of the Independent Electoral Commission, This can best be done by producing a draft Electoral Law.

- 3.2 What would be the eligible age for voting in the elections for voting in the elections for a Constituent Assembly? At CODESA we proposed that it should be 18 years of age, However, many of our structures have now suggested 16 years of age.
- 3.3 Should there be registration of voters and the drawing up of a voters' roll? Voter registration has both advantages and disadvantages. We have to adopt a position on this matter.
- 3.4 *Voter Identification:* What method should be used for identifying voters? A number of options present themselves:
(i) the voters roll exclusively (i.e if there is voters registration);
(ii) Book of Life exclusively;
(iii) a combination of the above two together with any other form of identification that the voter can produce.
- 3.5 The role of the International Community in the electoral process: We need to develop a detailed proposal on the terms of reference, powers, functions, duties, size and composition of the international mission that would be involved in the electoral process.

4. The Transitional Executive Council (TEC)

- 4.1 We need to determine the detailed terms of reference for the sub-councils on Defence and Law and Order.
- 4.2 The powers, functions and composition of the Independent Media Commission need to be agreed to.
- 4.3 Draft legislation for the TEC and its related structures has to be completed.

5. Regional government during the transition:

The administration of the so-called self-governing territories and the TBVC areas need to be addressed urgently. Draft legislation in this regard needs to be prepared.

6. Interim Government of National Unity:

- 6.1 According to the Transition to Democracy Act:
- 6.1.1 The legislative arm of the IG would be the same body as the CA, but acting as an Interim Parliament.
- 6.1.2 The executive arm (cabinet) of the IG would be made up of appointees of all parties i the CA who enjoy more than 5% of the total seats on the CA.

6.1.3 The State President would be appointed by the majority party.

6.2 We need to consider whether our proposal should also provide for a vice-president who would be appointed by the second biggest party in the CA.

7. Constituent Assembly

7.1 The CA would have 400 members.

7.2 Decisions would be taken by a two thirds majority.

7.3 The CA shall complete its work within a time frame of nine months.

7.4 *Deadlock-breaking mechanism:* In the event of the CA not completing its work within nine months, are we in favour of the proposal in the Transition to Democracy Act? (i.e fresh elections after nine months)

7.5 Only parties receiving more than three per cent of the total vote would be entitled to representation in the CA.

7.6 The CA would be bound by General Constitutional Principles. CODESA had arrived at far-reaching agreement on constitutional principles. The regime would seek to add as much detail as possible to the constitutional principles.

7.6.1 We need to agree to a formulation on a clause on property rights.

October 1992

DRAFT PROPOSAL FOR ANC/REGIME BILATERAL AGENDA

1. Status of bilateral decisions.

2. Elections

- 2.1 Date of Elections
- 2.2 Voter Identification and Registration
- 2.3 Voter Eligibility
- 2.4 Independent Electoral Commission including its powers, duties and functions.
- 2.5 The Role of the International Community
- 2.6 Administration of the electoral process.

3. Constitution Making Body

- 3.1 Composition
- 3.2 Constitutional principles
- 3.3 Special Majorities
- 3.4 Time Frames and deadlock breaking mechanisms
- 3.5 Threshold
- 3.6 Constitutional Panel/ arbitration

4. Interim Government

- 4.1 Legislature
 - 4.1.1 Composition and Structure
 - 4.1.2 Decision making procedure
- 4.2 Executive
 - 4.2.1 Composition
 - 4.2.2 Presidency
 - 4.2.3 Decision-making
- 4.3 Regional Administration
- 4.4 *Reincorporation*

5. Transitional Executive Council

- 5.1 Confirmation of WG3 proposals
- 5.2 Terms of reference of the Sub-Council for Defense, Law and Order and Foreign Affairs.

6. Independent Media Commission

- 6.1 Composition
- 6.2 Terms of Reference

7. Free Political Activity

- 7.1 Climate for free political activity in the TVBC and self governing areas.
- 7.2 Covert operations
- 7.3 Repressive legislation
- 7.4 State controlled media (including those in the bantustans).

8. Unilateral Restructuring

- 8.1 Economy
- 8.2 Media
- 8.3 Health/ Education/ Social welfare
- 8.4 Local Government
- 8.5 Land

9. Multilateral Negotiations