

Negotiation News

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Codesa 2 on target Obstacles lie in fine print

South Africa can enter a decisive transitional phase within weeks if parties for the Convention for a Democratic South Africa (Codesa) register consensus to appoint interim executive councils.

Such a decision will render dramatic impetus to the second plenary session of Codesa scheduled for May 15 and 16. While serious differences of opinion are weighing down discussion on the mechanism to write South Africa's new constitution, a consensus position on a preliminary joint-rule formation will give clout to Codesa 2.

Despite recent rigid positioning of the two key players at Codesa, both the government and ANC in essence envisage Codesa's appointment of several multi-party transitional bodies invested with executive authority to take joint control of specific areas of government, as an important first post-Codesa phase.

Such committees/councils would be instrumental in seizing executive control of strategic areas. Areas that are most likely to be put under multi-party control are: preparations for elections, the security forces, finance and local government.

All parties in Codesa Working Group 3 which has the task of finding an acceptable transitional format, agreed to the

creation of a transitional executive structure as an important measure to facilitate the transition towards a democratic constitution.

Since the decision on March 21, a lot of posturing about the exact ambit of power of these councils and what they should be called, has

taken place, but the bottom line for both is that they should be Codesa-appointed executive bodies which would have to be given constitutional legitimacy through parliamentary legislation.

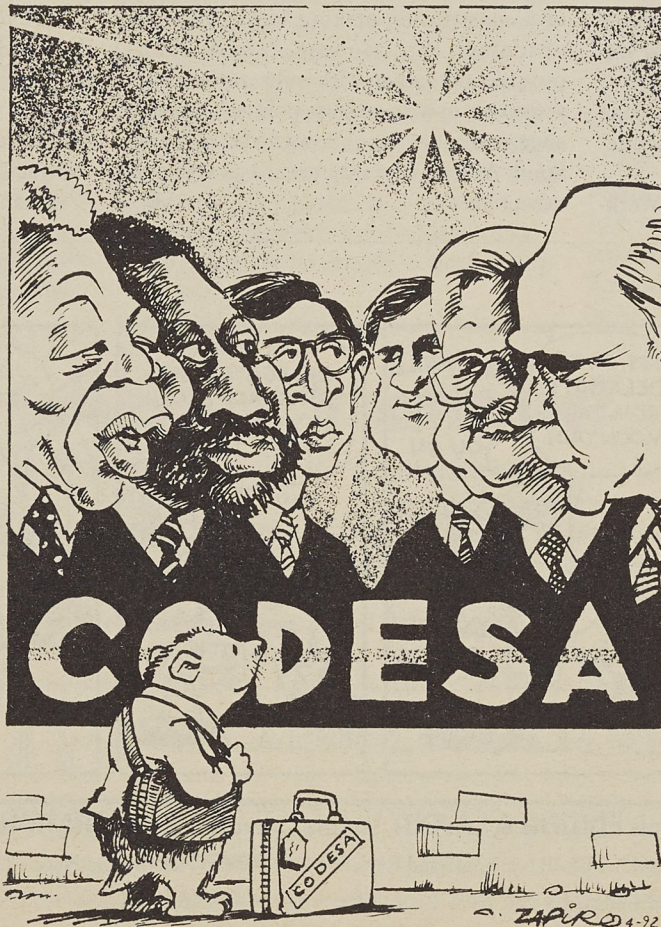
While the ANC refers in its proposal to interim government committees, the govern-

ment insists that the word interim cannot be used until elections for a constitution-making body has taken place. However, they have conceded that such proposed joint councils would have executive authority, thereby introducing the first interim government phase.

Most of the parties at Codesa are in favour of appointing an interim government mechanism — the obstacles are encountered in the finer workings of such a super-imposed body and its sub-structures.

A task force was appointed by Working Group 3 delegates on April 7 to find ways of clearing up the differences expressed by the major players in their interim government proposals. They are to report back to the full working group as soon as possible.

What the task force also has to consider are the recent ultimatums posed by the government as preconditions to the negotiation of transitional change. In a strong post-referendum stance the government has demanded the disbanding of the ANC's military wing, Umkhonto we Sizwe (MK). It also identified the current wave of violence and disagreement between the ANC and the government over the implementation of previous bilat-



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eral accords as obstacles to transition.

These demands are viewed as strategic politicking on the side of the government/National Party in order to secure a stronger position in negotiation. The three bilateral agreements signed by the government and the ANC prior to Codesa, require MK only to adhere to the suspension of the armed struggle and do not insist on its dissolution.

Observers feel the intensifying violence, in which armed factions of all political persuasions are participating, cannot be used to hold other parties to ransom in furthering the process of constitutional change. Most of the 19 delegations at Codesa would prefer a rapid move to place all security forces and all military groupings under a joint command as a decisive move to bring the violence to heel. Since the signing of the Peace Accord on September 14 last year, almost 1 600 people have been killed and 3 000 injured.

The most critical obstacle to progress at Codesa, however, is emerging in Working Group 2 where the format of the proposed constitution-making body is exposing a serious power struggle between the government/NP coalition and the ANC and its allies.

Smaller political groupings are seeking conclusive evidence of protection for minorities in Codesa deliberations. This is putting pressure on the ANC to concede to various minority protection mechanisms.

There is increasing pressure on Work-

ing group 2 to reach consensus at Codesa — not only on broad constitutional principles but to take fundamental decisions on such crucial questions as whether South Africa will have a unitary or federal form of government.

Smaller parties are not satisfied with this issue being left for decision making in an elected constitution-making body where the majority parties could crack the whip.

As an early concession the ANC has put forward a two-third majority vote mechanism as protection to quell fears, while the government which recently started accepting the inevitability of an elected constitution-making body, is talking of a heightened majority of 75% to safeguard minorities.

A strong demand for effective devolution of executive power to regional and local government structures as a safeguard to keep a potential all-powerful central government in control, is being held out as another ultimatum by several groups with regional power bases like the Inkatha Freedom Party and Bophuthatswana government. It is also supported by the government/NP negotiators.

Although serious obstacles remain in the fine print of the format and procedure of a constitution-making body, there is optimism that Codesa 2 will keep progress on target with substantial consensus on how to address political intolerance and violence and pave the way for South Africa's first step toward joint executive rule. ■

Govt backs campaign to include Zulu king

The South African government has become the Inkatha Freedom Party's strongest backer in its campaign to have Zulu King Goodwill Zwelithini represented by a full delegation at Codesa.

Constitutional Affairs Minister Gerrit Viljoen lodged a strong appeal in favour of the king when he recently gave evidence to the eight-person sub-committee set up to decide on the role of the Zulu king and other South African traditional leaders at Codesa before the next plenary session set for May 15 and 16.

Neither the IFP nor the government is in favour of affording other kings and paramount chiefs similar status.

Up to now delegates to Codesa have represented political parties, political organisations and administrations. As traditional leaders do not fit into any of these categories a special sub-committee was appointed by the Codesa Management Committee to investigate and recommend on the matter and decide on whether Codesa should be broadened to incorporate delegations of a non-party political nature.

The biggest emotive question to be settled, is whether the king of the Zulus is superior to all other traditional leaders, and whether he should occupy a special position in the process of constitutional negotiation at Codesa.

An angry row erupted on the eve of

Codesa 1 resulting in the absence of KwaZulu Chief Minister and leader of Inkatha Mangosuthu Buthelezi at the first historic plenary session last December, when the Codesa preparatory committee refused to award the Zulu king special status. Buthelezi has persistently made representations on the king's behalf, and has made a particularly strong appeal to State President F W de Klerk.

To date, the sub-committee has listened to evidence from political leaders, academics, experts and several witnesses representing traditional leaders. ANC President Nelson Mandela is also expected to give evidence.

Sources say Minister Viljoen lodged a strong argument in favour of affording the king special status. He said that the king was a constitutional monarch; that he was different from other traditional leaders; that he had the largest number of subjects and had national status.

But the issue at hand is much wider.

An overwhelming majority of delegates representing a wide variety of traditional communities have favoured the participation of traditional leaders at Codesa in their evidence before the sub-committee.

What the sub-committee has to decide is whether traditional leaders have higher status than other interest groups. For example, women as an interest group were accommodated after strong petitioning at Codesa, not through a separate full delegation but in the form of a combined Gender Advisory Committee.

There are four possible options to consider: Traditional leaders could be excluded completely; afforded observer status; or full rights of participation; or allowed to participate with regard to matters which would be of relevance to them.

Prior to Codesa 1, the Congress of Traditional Leaders (Contralesa) which claims to represent an estimated 1 500 traditional leaders, made strong representation to the preparatory and current management bodies of Codesa to have the special status of traditional leaders in South Africa recognised.

WHAT THE LAW SAYS

UNDER present South African law traditional leaders have no executive or legislative powers. All traditional leaders have the same status.

Under the present KwaZulu constitution the king is regarded as a constitutional monarch with traditional powers and functions. In ceremonial and tribal matters he takes precedence over the chief minister but in matters of the legislative assembly he is a subordinate.

The KwaZulu constitution adopted in 1972 states that because the king symbolises the unity of the Zulu nation he should keep himself out of party politics and particularities.

In the Law Commission report Mr Justice Pierre Olivier, in reference to the potential accommodation of a House of Chiefs in a future South African constitution, opposed such special representation on a national level. The report suggested that traditional leaders could play a useful role on a local government level.

According to Contralesa there are five traditional leaders with the status of king in South Africa. The term paramount chief, which is commonly used, was a title given by the British colonial government to the kings, says Contralesa President Sango Holomisa.

It is Contralesa's view that all traditional leaders should be represented by one delegation at Codesa and that kings and paramount chiefs should be given observer status only. They argue that kings should not be seen to be debating with their subjects and therefore favour traditional leaders of a lower rank (chiefs and headman) to deliberate at Codesa.

Holomisa said that Contralesa was not a political party and was against tribal groupings. It wanted to unite all traditional leaders because of the important unifying and symbolic role they play in communities.

Asked to comment on their demand for the Zulu king to be present, IFP spokesperson Suzanne Voss said the IFP believed it had no mandate to act on behalf of the Zulu king and nation.

The IFP's stance was influenced by the belief that Codesa deliberations would impact on customary traditions and that neither the IFP nor any other political party had a mandate to decide on those changes.

She added that the IFP had never objected to other traditional leaders being present at Codesa. However, in their submissions they had only pleaded the cause of the Zulu king in the belief that "the Zulu king is the only king in this country". ■

talk talk

by ZAPIRO



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KwaZulu Chief Minister Buthelezi ... friend or foe?

Mangosuthu Buthelezi is the chief campaigner for Zulu king Goodwill Zwelithini to be given full delegate status at Codesa. Yet, Buthelezi has for 21 years actively campaigned against the political status of the king.

According to historians, Buthelezi has opposed the king since before the formation of the KwaZulu Legislative Assembly in April 1972, resulting in a strained relationship between the two.

At the conception of the Zulu self-governing territory both the South African govern-

ment and the king himself were keen to have political power conferred on him, but Buthelezi as chief minister insisted that the king should not have any executive powers.

In January 1976, under pressure from Buthelezi, King Goodwill declared under oath in the Legislative Assembly his subordination to the KwaZulu constitution and that he would not involve himself in politics.

In 1979 Buthelezi devoted a week-long debate in the

Legislative Assembly to what he described as the king's political activities, his propagation of violence to overthrow the present order and assault of several people.

Members of the Legislative Assembly asked for a reduction of R13 000 in the king's salary and requested an investigation into the king's "unconstitutional" actions. However, Buthelezi later announced that the matter had been settled in an amicable manner.

In 1980 Buthelezi still prohibited the king from conducting press interviews, but it was the crisis surrounding the incorporation of the KwaZulu territory of Ingwavuma into Swaziland in the mid-eighties, which brought them together on the same political stage.

According to Pretoria historian At van Wyk, the emergence of ethnicity as a factor in Zulu politics in the eighties and the struggle between the UDF/ANC against Inkatha in the territory catapulted the king back into politics and resulted in Buthelezi campaigning on his behalf. ■

Consensus reached on 9 principles

THE first indication of what principles a future constitution will subscribe to emerged when Codesa Working Group 2, which has the task of reaching consensus on general constitutional principles, advanced their first nine beacons for government rule in a democratic South Africa in the first week of March.

- ◆ South Africa will be a democratic, non-racial, non-sexist sovereign state.
- ◆ The constitution will be the supreme law.
- ◆ The diversity of languages, cultures and regions will be acknowledged.
- ◆ All will enjoy universally accepted human rights and civil liberties, including the freedom of religion, speech and assembly.
- ◆ There will be a separation of powers between the legislature, the executive and the judiciary with appropriate checks and balances.
- ◆ The legislative branch of government will embrace multi-party democracy, regular elections, universal adult suffrage, a common voters roll and in general proportional representation.
- ◆ The judicial branch of government will include: a judiciary that will be independent, non-racial and impartial; an entrenched and justiciable bill of rights, and a legal system that guarantees the equality of all before the law.
- ◆ Government shall be structured at national, regional and local levels. At each level there shall be democratic representation; each level of government shall have appropriate and adequate legislative and executive powers, duties and functions that will enable each level to function effectively; such powers, duties and functions, are to be entrenched in the constitution; in addition to the powers, duties and functions entrenched in the constitution, each level of government may delegate powers, duties and functions at the lower level of government; the general principles of the constitution, including the terms of the Bill/Charter of Fundamental Rights shall apply to each level of government.
- ◆ A new constitution should provide for effective participation of minority political parties consistent with democracy. (It has been agreed in the working group that this principle does not imply or reject constitutional prescription for the participation of minority political parties in any executive structure of government; simple majoritarianism; or veto powers by minority political parties on any issues.) ■

Gracious cordiality

The memory of an irate Nelson Mandela acidly taking FW de Klerk to task at the opening of Codesa 1 last December, has given way to the niceties of *Realpolitik*.

The mood among the political opponents have been remarkably congenial with such traditional arch enemies as the Nationalists and Communists not only exchanging pleasantries but finding themselves supporting common positions in working group formulations.

Even the ANC's acrimonious relationship with the homeland regime in the Ciskei and its continuing public feud with the Inkatha Freedom Party has not prevented solid negotiating relationships developing between key negotiators.

Tuesday March 31 brought a momentary impasse in the gracious cordiality when National Party and ANC delegates in Working Group 2 dropped their negotiating masks and fired a volley of bitter reproach, revealing the ever-present apartheid Achilles heel.

In an eloquent submission (apparently drafted by ANC NEC member Albie Sachs) supporting the ANC's proposals for an elected Constituent Assembly the National Party/government came under fire for their rejection the previous day of an "elected" constitution-making body.

The Deputy Minister of Constitutional Affairs, Dr Tertius Delport, was the first to hit back describing the ANC's submission as "insulting". His outrage was backed by his minister, Dr Gerrit Viljoen, who described the tone of the submission as contrary to the spirit so far displayed at Codesa. At a midday press conference Sachs snapped back: "If the cap fits let them wear it."

The government provided the preamble to the bitter exchange in their total rejection of an "elected" constitution-writing body — known to be favoured by the ANC — by tabling its "Views on a Constitution-making body" on Monday March 30, at Codesa Working Group 2. The submission was disclosed to the media at a press conference hosted by Dr Viljoen.

EXTRACTS FROM THE GOVERNMENT SUBMISSION

Judging from the inputs thus far made to

this working group there seem to be three different approaches to the way in which a constitution-making body should be composed.

There is first the idea of a Constituent Assembly elected on a one-man, one-vote majoritarian basis. The impression has been created as though this is the generally accepted concept. The SA government has, however, for long been on record as being against this approach which reduces the importance of a negotiating process, with multi-party involvement, in working out a constitution representative of the people on a truly broad basis. It is noted that most parties favour-

GOVERNMENT . . . A one-man, one-vote election would put the cart before the horses by starting off with a *simple majoritarian system* which is actually the goal or desired outcome that some parties seek to achieve by the negotiations.

ing this approach have recently introduced qualifications as to the majority required for decision making, but their system still remains basically majoritarian.

. . . A one-man, one-vote election would put the cart before the horses by starting off with a *simple majoritarian system* which is actually the goal or desired outcome that some parties seek to achieve by the negotiations. On the basis of a majority-takes-all result such an election would leapfrog the whole negotiating process — it would predetermine its outcome. The elected majority will swamp the constitution-making process and negotiation will end.

The government has *no mandate* to enter into a constitution-making process which has the effect of negating the negotiating process by imposing simple majoritarian decision-making . . .

An elected constitution-making body constituted and functioning in such a manner that consensus among all significant political parties is not required is rejected because: (a) it reduces negotiation

gives way to bitter reproach

to a level of *insignificance* (2) it amounts to a simple *transfer of power to the masses* . . .

The following day the ANC made their submission on the constitution-making body to Working Group 2 in which the government, without being identified as the culprit, received a firm rebuke.

EXTRACTS FROM THE ANC PAPER

No one who genuinely supports democracy can fear elections. Once the racial and colonial myths are destroyed, there can be no justification for denying the principles and practice of democracy. Are we to say that elections are only good for whites in South Africa and blacks in other countries? Are we to back democracy in Zambia and in Eastern Europe and deny it in our own land?

The dream of the oppressed majority in this country ever since 1910 has been full participation as ordinary South Africans in elections and the choice of government. The national convention that preceded the 1910 constitution was based on whites-only elections for a whites-only convention. That ugly beginning to our constitutional life can only be expunged by non-racial elections for a non-racial convention . . .

It might be difficult for those who take elections for themselves for granted to understand what it would mean to those who have been permanently excluded from the electoral process to at last have a chance to stand up and drop their ballot slip into the ballot box . . .

Certain participants have, however, raised queries about the feasibility of elections in current conditions or about the desirability of granting what they call a 'blank cheque', to an elected Constituent Assembly. It would be ungracious to suggest that they were opposed to elections because of fear that they themselves would not fare well if they lost their base in apartheid structures and were left to the mercies of the electorate . . .

The second argument against having the constitution drafted by an elected Constituent Assembly is that this would amount to giving a blank cheque to an electoral majority without respecting the rights and interest of minorities. The

term 'majoritarianism' is used in this connection as though somehow it is inherently evil. Add the adjective 'simple' and it becomes even worse.

This approach comes badly from people who hold office on the basis either of no elections at all or of elections based on principles of simple majoritarianism . . .

One cannot escape the conclusion that the arguments against majority rule are being advanced not so much because of the principle involved, but because of dissatisfaction with whom the majority will be.

Put simply, 'simple majoritarianism' was good enough for whites for 82 years,

ANC . . . The term "majoritarianism" is used as though somehow it is inherently evil. This approach comes badly from people who hold office on the basis either of no elections at all or of elections based on principles of simple majoritarianism . . .

but will not be good enough for the blacks today, unless, that is, they promise to vote for the party presently in office, in which case the virtues of majority rule might re-assert themselves.

What the proposals had set out to do was make public the views of the parties on how and what a constitution-making body should come into being. This is what the parties put forward:

GOVERNMENT PROPOSALS

The government put forward the following points:

- (a) Codesa should agree on transitional government (as envisaged in the terms of reference of Working Group 3);
- (b) Such transitional government should be instituted in terms of a transitional constitution agreed to in Codesa and legislated for by the existing Parliament;
- (c) The transitional constitution should make provision *inter alia* for an elected legislature (consisting of one House based on proportional representation and a second House based on regional and

minority political party representation); (d) the constitution should be drafted by this legislature created by the transitional constitution.

ANC — BODY AND PROCEDURES FOR A NEW CONSTITUTION

1. The constitution be drafted and adopted by a body to be elected according to the principle of universal franchise.
2. This body (which in this document will be called the Constituent Assembly) shall be as inclusive as possible.
3. All persons over the age of eighteen (18) living within the 1910 borders and regarded in international law as South Africans, shall be entitled to vote.
4. The system of proportional representation shall be used.
5. The Constituent Assembly shall consist of four hundred (400) delegates and have a steering committee which will lay down its procedures.
6. The Constituent Assembly shall elect from its own ranks a representative drafting commission consisting of 40 persons to work under its direction.
7. Decisions at the Constituent Assembly shall be obliged to enshrine the principles agreed upon by Codesa in the new constitution and shall not contradict such principles.
8. The Constituent Assembly shall appoint an independent constitutional panel consisting of nine respected, representative and competent persons to hear any disputes concerning the application of clauses submitted to it by members of the Constituent Assembly.
9. Functioning within the above framework, the Constituent Assembly shall be legally entrusted with sovereign powers to draft and put into operation a new and binding constitution for South Africa.

In the aftermath the Inkatha Freedom Party by 5pm Tuesday, March 31, had joined in the sparring when they released an eight-page document drafted by IFP delegate Michael Alachouzos titled, "Why the Inkatha Freedom Party objects to the idea of the new constitution being written by a popularly elected assembly (whether called "constituent assembly" or called by any other name.) ■

Stonewalling the search for peace

Faced with the daunting task of recommending workable measures to ensure free political participation during this crucial phase of political transition, Working Group 1, since first meeting on February 6 1992, became a prime example of how political intransigence can deadlock the negotiation process.

AT THE heart of the problem lies the inability of the government and the ANC to come to agreement on two issues: Umkhonto we Sizwe and the status of political prisoners. Both have been stonewalling since the signing of the Pretoria Minute on August 6 1990 and the DF Malan Accord of February 12 1991.

The ANC and the government are equally to blame for the stalemate situation and neither have fully honoured the letter and spirit of the two agreements in question. While the ANC has honoured its suspension of the armed struggle, various issues pertaining to the operation of its military wing remain unattended.

Exasperated by the Gordian knot the two adversaries had tied themselves into, the rest of the delegates ordered the two sides to address their differences in 'bilateral talks'. They were to report back once consensus had been reached. The result is that Working Group 1 is still talking in circles skirting issues of crucial importance.

AGENDA

It is worthwhile noting the agenda of Working Group 1. As violence continues to rage in various areas throughout South Africa sustainable options are vital to precipitate peace.

Following are the issues on which the three sub-groups in Working Group 1 have failed to reach agreement. Where consensus or sufficient consensus had been reached it is noted.

SUB-GROUP ONE

Completing the Reconciliation Process

1. The finalisation of matters relating to the release of political prisoners and political trials.
2. The return of exiles and their families
3. The amendment and/or repeal of any remaining laws militating against free political activity, including the elimination of all discriminatory legislation.

SUB-GROUP TWO

Continuing the Security and Socio-Economic Process

1. Political intimidation
2. The termination of the use of military and/or violent means or the threat thereof of promoting the objectives and/or views of a political party/organisation.
3. The successful implementation of the National Peace Accord.
4. The prevention of violence-related crime and matters giving rise thereto.
5. The composition and role of the security forces in South Africa and the

TBVC states.

6. The need for an improvement in socio-economic conditions.
7. The fostering of a spirit of tolerance among political parties.
8. The role of intensive and continuous educative and informative campaigns in respect of political tolerance, the working of democracy and the processes of Codesa

SUB-GROUP THREE

Creating the Climate and Opportunity for Free Political Participation

1. Political neutrality of, and fair access to, state-controlled/statutorily instituted media (particularly the SABC), including those of the TBVC states. (It has been accepted in principle that the electronic media and all broadcasting services be placed under independent supervision.)
2. The funding of political parties.
3. Fair access to public facilities and meeting venues.
4. The advisability of statutory provisions guaranteeing equal opportunity for all parties to establish and maintain their own means of mass communication
5. The advisability of fair and reasonable access for political parties to all potential voters, wherever they may reside.
6. A fostering of a spirit of tolerance among political parties.
7. The role of intensive and continuous educative and informative campaigns in respect of political tolerance, the working of democracy and the processes of Codesa. ■

talk talk



by ZAPIRO

Private armies in the crossfire

A call for all security forces to be put under a single command as soon as possible is gaining favour among delegates at Codesa, although the government has consistently resisted this.

NO ONE escapes unscathed as acts of violence and counter-violence continue throughout the country and all but dominate the peace process and negotiations.

Accusations without fail implicate all existing security structures, including the South African Police, the ANC military wing Umkhonto we Sizwe, the Inkatha Freedom Party and the security forces of the TBVC states and self-governing territories.

Since the start of working group meetings on February 6, differences over the handling of the security forces as well as two other prominent security issues have been major points of conflict among delegates. At the heart of the matter is the status of Umkhonto we Sizwe (MK).

The question of political prisoners and the status of returned exiles are also in dispute.

Ministers Hernus Kriel and Kobie Coetsee have taken a hard line in negotiations in Working Group 1, with Kriel stating that no agreements can be reached before the dissolution of MK.

In a post-referendum press conference, Defence Minister Roelf Meyer joined the bandwagon of government spokesmen demanding the disbanding of MK as a prerequisite before substantial progress can be made on transitional measures.

Since very little headway was made in working group discussions, the ANC and government were requested by the rest of the working group delegates to find common ground in bilateral discussions. Both parties were told to report back to the working group. By 21 April they had not done so.

The bilateral talks focussed on the implementation of the Pretoria Minute signed on August 6 1990 and the subsequent DF Malan Accord of February 15 1991, with specific regard to the release of

political prisoners, the return of exiles, security legislation and MK.

Claims and counter-claims about failure to adhere to the two agreements have been made by both the ANC and government.

In recent public statements Cabinet ministers have described the continued existence of MK as a "non-negotiable". The ANC argues that neither of the two agreements demand the disbanding of MK and that the ANC has adhered to the suspension of the armed struggle since the Pretoria Minute. MK would be disbanded only once agreement has been reached on interim arrangements.

In its claims the government has referred to the DF Malan Accord clause which states that no political party or movement should have a private army in a democratic society. The ANC and its allies argue that the government is also a political player with the SAP and SADF as its private armies.

The ANC accuses the government of failing to respond to the demand for general amnesty for political prisoners and returned exiles. Several ANC NEC members, including its chairman, Oliver Tambo, have not yet received permanent indemnity due to their past associations with MK.

The ANC claims that as many as 300 political prisoners are still in jail, not all of them linked to the ANC, and proposes a general amnesty for all political prisoners.

The government position is that all political prisoners have been freed.

The dispute over MK is regarded by observers as a political issue and not a serious security matter. Both the ANC and government stand to lose or gain political support in their handling of the issue. In many quarters it is believed that the government is using MK as a lever to force political concessions from the ANC. ■

Everybody
wants to
free the
airwaves ...

THE SABC features high on the list of contentious subjects on which agreement should be reached at Codesa.

The role of the South African media, in particularly that of public radio and television, is seen as central to the normalisation of the political process and the levelling of the playing field as discussed by Working Group 1.

The SABC has an infamous history as a mouthpiece of the National Party government, and parties across the political spectrum are seeking ways of establishing independent control of radio and television. This applies equally to the public broadcast services in the TBVC states.

Among their allocated tasks, Working Group 1 is to advise on political neutrality in and fair access to state-controlled statutorily-instituted media (particularly the SABC and SATV), including those of the TBVC states.

Issues that need to be considered are: legal and constitutional restrictions on the free flow of information; party political control of broadcasting, and the absence of a broadly acceptable process for ensuring fairness and limiting distortion in media coverage.

The objective is not to formulate models for the operation of the media under a democratic government, but to make recommendations for functional media during the normalisation of the political process.

At a Working Group 1 meeting on February 10 there was broad consensus that what was needed was an independent communications authority. It has been suggested that this body, which would be truly independent of party political representations and influence, should be named the South African Independent Telecommu-

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Warehouse of political horse trading

Since February 6 delegates of five working groups have religiously made their way to the World Trade Centre at Kempton Park every Monday and Tuesday, starting deliberations which transform the ungainly steel structure into the first, unofficial people's parliament. We take a closer look:

THE financially ailing and visually drab World Trade Centre, which squats on prime industrial land in the Highveld, is the number one site for political horse trading in South Africa.

To be noted by posterity merely for its lack of style, comfort and infrastructure, the large corrugated iron and steel structure with its cheap carpets and prefabricated offices, provides the most unimaginative set and decor for the most historical event in South Africa's political history.

The entire infrastructure for Codesa had to be trucked in and make-shift offices erected to house the bureaucratic machinery of national negotiations which followed the Codesa 1 plenary in December 1991.

The plenary session of 323 delegates to the dramatic first Convention for a Democratic South Africa spawned a management committee of 19 (a representative from each of the political parties participating in Codesa); a daily management

committee of eight, a two-person secretariat, 25 working and sub-working groups with a total of 380 delegates.

Additionally, a 30-strong administrative staff, a seven-person finance administration force staffed by Constitutional Development Services, a security committee of 50 and a sub-security committee of eight are facilitating the process, while a large catering team provide the necessary lunch-time sustenance for diets which vary from halaal and kosher to diabetic, vegetarian and ordinary.

A full-time SAA terminal has been installed at Codesa offices to cope with the flight schedules of the out of town delegates. Inkatha delegates travelling from Ulundi make use of a special charter to get to and from the KwaZulu outpost.

Proliferating in the wings alongside the clothing stands, computer displays and shoe exhibits of permanent World Trade Centre tenants, are the on the scene party political headquarters accommodating the resources and back-up staff for each of the

19 delegations represented at Codesa.

Judging by the floor space occupied, number of staff, technical and electronic facilities and size of conference table, the government/National Party offices are definitely the plushiest. Word has it that the ANC is jacking up its office to befit its political status.

Less endowed political parties, however, make do with bare necessities.

As Codesa strives to "level the playing field" the management committee has recently awarded a monthly stipend of R2 000 to all delegations to cover their administrative expenses at Codesa. All office hiring and telephone expenses are footed by the central Codesa budget, provided for and administered by Constitutional Development Services.

All delegates, excluding civil servant and TBVC government officials, receive a daily *per diem* of R200.

Action days are scheduled for Mondays and Tuesdays when, at full count, 380 ne-

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Codesa peppered with 'Red Plot' people

A prime example of the co-operation and reconciliation required in the new South Africa is to be found in the management and administration structures of Codesa, where hunter and hunted have found peaceful coexistence.

In July 1990 on the eve of the launch of the South African Communist Party, the South African Police revealed "an undercover SACP plot to destabilise South Africa". The exposure was Operation Vulindlela (in the press referred to as Operation Vula).

Contrary to the government's allegations of a Red plot Vulindlela was in fact an ambitious underground operation au-

thorised by the National Executive Committee of the ANC in 1986 under the leadership of former ANC president and current chairperson Oliver Tambo.

The overall commander of Vula, ANC NEC member Mac Maharaj, was detained under Section 29 of the Internal Security Act immediately after police allegations of an ANC/SACP/MK plan to seize power in the event of the failure of ANC negotiations with the government.

In Natal the security police detained Praveen Gordhan, alleged to be one of two joint secretaries of the operation's military command structure. A search was launched to track down other alleged Vula operatives, including well-known Durban activists Moe Shaik and Janet Love. Re-

ports at the time alleged that Shaik was handling seven moles who had infiltrated top state security structures.

In the crackdown only eight people were brought to trial. Charges were dropped when all eight were awarded indemnity. Maharaj and Gordhan were released after nearly four months in detention.

Today Maharaj and the Department of Constitutional Development adviser, Fanie van der Merwe, make up the two-person secretariat that oversees the implementation of decisions of both the management committee and the daily management committee at Codesa. Janet Love is a deputy in the office of the secretariat.

Gordhan has been chairperson of the

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gotiators and advisers arrive to take yet another small step towards a negotiated settlement.

The two day per week structure has been particularly hard on government and tri-cameral parliament delegates who have been forced to discover life in a suitcase travelling between Parliament and Jan Smuts Airport. While the referendum brought some relief in some quarters the tough pace will continue either to the end of the parliamentary session or the advent of Codesa 2.

The main focus, however, remains the five working groups which soon after their first meeting on February 6, proliferated into a total of 24 sub-groups and an unidentified number of sub-sub groups.

The working groups, defined to address the various obstacles in the way of a negotiated settlement, demand fast-paced administrative services.

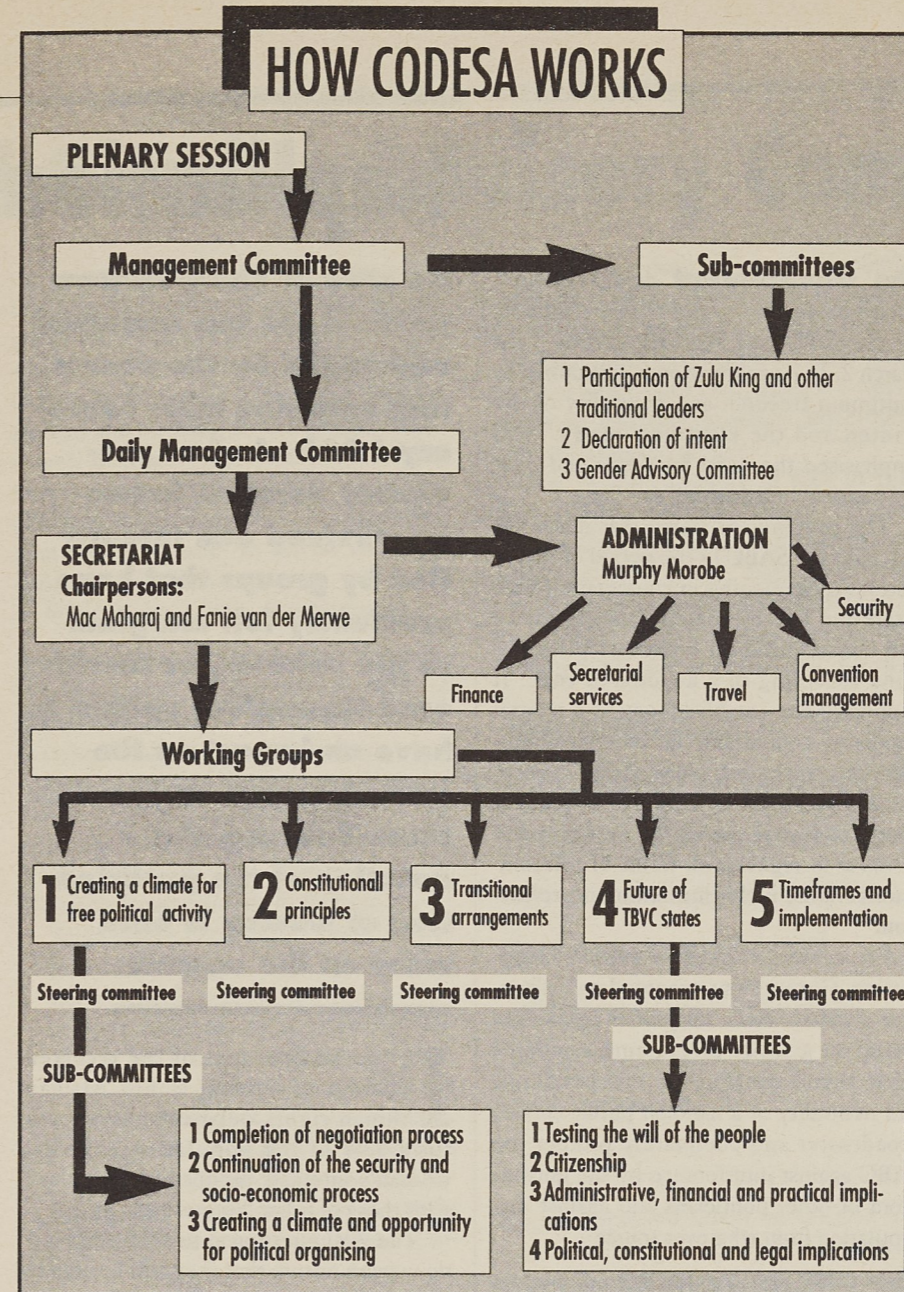
Although each working and sub-group has been assigned a secretary, note-taker and administrative assistant, serious conflict over the accuracy of minutes have resulted in every working group meeting now being recorded. Both the recordings and two copies of every document are preserved in a documentary archive.

Indeed, the content and form of minutes and agendas surfaced as the *pièce de résistance* on more than one occasion in Working Group 1, which deliberates the levelling of the playing field for all participants in the process of political transition.

Keeping the working group delegates ahead with the necessary paperwork from two days of deliberations requires an efficient administrative and secretarial infrastructure (provided for by the Consultative Business Movement), mounds of paper and state of the art fax machines.

Each delegate can expect a faxed copy of the lengthy minutes (often containing 12 hours of debate) checked by the note-taker, secretary and chairperson of her/his particular working group by Friday lunch time to allow delegates to peruse the papers for inaccuracies before talks resume on Monday morning.

Shares of the country's two paper giants should be rising, judging by the number of proposals put forward by political players and members of the public on almost every issue raised in the working group agendas. Almost a hundred submissions have been made to Working Group 2 alone, which concerns itself with a future South African constitution. ■



Freeing the airwaves

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nications Authority (SAITA). No further details have been agreed upon, but several parties are worried that the government will embark on unilateral restructuring of the SABC.

Most delegates to Working Group 1 believe the SABC and the TBVC broadcasting services should play an important role in facilitating the widest possible debate and free flow of information both during a transitional phase and thereafter.

The Democratic Party was the first to put forward its submission on the media. The focus was not on interim remedies but on long-term principled solutions. In its submission the DP concerned itself specifically with the establishment of an independent broadcasting regulatory authority that would open access and ensure fairness in the electronic media.

Such a body would control licensing, formulate rules governing broadcasting and allocate frequencies to private and commercial broadcasters. The DP recognised the present SABC board as a problem area and wanted the board reconstituted. It supported the appointment of an ombudsman to investigate and report on possible bias and argued for the previously disadvantaged sector to be given special consideration.

The National Party in its submission stated that it was satisfied that the SABC's *Code of Conduct and Values* and its present editorial policy met the requirements for political neutrality and impartiality and adequate community participation.

The National Party stated that the SABC was free from government involvement or interference in any form whatsoever, and there was no justification whatsoever for any inference to be drawn that there was bias towards the government solely because the government appointed the members of the SABC Board. It suggested that an advisory committee dealt with the question of time allocation to the various political parties in a "political" slot.

The NP concluded that it was satisfied that the aims with regard to neutrality and impartiality could be achieved without any modification to the present structure and that the status quo should be maintained as an interim measure. This should not in any way hamper the political processes, said the NP submission.

The Government delegation submitted its position paper on the electronic media to Codesa Working Group 1 on March 2. In its submission it subscribed to "optimum freedom and neutrality of the printed and the electronic media" and emphasised the need for a free and neutral national broadcasting service.

The government stated that it did not preclude the SABC in the period of transition from developing in co-operation with interested bodies, mechanisms of advice and consultation on broadcast programming according to a negotiated code. It supported the establishment of a neutral regulatory commission for all telecommunications, including radio and television, and envisaged the formation of a predominantly technical *commission for telecommunications* to regulate all forms of telecommunications, including radio and television.

For content control on current broadcasting, Government proposed an *independent electronic media complaints commission* acting on a set of programme standards "that would confirm the independence and neutrality of a national public service broadcaster and adequately protect the SABC against interference by the government or other politicians and against manipulation from whatever source".

The ANC tabled a detailed proposal on the media on March 24, saying that the media had a central role to play in leveling the political playing field.

The ANC proposed that a *Media Commission*, representative of all political forces, be appointed by Codesa. This commission would in turn appoint an *independent communications authority*, free of political affiliation or association, whose task it would be to ensure impartial state-controlled broadcasting services. These structures should be empowered to take the necessary steps to ensure that media coverage, specially during the run-up to an election, was free and fair.

As for privately owned media structures, it was proposed that a code of ethics be adopted which would ensure free and fair coverage. A call was made for the establishment of a *public broadcasting board* for all the broadcasting services. Such a board would oversee government departments dealing with the media. ■

Implications

No area of South African political life has remained unchanged by the events that unfolded after February 1990. And as previously dormant issues are revived and intensified by groups that have previously felt marginal to the debates, or considered themselves unable to have an impact on the central groups involved in those debates, the question of the participation of women is once more on the agenda:

It has become part of the received wisdom of current South African human rights debates that women form 53% of the population and that women's interests cannot be categorised with those of other "interest groups".

The vital question at this time is: How do women ensure that they will be able to claim the human rights that will be entrenched in the new South African constitution and in the Bill of Rights which is attached to it?

The approach from women's organisations and interest groups has been two-pronged: to increase representation of women and awareness of gender issues at the Convention for a Democratic South Africa (Codesa) itself, and to formulate a campaign to ensure that women are able to claim the human rights that will be entrenched in the new South African constitution.

Concerning the first issues, on Monday 30 March, the management committee of Codesa agreed to an increase in women's participation. After considering representations from a wide variety of individuals and organisations, and "recognising the vital role of women in the negotiation process" it was agreed that a Gender Advisory Committee (GAC) should be established.

At the time of the writing of this article

of Gender Advisory Committee

the group had not yet had the opportunity to meet. The terms of reference of this group will be to facilitate Codesa's goal of a non-sexist democracy by considering the terms of reference of each of the working groups, and advising on the gender implications of these. The GAC will also look into the agreements arrived at in working groups and decisions of the management committee in order to advise on those gender implications.

What motivated this development?

It is only recently that for the first time in our history, women from all walks of life came together to join forces, in order to stake this claim over their rights.

At the launch of the Women's National Coalition (WNC) in September 1991, this issue was summed up by Frene Ginwala, ANC Head of the Commission of Women's Emancipation, as follows:

South Africa is entering a period of negotiated transition from apartheid to democracy. It is important that women actively intervene so as to ensure that during the transition, the future non-racial and democratic South Africa is transformed also into a non-sexist one. In the period of apartheid, racism and exploitation have been institutionalised, and layered upon an intensely patriarchal pre-colonial and colonial society.

Today all South African women, regardless of race, are subject to some form of subordination in law and in practice.

The months ahead offer South African women both an opportunity and a challenge. The opportunity is there because we are discussing and negotiating a new South African dispensation and so the way is open for women to incorporate clauses and mechanisms that will facilitate genuine equality between men and women in the future South Africa.

The challenge arises because our circumstances are unique. The very fact that we are engaged in a process that will require systematic changes in our attitudes, and in almost all the institutions of society, opens the way for women to simultaneously seek the structural changes that will transform our society into a non-sexist one.

These comments are quoted at some

length, because they sum up the preliminary stages of the process that South African women are currently engaged in.

At the time Dr Ginwala made this speech in September 1991, Codesa 1 was a completely unknown quantity. Since then events have moved rapidly.

Thus, given the state of flux in the South African political debate, women have been organising around the known variable of the situation. This has tended to focus disproportionately on Codesa, because Codesa is seen as the central arena of activity around negotiations. To this

FRENE GINWALA

It is important that women actively intervene so as to ensure that during the transition, the future non-racial and democratic South Africa is transformed also into a non-sexist one.

end, the demand made on Codesa has been both for greater representation of women, as well as increased attention to women's issues.

The Women's National Coalition (WNC) dealt with these issues on a broader front. WNC is a nationwide alliance of women's organisations, women's forums or sections of broader organisations and regional coalitions. It is an independent, politically unbiased, non-denominational organisation. WNC will be officially launched at a national workshop in Johannesburg on April 25 and 26.

Its aims are:

To ensure that women are able to claim their human rights equally with men.

To coordinate a national campaign for these rights to be entrenched and enforceable in the new South African constitution.

To facilitate linking together of as many women's groups and organisations as possible, so that all may participate in this process.

Above all, to respond to the needs and wishes of women of South Africa.

The membership questionnaire of WNC gives an indication of the preliminaries to this debate.

It asks: Do you think that women and men should have absolutely equal rights in the new constitution? Does it bother you that decisions relating to your life are made almost entirely by men? Are there things that you would like to be different about your own life in the New South Africa?

This is not a present debate about the legalities of women's rights in the new constitution. Rather, it acknowledges how essential it is that women come together to develop a common understanding of, and approach to, those rights which we wish to see secured in the new constitution and the future bill of rights.

In addition, one of the founding reasons for WNC was the recognition that in other countries, despite the existence of statutory measures protecting women's rights, these laws have not always been implemented in practice. One of the reasons for this is that women very often do not know what their rights are.

South African women have realised that we need to look at developments around women's rights in other countries in order to avoid the problems that other countries have gone through in search of gender equality — Namibia and Zimbabwe are two relevant examples here.

One of the ways for South African women to avoid a situation where women's rights exist in law and yet not in practice, is to ensure that as many women as possible are involved in the process of ensuring those rights, and that these issues are as widely discussed as possible.

In this way, many more women and men will become thoroughly familiar with the idea of gender equality, and women's legal rights.

The major focus for achieving this, and for gaining wide consensus on the whole range of issues involved in the debate, has been the whole notion of a Women's Charter, or other document, to be attached to the Bill of Rights and the constitution. It is this document that, it is hoped, will enable women to claim the human rights entrenched for all in the constitution itself. ■

GILL NAERO is on the National Council of the Democratic Party.

The long walk to democracy

The signing of a Declaration of Intent, like-mindedness on nine general constitutional principles and agreement on a transitional executive structure serve as the major beacons of consensus since South Africa's political factions committed themselves to a peaceful political settlement through negotiation.

On May 4 it will be two years since the National Party government and the African National Congress met at Groote Schuur for their first historic meeting which paved the way for months of talks about talks, several accords and finally the landmark Convention for a Democratic South Africa on December 20 and 21 last year.

Codesa's second plenary session is scheduled for May 16 and 17 at which working delegates are supposed to report back and record their progress. Four chief negotiators give their point of view on the progress and obstacles:

■ **Roelf Meyer, Minister of Defence and National Party negotiator in Working Group 3.** I must emphasise that progress has not been spectacular but I regard it as typical of the process. We are gradually moving toward the real issues and in some cases getting to the nitty gritty.

Since Codesa 1 a greater spirit of reconciliation has been displayed by all parties. In the pre-Codesa phase parties were positioning themselves. Now there is a greater common desire to establish co-operation and obtain success. By Codesa 2 consensus will have been reached on a few individual issues but not enough to register as a broad consensus.

One particular stumbling block is the largeness of the working groups. The 40-person groups are simply too big to facilitate effective negotiation. Attention should be paid to this. The task force appointed in Working Group 3 to address the stalemate reached on transitional measures will probably prove more effective in moving to agreement.

Government has posed prerequisites. We cannot agree to transitional arrangements before comprehensive and binding agreements have been reached. For example, the DF Malan Accord states that a democratic state can only have one security force and precludes therefore the existence of private armies and armed wings. The phased implementation of the accord has not taken place.

We demand the termination of the armed struggle and a recognition that private armies are unacceptable. For Working Group 1 to make headway on this issue a bilateral agreement between Government and the ANC will have to be reached. We are meeting regularly and progress must be made by Codesa 2.

Accepting that the prerequisites will be implemented we can start talking about the principles applicable in finding a solution for the defence force, in other words its practical implementation.

As far as interim measures are concerned, we stand by the formulation agreed to in Working Group 2 on March 21. We would like to see agreement on a true transitional government model as soon as possible. This would require the establishment of a transitional constitution. What we envisage now in a first phase is the setting up of preparatory

councils with executive functions in their specific areas.

■ **Cyril Ramaphosa, secretary-general of the ANC and negotiator in Working Group 2.** A great deal has been achieved. Rhetorical talk has been overtaken by talking over the real issues.

In Working Group 1 the progress has been frustratingly slow but the recognition that there is a tremendous need for a climate free of political intimidation and repression is important.

We expect a settlement soon in terms of the Paragraph 3 working group which has been conducted on a bilateral basis between Government and the ANC to settle differences over the implementation of the Pretoria Minute and the DF Malan Accord. (The Paragraph 3 group was set up jointly by the ANC and Government to resolve crucial differences over activities related to the ANC's suspension of the armed struggle.)

Working Group 2 has made tremendous progress, with nearly all the constitutional principles having been settled. Some difficult areas remain: the question of centralism and regionalism and the accommodation of political minorities.

We believe that Working Group 4 has already reached tentative agreement on the reincorporation of the TBVC states. Government is acting as an obstacle here with its insistence that reincorporation should be negotiated between themselves and the TBVC states. Even though there is consensus on this issue they still want the final say.

What we regard as the major obstacle in the process is the way in which Government is approaching negotiations. Their resistance and refusal to be divested of their powers in favour of an interim government is slowing down progress. They are resisting the natural course of the negotiation process.

■ **Alasdair Macaulay, leader of the IFP delegation in Working Group 3.**

In general terms some progress has been made towards agreement on a transitional government.

There is a fundamental problem and that is that the detailed principles and framework of the new constitution are nowhere near being agreed upon because of the little progress made in

Working Group 2. That progress has been retarded on the fundamental issues because of its concentration on the constitution-making body which, in our view, is putting the cart before the horse. You must surely know what kind of constitutional dispensation you will have before possibly agreeing to transitional government agreement. We have not decided on the most crucial question, that is whether a future South African constitution will be a federal, confederal or unitary model.

We believe that there has to be agreement on the detailed principles and framework of a new constitution before we are prepared to enter into transitional arrangements.

The IFP also believes that Codesa is not inclusive enough to take major decisions on a transitional government and detailed constitution. The governments of the self-governing territories will be fundamentally affected by any transitional measures and we would therefore like to see them being brought into the process.

The proposed addendum that will be put to Codesa 2 puts forward exactly the wording that the IFP had called for and we believe that the addendum is a positive contribution to enlarging the debate in regard to constitutional models for South Africa. It should encourage particularly right-wing parties such as the CP to participate because their concerns are being addressed.

■ **Dr Zach de Beer, leader of the Democratic Party and member of the Codesa Management Committee.**

The Declaration of Intent adopted at Codesa 1 remains a beacon of major progress. Not much attention has been paid to it. But in it we have committed ourselves to a lot. Every sentence in the declaration is loaded with meaning. Since January the progress has been slower and I believe we have been fairly bold in picking such an early date for Codesa 2.

The focus is now on transitional government. Superficially the ANC and the Nats are poles apart. The ANC's proposal is for an executive council to be put together at Codesa and to have superior powers over the present Cabinet. We support the idea of a supervisory council over the present Cabinet. We believe the Nats are confusing the whole issue with their interim parliament proposal. ■



CYRIL RAMAPHOSA

Reason above emotion

The ANC Secretary-General, Cyril Ramaphosa, established his reputation as a skilled and tough negotiator facing employers in the conference rooms of the mining industry.

WITHIN months of capturing the top position from ANC stalwarts at the ANC's national conference in July last year, the former general secretary of the National Union of Mineworkers became the head of the Negotiations Commission of the ANC which guides the organisation's participation in Codesa 1.

Since Codesa working group negotiations started in February this year, Ramaphosa has served in Working Group 2 which focuses on constitutional principles. Whether in bilateral talks, where his influence is incisive, or working group negotiations, the charismatic Ramaphosa favours reason and debate above emotion and argument.

Born in Johannesburg on 17 November 1952, Ramaphosa is the second of three children of Erdmuth and Samuel Ramaphosa, a retired policeman. He grew up in Western Native Township and Soweto, attending a local primary school and Sekano-Ntoane High School in Soweto, before becoming a border in 1970 at the Mphaphuli High School in Sibasa, in the northern Transvaal.

After matriculating from Mphaphuli, Ramaphosa registered at the University of the North (Turfloop) for a BProc degree.

He joined the South African Students' Organisation (Saso) and by 1974 served as chairperson of the university branch while also holding the position of chairperson of the Student Christian Movement (SCM).

He was detained for 11 months in 1975 as a student, and again in 1976, following the student demonstrations in Soweto, for six months in terms of the Terrorism Act. After his release he continued his articles and by 1981 obtained his BProc degree at the University of South Africa.

He chose the trade union movement

above a legal career and joined the Council of Unions of SA (Cusa).

In August 1982 the Cusa national conference decided to form a national union of mineworkers, and NUM was born. In December Ramaphosa became its first general secretary.

The founding membership of 6000 workers on eight mines had increased to more than 300 000 by 1986. NUM became the first unregistered trade union to be recognised by the Chamber of Mines as the chief representative of black mineworkers. The union tackled apartheid on the mines head-on, with Ramaphosa actively involving NUM with the removal of racial discrimination in the mining sector.

Ramaphosa played a major role in paving the way for the launch of the Congress of South African Trade Unions (Cosatu), and delivered the keynote address at Cosatu's launch in December 1985.

The year 1987 was a watershed for both Ramaphosa and NUM. By August a deadlock in wage negotiations with the Chamber of Mines led to one of the biggest strikes in South Africa's history, involving 40 gold and coal mines — more than 300 000 mineworkers. Nine miners died in clashes, 500 were injured, 400 arrested and some 46 000 fired.

Failing to win the increase they demanded, NUM called off the strike after 21 days.

In September 1987 Ramaphosa was refused a passport to travel to Britain. In 1987 he was allowed to travel to Stockholm when he became the first recipient of the Olaf Palme prize.

He was a leading figure in the campaigns of the Mass Democratic Movement, including resistance to the Labour Relations Amendment Bill in 1989.

Ramaphosa is married to Nomazizi and they live in Jabulani, Soweto. He enjoys a game of social tennis and is a keen trout fisherman. ■

Extracts from this biography were taken from the manuscript of the forthcoming *Who's Who of South African Politics No 4*, by Sheila Gastrow, to be published by Ravan Press in October 1992.

NEXT ISSUE!

Negotiation News will keep you ahead of change

- ◆ CODESA 2 — Breakthrough or damp squib?
- ◆ WHAT are the ANC and NP up to behind closed doors?
- ◆ WHEN will Stella sing their song?

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Labour and business join

Business and labour have bridged differences to join forces in thrashing out a new economic programme for South Africa. Now they are waiting on the government to join the historic initiative.

Crucial areas of conflict on economic policy between major interest groups compel negotiations on South Africa's economic future to run parallel to the present process of constitutional transformation at Codesa.

There has been a general misconception that economic policies would be debated at Codesa. However, all political players, including the government, have now accepted the need for an independent forum to negotiate economic policies.

With the exception of a broad definition committing a future government to economic growth, the only areas likely to be clearly defined in the process of constitutional negotiations are property ownership and expropriation which would be raised as subjects in a bill of rights.

Following months of behind the scenes negotiating the largest labour federations and key business representatives reached an agreement on the need for an economic forum on March 31. The following day a high-level meeting was held to present the joint initiative to the government.

Signatories to the agreement include the 1,5-million strong Congress of South African Trade Unions (Cosatu), the National Council of Trade Unions (Nactu) and the Federation of Salaried Staff Association (Fedsal).

Key business groups that have committed themselves are: the Afrikaanse Handelsinstituut (AHI), the Building Industries Federation of South Africa (Bifsa), the Chamber of Mines, the Foundation for African Business and Consumer Services (Fabcos), the National African Federated Chamber of Commerce (Nafcoc), the South African Agricultural Union (SAAU), the South African Chamber of Business (Sacob), the South African Federation of Civil Engineering Contractors (Safcec), and the Steel and Engineering Federation Industries Federation of South Africa (Seifsa).

In separately proposed agendas both labour and business prioritised areas for discussion. Labour listed economic re-

structuring, including trade and tariff issues as well as retrenchments, unemployment and job creation.

Business put forward a far more comprehensive proposal and identified a number of areas where development and restructuring should take place. Points raised were: macro-economic restructuring, monetary and fiscal policies to curb inflation, public sector and tax reform, promotion of a flow of resources, invest-

ALTHOUGH economic matters will not be decided at Codesa, the Working Group 2 on 23 March accepted a "draft principle on economic freedom, governmental intervention and economic systems".

The following principle was prepared by the Working Group 2 steering committee: "The constitution should provide for the promotion of the improvement in the quality of life of all South Africans by enabling economic growth, human development, social justice and equal opportunities for all."

The formulation is expected to become part of a body of general constitutional principles drafted at Codesa and binding in the constitution writing process.

ment and investor confidence, education and training, socio-economic areas such as health, housing and education, and the possible role of a socio-economic compact between business and labour and the promotion of economic empowerment.

Although labour and business have taken the lead the participation of the government is crucial if the forum is to have an impact on a macro-economic level. In a move to bring the government into the forum a joint labour/business delegation on April 1 presented their draft proposal to a government delegation which included the Minister of Economic Coordination and Trade and Industry, Derek Keys, and the Trade and Industry and Finance deputy ministers, Theo Alant and David Graaff.

Representing labour were Jayendra Naidoo from Cosatu, Ebrahim Patel from the SA Clothing and Textile Workers Union and Dannhauser van der Merwe from Fedsal. Business was represented by Bobby Godsell from Saccola, Jabu Mabuza from Fabcos and Ben van Rensburg from the South African Chamber of Business. ■

The draft proposal agreed to on March 31 by the business/labour economic forum working group reads as follows:

1. INTRODUCTION

In recognition of the economic challenges facing South Africa, we believe that major economic stakeholders need to develop co-operative mechanisms for addressing South Africa's economic challenges. Organised labour, organised business and the governing authority have a central role in developing strategies geared towards the generation of sustained economic growth, the elimination of distortions in the economy, stability and the addressing of social needs. These areas need to be addressed as a matter of urgency if the political transition is to succeed.

It is for this reason that we acknowledge the need to establish an Economic Forum. We are also mindful of the clause contained in the Laboria Minute of 14 September 1990, which reads: "All of the parties record their willingness to discuss in an appropriate forum, the impact of labour relations issues on the economy."

Taken together with other developments, it is now necessary to expand the debate to ensure that broad economic and social issues are adequately addressed.

2. AIMS AND OBJECTIVES OF ECONOMIC FORUM

2.1. Co-operative body of major economic shareholders

The forum should be a consensus-g geared co-operative body to deal with economic and related socio-economic issues. The forum should aim to provide a mechanism through which economic shareholders can address the economic challenges facing the country. It would in the first instance be a body operative for the transitional period. The forum will seek to support the transition to democracy.

2.2. Economic structures, socio-economic needs and a framework

forces on economic forum

The forum should focus on both economic structure and distortions therein, as well as socio-economic needs. The forum should achieve balance between a focus on short-term challenges, including those of the transition, and the formulation of a long-term economic framework. The forum should attempt to reach short-term decisions which are sustainable in the medium term to long term.

2.3. Economic restructuring

Any economic restructuring undertaken, particularly during the period of transition, should have the support of all economic shareholders. The forum must therefore deliberate on any proposed restructuring.

3. SCOPE

3.1. Any party to the forum is entitled to table any issue for discussion. The forum would then establish procedures to decide which issues should receive the attention of the forum, and which issues would be better dealt with in other forums.

3.2. As a contribution to a potential agenda for the Economic Forum, a list of items which business and labour wish to air are set out in Annexure A.

3.3. The forum will seek to work co-operatively with the legislative and executive framework of the day.

3.4. The forum should aim to reach consensus on issues tabled through reason and debate. Mechanisms need to be created to ensure that consensus areas are given practical effect. Provision should also be made to record dissenting views. It must be accepted that consensus will not be possible on all issues. In such event there shall be no resort to arbitration.

3.5. Relationship to other bodies

It is not the intention of the forum to necessarily replace other negotiating, advisory or consultative forums which exist or are being conceptualised at national, regional, indus-

trial or sectorial level. There would however be a need for co-ordination in order to develop a coherent, integrated approach to economic growth and development.

4. PARTICIPANTS

4.1. The principal participants in the forum should be representatives of organised business, organised labour and the governing authority of the day. The principal of parity of the sizes of delegations should be applied. Mechanisms will need to be found to relate to key political and economic players.

4.2. The forum must be fully representative of organised labour, organised business and the governing authority. Criteria will need to be formulated to determine participation in the forum and the level of that participation. Any party who believes that it meets the criteria set out will be invited to seek membership.

4.3. In terms of participation, a distinction needs to be drawn between a steering committee, plenary sessions and technical working groups structures. Provisions must be made for specialist and technical input.

5. STRUCTURE AND FUNDING

5.1. The principal forum will be the plenary forum, which will define the mandate of working groups. These working groups will meet in between plenary sessions and will report back to plenary sessions.

5.2. The plenary sessions should be chaired by an appointed chairperson/s, acceptable to all parties. Chairpersons of working groups should be drawn from the principal parties on the basis of the need for inclusion and continuity.

5.3. A permanent secretariat — overseen by and accountable to a steering committee appointed by the plenary — will need to be established and should combine participants from the principal parties. Interim secretariat services should be provided by the Consultative Business Movement.

5.4. It is envisaged that once the forum is permanently established, resort will be made to public funds to cover expenses.

6. RELATIONSHIP TO TRANSITIONAL ARRANGEMENTS

6.1. We enter this process mindful of the fact that unless rapid progress is made in the political arena, the Economic Forum process could rapidly face insurmountable obstacles and fail.

6.2. We accept that Codesa is not an appropriate structure to deal with the economy. Nevertheless, some coordination between political and economic changes will be necessary.

7. PROCESS, TIME FRAMES AND MECHANISMS TO GIVE PRACTICAL EFFECT TO CONSENSUS AREAS.

7.1. It is the intention of the parties to draw up rules of conduct to ensure that the forum can operate in a spirit which will allow it to achieve its aims.

7.2. A draft statement of intent for the Economic Forum should be compiled for submission to a plenary session.

7.3. Once established the forum should in the first instance seek to establish consensus on issues tabled, where this is possible. In the second instance mechanisms would need to be created to ensure that the consensus areas are given practical effect, including, where appropriate, legislative change.

7.4. The mandating needs of all participating parties need to be respected without allowing mandating procedures to unduly retard the pace of work on the forum.

7.5. Unless media statements are jointly agreed upon, any party/individual who speaks to the press should do so on their own behalf, and not on behalf of the Economic Forum. ■

Declaration of Intent

The first meeting of Codesa held on December 20 and 21 last year adopted a Declaration of Intent setting out the scope of the historical conference. Each participating group was asked to sign the document which bound them to the decisions taken at Codesa and obliged them to facilitate the implementation of those decisions. Two parties dissented and declined to sign the agreement: the independent homeland of Bophuthatswana and the Inkatha Freedom Party on the basis that the declaration authorised a unitary form of government and excluded federalism as a constitutional option. Seventeen delegations, including the South African government, accepted the goals set out in the document.

We, the duly authorised representatives of political parties, political organisations, administrations and the South African Government, coming together at this first meeting of the Convention for a Democratic South Africa, mindful of the awesome responsibility that rests on us at this moment in the history of our country, declare our solemn commitment:

- 1 To bring about an undivided South Africa with one nation sharing a common citizenship, patriotism and loyalty, pursuing amidst our diversity, freedom, equality and security for all irrespective of race, colour, sex or creed; a country free from apartheid or any other form of discrimination or domination.
- 2 To work to heal the divisions of the past, to secure the advancement of all, and to establish a free and open society based on democratic values where the dignity, worth and rights of every South African are protected by law.
- 3 To strive to improve the quality of life of our people through policies that will promote economic growth and human development and ensure equal opportunities and social justice for all South Africans.
- 4 To create a climate conducive to peaceful constitutional change by eliminating violence, intimidation and destabilisation and by promoting free political participation, discussion and debate.
- 5 To set in motion the process of drawing up and establishing a constitution that will ensure, *inter alia*:
 - a that South African will be a united, democratic, non-racial and non-sexist state in which sovereign authority is exercised over the whole of

- b its territory;
- b that the Constitution will be the supreme law and that it will be guarded over by an independent, non-racial and impartial judiciary;
- c that there will be a multi-party democracy with the right to form and join political parties and with regular elections on the basis of universal adult suffrage on a common voters roll; in general the basic electoral system shall be that of proportional representation;
- d that there shall be a separation of powers between the legislature, executive and judiciary with appropriate checks and balances;
- e that the diversity of languages, cultures and religions of the people of South Africa shall be acknowledged;
- f that all shall enjoy universally accepted human rights, freedoms and civil liberties including freedom of religion, speech and assembly protected by an entrenched and justiciable Bill of Rights and a legal system that guarantees equality of all before the law.

We agree:

- 1 That the present and future participants shall be entitled

to put forward to the Convention any proposal consistent with democracy.

- 2 That Codesa will establish a mechanism whose task it will be, in co-operation with administrations and the South African Government, to draft the text of all legislation required to give effect to the agreements reached in Codesa.

We, the representatives of political parties, political organisations and administrations, further solemnly commit ourselves to be bound by the agreements of Codesa and in good faith to take all such steps as are within our power and authority to realise their implementation.

We, the South African Government, declare ourselves to be bound by agreements we reach together with other participants in Codesa in accordance with the standing rules and hereby commit ourselves to the implementation thereof within our capacity, powers and authority.

Nkosi sikelel' iAfrika. Ons vir jou Suid-Afrika.

Morena boloka sechaba sa heso.

May the Lord bless our country.

Mudzimu Fhatutshedza Afrika.

Hosi katekisa Afrika.

On March 31 the Codesa Management Committee released the following proposed addendum to the Declaration of Intent for submission to Codesa 2 in order to remove any doubts as to whether the Declaration of Intent adopted at Codesa 1 commits Codesa participants and signatories to a unitary state.

For the avoidance of doubt as to the interpretation of the Declaration of Intent, it is declared by its signatories that irrespective of their individual interpretive views thereof, no provision of the Declaration, interpreted alone or in conjunction with any other provision thereof shall be construed as:

- 1 Favouring or inhibiting or precluding the adoption of any particular constitutional model, whether unitary, federal, confederal, or otherwise, consistent with democracy;
- 2 Preventing any participant from advocating the same or the separation, in terms of any constitutional model, of powers between a central government and the regions; during the proceedings of Codesa or any of its committees or Working Groups, and
- 3 That its addendum shall be added to an form part of the declaration. ■

What does sufficient consensus mean?

NO YEA or nay or counting of hands determines progress at Codesa. The plenary at Codesa 1 determined a far more intricate decision-making structure with the aim of keeping as many parties in the debate as possible.

Some parties argue cynically that agreement is reached at Codesa when the government and the ANC have come to terms on an issue. However, an official decision-making procedure, providing for three variables, was set out in the Standing Rules of Procedure adopted at Codesa 1.

Here the rules of "consensus" and "sufficient consensus" were introduced. In order to prevent the process from reaching deadlock, a second state of

agreement was added: "Agreement by sufficient consensus will have been reached when consensus is of such a nature that the work of the Convention can move forward effectively."

All Working Group decisions are passed through the secretariat to the management committee who prepare the agreement for adoption at Codesa's next plenary session, scheduled presently for May 15 and 16.

Failing any form of agreement, disagreeing participants have the right to record their objections or dissent. The Inkatha Freedom Party and the Bophuthatswana delegations took the latter route when they declined to sign the Declaration of Intent. ■