



THESE ARE DRAFT MINUTES. THEY ARE CONFIDENTIAL AND RESTRICTED TO THE MEMBERS OF THE WORKING GROUP, THE DAILY MANAGEMENT COMMITTEE AND THE MANAGEMENT COMMITTEE. THEY ARE STILL SUBJECT TO APPROVAL OF THE CHAIRPERSON OF THE WORKING GROUP SUB-GROUP AND TO RATIFICATION BY THE WORKING GROUP SUB-GROUP AT ITS NEXT MEETING.

MINUTES OF THE SIXTH MEETING OF WORKING GROUP 1 SUBGROUP 3 HELD AT THE WORLD TRADE CENTRE ON 21ST APRIL AT 15H30-19H00.

PRESENT : SEE ADDENDUM A

- M B Webb (Chair)
- T E Motumi (Minute Taker)
- A Schoeman (Secretary)

1. Chairperson's opening remarks

1.1. Mr Webb advised that Rev Mohapi had requested that WGSC1 appoint Mr Webb to Chair SG3 meetings until CODESA II. The convenor welcomed the delegates.

2. Attendance and apologies

3. Ratification of Minutes

The minutes were ratified, and it was noted that the Item on funding of political parties was not tabled for discussion - this would therefore be on the agenda for the next meeting.

4. Matters Arising from Minutes

None

5. Continuation of discussion - Item F

5.1 Powers, duties and functions of an independent body to regulate the electronic media and telecommunications

5.1.1 Mr Myburgh reported that he had only completed 21 pages of the consolidated and comparative proposals submitted. The meeting agreed that only the section dealing with powers, duties and functions will be circulated at this stage. The full document would be circulated as soon as it was ready. No further discussion took place on this Item.

5.2. Items 5.2 to 5.8 on the agenda were not discussed

5.3 **SABC and other Boards**

5.3.1 Substantial consensus was reached that the present Board of the SABC should be reconstituted as part of interim arrangements.

5.3.2 The subgroup also discussed the possible composition and appointment of members to and the powers duties and functions of an independent body to regulate the telecommunications sector. Such an independent regulatory body could devise standards for broadcasting and mechanisms for monitoring.

ADDENDUM A

AFRICAN NATIONAL CONGRESS	K Asmal P Maduna
BOPHUTHATSWANA GOVERNMENT	MA Vilakazi
CISKEI GOVERNMENT	MB Webb GM Ndzondo
DEMOCRATIC PARTY	P Soal D Smuts
DIKWANKWETLA PARTY	TJ Mohapi MM Maekane
INKATHA FREEDOM PARTY	Dr Madide I Mars
INTANDO YESISWE PARTY	SL Mthimunye
INYANDZA NATIONAL MOVEMENT	MS Gininda MJ Mahlalela
NIC/TIC	M Shaik
NATIONAL PARTY	GB Myburgh AJG Oosthuizen
NATIONAL PEOPLE'S PARTY	AK Beesham
SOLIDARITY PARTY	PI Devan C Nagurajan
SOUTH AFRICAN COMMUNIST PARTY	E Pahad F Baleni
SOUTH AFRICAN GOVERNMENT	HJ Coetsee P Colyn
TRANSKEI GOVERNMENT	M Mpahlwa
UNITED PEOPLE'S FRONT	MP Tladi LL Mpya
VENDA GOVERNMENT	ZC Nevhutalu P Nembambula
XIMOKO PROGRESSIVE PARTY	BM Tlakula NM Mtsetwene

ADDENDUM B

Submissions were received from the following delegations:

Dikwankwetla Party (2)

Myburgh Document

ADDENDUM C

Summary of discussion :

1. The DP said the issue to deal with was point 5.9 (SABC and other Boards), as it did not fall under the SAITA. There seems general agreement on this, other than from the govt and the NP, that the present board of the SABC needs to resign and be reconstituted, with immediate effect, not in March 1993, when their term of office expires. Although it is the State President who appoints the board, a CODESA panel could reconstitute it. There also needs to be a monitoring system in addition to its appointment- this is especially because a lot goes wrong in the presentation of news and actuality programmes.
2. The ANC said CODESA must be seen to reestablish confidence in the SABC, which even during the referendum campaign did not behave benevolently. Its recomposition in 1993 March cannot be waited for. Reconstitution could be done by either proposing people to the State President, or appointing people enjoying support and legitimacy. The period being dealt with is transitional and needs co-determination, and the SABC must represent the rights of all SA's citizens, and this by levelling the playing field. CODESA must identify 6 people, who in turn will propose board. Public broadcasting goes beyond the SABC, but in the TBVC states as well.
3. The Bophuthatswana govt said it had already presented its position paper - wherein it saw no need for restructuring the Bophuthatswana Broadcasting Board, or any other media in Bop.
4. The NP said the question of neutrality was difficult - there should be fair and balanced reporting of what was happening. The present SABC Board was composed of experienced and knowledgeable people. Before appointing the panel, how should the board be composed-on expertise, or simply drawn from communities, or both these elements. Most of the objections seem to lie at the level of editorial policy, so are limitations solved by doing it in the way proposed-shouldn't the board be expanded to include others, it asked.
5. The SA govt said they were the first to submit proposals on the matter, and therein mooted a Commission which would have the authority to license. There may be reason to see the SABC reconsidered-and negotiate a method for a new board, as part of the broad negotiation process. This seems the most advisable thing to do. The govt supports the view of independence and neutrality.

In the preliminary phase, there could be complaints tribunal to receive complaints on inadequate treatment and also unfair access. On journalistic norms, we propose that the Media Council be restructured so as to have authority with regard to electronic media as well.
6. The DP asked what should happen to the existing Board between now and the end of its term of office in March 1993.;
7. The govt said that options exist which could be negotiated, and CODESA could be facilitator in this regard. It could also be done through the relevant Ministry (under which broadcasting falls)
8. The ANC said the appropriate short term solution was jurisdiction and code of conduct, all of which could be established. The Media Council would look at professionalism and ethics, but the expansion of the SABC is not the solution. The Board must have public approval-the present one does not enjoy support, so that should be our starting point.
9. The govt said ways and means could be considered in opening discussion with the SABC. The first step could be through the responsible ministry. The board could be persuaded to resign, but their performance has been excellent, so the govt submits that the first step must not be prescriptive. The

responsible ministry could consider a meeting with a delegation from CODESA.

10. The Venda govt said the board needed to be disbanded, not expanded, as they are already entrenched. The suggestion that there be negotiations with the relevant ministry are difficult to understand-if the SABC was independent, then they should not be depended upon to restructure or disband, but on the public.
11. The ANC also said it had problems with the govt's approach, there cannot be any expansion, but there must be reconstitution. The govt represents all its ministries at CODESA.
12. The DP asked if it was being assumed that the new regulatory body would be operational by June, and if so, will the present broadcasting authority that is made up of 15 board members be amended by legislation ?
13. The govt said the purpose was to take charge of all broadcasting-this could be through statutory measures in the short/medium and long term, dealing with all matters dealing with broadcasting.
14. The DP said it accepted the fact that the new proposals could be through by June, to which the ANC said it understood the implementation of decisions reached at CODESA to be through WG5.
15. The DP said it proposed two things : the constitution of a board, and a newsroom monitor. The DP further proposed that by June the Board members must resign their posts - in preparation for a new board.
16. Venda said if agreement reached about the need for such a board, then the rest of the things were nitty-gritties. Restructuring would ensure political neutrality.
17. The ANC said it was impermissible to start negotiations with a body with a body appointed outside CODESA, even with the Minister responsible. A Telecommunications authority is central during the transition period, no one party should appoint, but open and impartial.
18. The govt said they had accepted that an independent authority would have wide powers-ensuring proper financial liability, etc.It has already been decided that such an authority will exist. The proposal is a first priority, and there must be no deviation.
19. The convenor said the minister and most of the delegates had accepted the principle of political neutrality, but how is movement made to reaching that goal.
20. The Transkei said there had been agreement reached on who would be responsible for restructuring the boards in the TBVC states.
21. The ANC said there authority should have the power to restructure-but the immediate issue was the present board-was it possible to reconsider its restructuring ?
22. The SACP wanted to know who would appoint an independent authority and when in line with the govt proposals. There is agreement that it could be though CODESA, but the mechanisms are needed. The govt needs to answer whether CODESA will have direct influence and say in the composition and authority of the new body.
23. The DP said it saw an inherent delaying mechanism in allowing an Independent Broadcasting Authority (IBA) to appoint board. It could : issue licenses, regulate bands, and that is all. Its functions needed to be minimal. How is free and fair access to the newsroom guaranteed, it asked.
24. The IFP suggested that CODESA formulate a code of conduct to attend to complaints by recipients of the public b/casting.

25. The DP suggested that the present legislation could be used with immediate effect- to appoint an advisory committee, secondly, if there is acceptance that the govt of the day appoints the board, then an interim govt would appoint one once in power. There are strong arguments against allowing an IBA to appoint board.
126. The govt said the principals needed to be consulted on inputs already made. There should be a consolidation of proposals from parties. Many of the proposals tabled need cabinet clearance. The govt therefore wants separate legislation to deal with the matter under discussion. A Telecommunications authority should be constituted as soon as possible, before June-it would be an Enabling Act.
27. The NIC/TIC wanted to know who would sit with the drafters of the proposed legislation, and the govt indicated it(govt) would be one of the parties.
28. Dikwankwetla said the present board of the SABC had been legally constituted- there would have to be new legislation to change that situation.
29. The INM said in response that all legislation dealing with free political activity being dealt with, so the present structure must change to make the body acceptable to all.
30. The Venda govt said that it seemed Dikwankwetla was not questioning the need to restructure.
31. The IFP said it was dissatisfied that a body would be established and not give instructions on how it should work at the bottom(news room) level.
32. The ANC said the present SABC Board was a crisis management one-there needed to be a code for b/casters.
33. The convenor pointed out that the meeting had not made much progress, and there was therefore a need to speed up the process.

ADDENDUM D

**REPORT OF WORKING GROUP 1 SUBGROUP 3 TO THE MANAGEMENT COMMITTEE,
21/04/1992.**

Substantial consensus was reached that the present Board of the SABC should be reconstituted as part of the interim arrangements.

The subgroup also discussed the possible composition and appointment of members to and the powers, duties and functions of an independent body to regulate the telecommunications sector. Such independent regulatory body could devise standards for broadcasting and mechanisms for monitoring.

SCHEDULE OF MEETINGS FOR WORKING GROUP 1

Monday	27/04	Subgroup 3	08h30 - 15h00
		Subgroup 2	15h30 - 19h00
		Subgroup 1	19h30 - 22h30
Tuesday	28/04	Steering Comm	08h30 - 09h30
		Working Grp 1 Plenary	10h00 - 18h00
Friday	01/05	Steering Comm - Cape Town	15H00 -
Monday	04/05	Working Grp 1 Plenary	08h30 - 18h00
Tuesday	05/05	Steering Comm	08h30 - 18h00

*** REPORT OF WG1 TO BE SUBMITTED TO MANAGEMENT COMMITTEE ON
TUESDAY 07/05/92

Draft Terms of Reference of the Working Group on the Role of the International Community

1. The Context: International

Both the Harare and the United Nations Declarations on South Africa anticipate a continuing role for the international community in the transition process towards a non-racial and democratic society in South Africa. The UN Declaration, adopted on 14 December 1989, requests the parties concerned in negotiations to conclude an "agreement on the role to be played by the international community in ensuring a successful transition to a democratic order".

2. The Context: National

The validity and acceptability of the process of transition and its recognition nationally and internationally will depend on the extent to which it is open and fair and provides for the full and effective participation of all sections of our society.

The Working Group will therefore need to analyse the extent to which it is possible to create the conditions for confidence building and consensus by relying solely on structures established by the parties in the All Party Congress.

In particular, the Working Party will need to refer to the process by which decision-making on a whole range of issues will take place, how deadlock will be broken and the extent to which it is possible to identify "watch dogs", relying solely on South Africa resources, who will ensure the compliance by the parties with agreements reached.

As far as mediation is concerned, the Working Party will need to discuss the extent to which there are parties inside our country which have the moral authority and the political power to act as an effective mediator and to ensure that binding decisions are arrived at and to enforce these decisions.

Finally, the Working Group will have to determine the extent to which effective supervision, monitoring or control can be exercised over the sensitive issues of security and law enforcement, the conduct of the whole electoral process, access to the publicly-owned media and decisions taken in relation to controversial matters.

3. Participation by the International Community

The Working Group must identify the most appropriate body or body of persons or organ of an international organisation which is best qualified or most appropriate to assist in the period of transition. The Working Group should recognise that different ad hoc arrangements could be made for different purposes, depending on the specific objective or task to be dealt with.

The Working Group should therefore investigate the possibility of the involvement of the United Nations, the Organisation of African Unity, the Commonwealth and the Non-Aligned Movement and the extent to which any distinction ought to be made in the role of the international community in the period before elections for the constituent assembly and during the election period itself.

4. Modes of Participation by the International Community

The Working Group shall therefore investigate the extent to which the international community can assist in the transition period. The options available are not exclusively limited to the following:

- (i) An investigation of the possibility of an international guarantee concerning the process of transition and, in particular, a guarantee of recognition of a definitive election for the transfer of authority, providing that it is certified as fair and free;
- (ii) The necessity or otherwise of a peace-keeping force in order to provide security, to ensure the maintenance of order and compliance with agreements reached by the parties;
- (iii) The necessity or otherwise of the appointment of a Special Representative in South Africa by the Secretary General of the United Nations or by any other acceptable body who could participate in the capacity of an observer in the talks and in the negotiations and the extent to which such a Special Representative could convene negotiations and submit mediating proposals to overcome deadlocks;
- (iv) Whether a limited international presence could monitor and verify the compliance by the mandated authorities of the tasks and obligations assigned to them under the agreements and use its good offices in the case of disagreement on the interpretation and application of the agreements;

(x) The usefulness of observers from international and regional bodies to ensure that good procedures are followed and who could report back to their own constituencies.

- (v) Whether international participation could be used to secure the impartiality of the transitional government either by monitoring the operations of such a government or by being included in the transitional or interim government as a "deadlock breaker";
- (vi) If the option of a peace-keeping force is rejected, the extent to which international participation could supervise and secure the impartiality of the transitional security mechanism. In particular, international participation could be utilised to expand national commissions of inquiry or for the deployment of a UN or other international mission of experts for effective investigation and decision-making;
- (vii) The extent to which UN or other international participants could, if necessary, supervise and control vital areas of national administration;
- (viii) The extent to which the international community could provide machinery for the independent investigation of complaints against the security forces and sensitive areas of administration;
- (ix) The extent to which international participation could assist a national electoral body composed of representatives of all political parties - with the implementation of elections. Such a role could involve the monitoring and surveillance of the all aspects of importance for the holding of free and free elections and the securing of a climate free of intimidation and fraud by a limited presence on the ground. Finally, such a body could assist by providing technical assistance and provide a conclusive judgement on the character of the elections.

5. Reporting Back

The Working Group shall report as expeditiously as possible to the plenary. The report shall, if necessary, include majority and minority opinions of the parties.