



**TO : MEMBERS OF WORKING GROUP 1 : SUBGROUP 3
CO-ORDINATORS OF WORKING GROUP 1**

FROM : CODESA ADMINISTRATION

QUERIES : LOVEDALIA

**RE : DRAFT AGENDA - 21 APRIL
DRAFT MINUTES - 30 MARCH**

ANC
 Negotiations Comm (011) 333-4509
 K Asmal (021) 959-2960
 P Maduna (011) 333-4509

BOPHUTHATSWANA GOVERNMENT
 D Schoeman (0140) 84-2943
 M Z Masilo (0140) 22072/3
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CISKEI GOVERNMENT
 L S Mqalo (0401) 95-2148
 M B Webb (0401) 92651
 M G Ndzondo (0401) 92651

DEMOCRATIC PARTY
 P Soal (021) 461-0092
 D Smuts (021) 461-0092

DIKWANKWETLA PARTY
 T J Mohapi (01438) 30318
 M M Maekane (051) 30-7562

INKATHA FREEDOM PARTY
 S Felgate (0358) 20-2167
 D Madide (0358) 20-2483

INTANDO YESIZWE PARTY
 M J Mahlangu c/o
 J S Mabona (01215) 2548
 S L Mthimunye (01215) 2541
 D P Mahlangu (01215) 2541

INYANDZA NATIONAL MOVEMENT
 T J Ndaba (013140) 879
 P R Mahlalela (01314) 72125
 M S Gininda (01314) 72125

LABOUR PARTY
 I Kruger (021) 45-1953
 E Samuels (021) 483-3531

NIC/TIC

P Gordhan (031) 309-2278
N Pillay (012) 374-4792
M Moola (011) 333-9090
M Shaik (031) 86-7444

NATIONAL PARTY

G B Myburgh (021) 461-5329 or 461-7617
A J G Oosthuizen (021) 461-7617

NATIONAL PEOPLE'S PARTY

M Mohanlall (021) 403-2971
A K Beesham (031) 309-1272
D Chetty (011) 837-4156 (Manual)

SOLIDARITY PARTY

P I Devan (021) 403-2956
C Naguran

SA COMMUNIST PARTY

G Fraser-Moleketi (011) 836-8366 or 838-2816
E Pahad (011) 836-8366 or 838-2816
F Baleni (0171) 96-4809

TRANSKEI GOVERNMENT

Z Titus (0471) 23876
L V Ntsubane (0471) 31-2595
M Mpahlwa (0471) 34-1384

UNITED PEOPLE'S FRONT

c/o Chief PR Minister (0156) 35244
R Maponya (011) 880-5178
L L Mpya (0156) 35788

VENDA GOVERNMENT

C Neluvhalani :
Chief Gov Liaison Off (0159) 23172
Z C Nevhutalu (0159) 31638
P J Nembambula (0159) 21236

XIMOKO PROGRESSIVE PARTY

J C Ackron (01526) 23140
B M Tlakula See Above
N M Mtsetwene See Above

WORKING GROUP 1 SECRETARY

A Feinstein (011) 491-6542



F A X M E S S A G E

TO : MEMBERS OF WORKING GROUP 1 SUB GROUP 3
FROM : CODESA ADMIN
DATE : 1 APRIL 1992
RE : DRAFT AGENDA - 21 APRIL 1992
DRAFT MINUTES - 30 MARCH 1992
SCHEDULE OF MEETINGS

Attached please find the following :

1. Draft agenda for meeting on 21 April 1992.
2. Draft minutes for meeting on 30 March 1992.
2. Schedule of meetings.

Should you have any queries, please do not hesitate to contact us.

Regards.



Attention: All members of SubGroup 3

Kindly ignore previous SG3 minutes faxed to you.

Please note changes made under point 9.53

From: CODESA WG1 Administration

CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

PO Box 507, Isando, 1600, South Africa.
Telephone (011) 397-1198/99. Fax (011) 397-2211

THESE ARE DRAFT MINUTES, AS APPROVED BY THE CHAIRPERSON. 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 RATIFICATION BY THE WORKING GROUP SUB-GROUP AT ITS NEXT MEETING.

MINUTES OF THE FIFTH MEETING WORKING GROUP 1 SUB-GROUP 3 HELD AT THE WORLD TRADE CENTRE ON 30 MARCH 1992 AT 08H30.

PRESENT : SEE ADDENDUM A

MB Webb (Chairperson)
A Schoeman (Minute taker)
T Motumi (Secretary)

1. Convenor's Opening Remarks.

1.1 The chairperson welcomed the delegates. The meeting agreed that, since the Reverend Mohapi is chairing the meeting on the Zulu King, he should be substituted by Mr Webb, as chair of this meeting.

2. Apologies.

2.1 Apologies, for being late, were received from:
M Shaik (NIC/TIC)
HJ Coetsee (South African Government)
BM Tlakula (Ximoko Progressive Party)
ZC Nevhutalu (Venda Government)
MS Gininda (Inyandza National Movement)
D Chetty (National People's Party)
TJ Mohapi (Dikwankwetla Party)

3. Adoption of Agenda.

3.1 Point 6.2 of the Agenda was amended to read:
Item O, The establishment of an Independent Educative Process.

4. Ratification of Minutes.

4.1 The minutes were adopted with the following amendment:

4.1.1 The Bophuthatswana submission should be mentioned in ADDENDUM C Point 10.5.4.

5. Matters arising from minutes.

5.1 The chair reported to the meeting that CODESA II would be meeting at the end of April. The Sub-Group was requested by the Management Committee, to clarify what it wanted to achieve and by when it would have achieved this.

5.2 The meeting agreed that it will concentrate on Item F of the Terms of Reference, make as much progress as possible on this issue and then focus on Item O of the Terms of Reference.

5.3 The document submitted by the rapporteur would form the basis for discussion.

6. Continuation of Discussion.

6.1 Item F : the impartiality of telecommunications and the electronic media.

6.1.1 The meeting came to consensus on the need for an independent, neutral body. This needs to be established to regulate the telecommunications sector.

6.1.2 Consideration was given to the powers, duties and functions of the 'board'. These would be pursued at the next meeting of Sub-Group 3.

6.1.3 The name South African Independent Telecommunications Authority (SAITA) was suggested. This received broad support, but it was not agreed on and will be discussed in future meetings.

6.1.4 It was agreed that there should be no qualifications for appointment to the board, except that appointees should be South African citizens of distinguished ability and that none may be an office bearer of any political party.

6.1.5 The meeting agreed that further details regarding the name of the board, appointment procedures, accountability, finance, staffing, licensing procedures and the SABC and other boards would be discussed at subsequent meetings.

7. Report to the Management Committee.

7.1 The meeting agreed on the report to the Management Committee. (See ADDENDUM D)

8. Date of the next meeting.

8.1 The meeting did not agree on the date of the next meeting. It was, however, strongly recommended that there should be no Easter break. The date of the next meeting will be sent to all delegates, with the minutes.

ADDENDUM A

The following people signed the register:

AFRICAN NATIONAL CONGRESS	K Asma!
BOPHUTHATSWANA GOVERNMENT	P Maduna
CISKEI GOVERNMENT	MZ Masilo
DEMOCRATIC PARTY	MA Vilakazi
DIKWANKWETLA PARTY	MB Webb
INKATHA FREEDOM PARTY	GM Ndzondo
INTANDO YESIZWE PARTY	P Soal
INYANDZA NATIONAL MOVEMENT	D Smuts
LABOUR PARTY	TJ Mohapi
NIC/TIC	MM Maekane
NATIONAL PARTY	Dr Benard
NATIONAL PEOPLE'S PARTY	I Mars
SOLIDARITY PARTY	SL Mthimunye
SOUTH AFRICAN COMMUNIST PARTY	DP Mahlangu
SOUTH AFRICAN GOVERNMENT	MJ Twala
TRANSKEI GOVERNMENT	I Kruger
UNITED PEOPLE'S PARTY	C Collis
VENDA GOVERNMENT	M Moola
XIMOKO PROGRESSIVE PARTY	M Shaik
	GB Myburgh
	AJG Oosthuizen
	AK Beesham
	D Chetty
	PI Devan
	C Naguran
	E Pahad
	F Baleni
	HJ Coetsee
	AJ Engelbrecht
	LV Ntsubane
	LL Mpya
	RJP Maponya
	ZC Nevhutalu
	PJ Nembambula
	BM Tlakula
	NM Mtsetwene

ADDENDUM B

Submission were received from the following delegations:

The South African Government (Four submissions)
Labour Party
United People's Front
The Rapporteur of WG1 SG 3

ADDENDUM B

9 Summary of Discussion.

- 9.1 The South African government said they were disappointed at the conclusion that WG1 was not making much progress on levelling the political playing field and on free political participation. The govt further asked who was to assess or judge whether the WG was not making progress.
- 9.2 On the electronic media, the SA Govt said consensus had been reached on an independent commission or authority. This is clear in the paper tabled by the govt on what the this should be like.
- 9.3 There are presently three rapporteurs in WG1, and it can only be after they have tabled their reports that a proper assessment of progress can be made.
- 9.4 The Solidarity Party said the SG had held six meetings to date, with some consensus being reached on certain issues. This went a long way to credit the WG on its progress. There should therefore not be judgement progress not being made.
- 9.5 The SACP said that at the Steering Committee meeting there had been concern that there was minimal consensus being reached on the fundamental issues, despite valuable discussions. The SG must begin to have direction and identify areas of agreement/disagreement. Secondly, if there is no consensus, it must be recorded which parties supported which position.
- 9.6 The NPP said they agreed with remarks concerning progress, and the point about detailing areas of agreement and disagreement.
- 9.7 The ANC said rapporteurs should have been appointed earlier in February.
- 9.8 The govt pointed out that Mr Myburgh's paper already detailed the points of agreement and difference, so it should be used.
- 9.9 Venda said that progress was unsatisfactory, and criticisms in this regard were healthy. Issues need to be prioritised, Mr Myburgh's paper can be used as a guideline for an agenda.
- 9.10 The convenor said that there is a need for a time plan by which all issues should have been discussed. The meeting will look at Item F as a starting point and get as far as possible.
- 9.11 The govt tabled a paper for discussion, and said Item F was linked to the issue of an independent body.
- 9.12 The ANC said the SG work was to deal with interim period only.
- 9.13 The SACP and the IFP agreed the issues as outlined in the " Myburgh Document" should form the basis for discussion.
- 9.14 The NP made a further insert to the Myburgh Doc - page 3 in paragraph under Labour Party. This was to include "LP Stance on Freedom of the Airwaves SA.
- 9.15 There was lengthy debate on whether the broadcasting body set up should be permanent or interim, with the following positions emerging:

- 9.15.1 The DP favoured a permanent body - but could compromise for it to be interim, with a degree of permanence acquired through confidence in the structure.
- 9.15.2 Solidarity Party also favoured a permanent body.
- 9.15.3 The Venda government pointed out it was to be understood CODESA dealt with the interim phase, so it saw no need for there to be a permanent body.
- 9.15.4 The ANC concurred with Venda, and was joined by Transkei.
- 9.15.5 The NPP said it could not be insisted that the body become permanent, as other WG was in the process of discussing constitutional mechanisms in the transitional phase.
- 9.15.6 The IFP supported an interim body.
- 9.15.7 The NP said that the powers of such a body should be looked at, and it is these which would determine whether it became interim/permanent.
- 9.15.8 Ciskei said it wanted an interim structure, a permanent one could be decided at a later stage.
- 9.15.9 The SACP also supported an interim body, and referred the house to the Terms of Reference, and the Declaration of Intent, all of which clearly indicate this is a transitional stage.
- 9.16 The ANC pointed out there was no self-evidence why there should be interim/permanent structure. The decision does not depend on the powers. The main concern at the moment has to do with arranging free political activity-so this forum is not entitled to take decisions about the country which will still be in place for the next four decades. Secondly, the TBVC states are affected, so their position needs to be known. The ANC therefore did not want to pre-empt decisions to be taken by them (TBVC). It is consensus which will determine the power of the authority. The onus is therefore upon those who argue for a permanent structure, as input had already been made on why the structure had to be interim.
- 9.17 The SA govt said there needs to be clarity on the Terms of Reference, as every substantive decision will have far-reaching permanent effect, and can only be changed when another decision is made. The WG should therefore adapt itself to the activities of the other WGs, where principled decisions had been made on the 5/03/'92. The decisions that are taken therefore have a permanent feature, the same applies to the question of the electronic media, wherein the issue of licensing is crucial. A response to the ANC paper on the electronic media had already been made regarding the constituting of the SABC Board. Such an issue can be negotiated and does not have to wait for the board's term of office to expire in 1993.
- 9.18 The SA govt further proposes the complaints tribunal- Media Council, to include the electronic media in its code of conduct. If the body is established, then there could be adaptations to it as time goes on. It may also be a licensing authority.
- 9.19 The DP said it agreed with the SA govt that the Terms of Reference do not indicate whether interim/permanent- most of the issues are therefore a continuous process. With regard to the electronic media, Item F looks at a permanent structure. The IBA, once brought into being, should ensure free access, equality and fairness. We propose a degree of

permanence be entrenched in the body, even the issuing of licenses should have that element. This is also because broadcasting is capital intensive.

- 9.20 The LP said those who would sit on the board should have the technical know-how.
- 9.21 The SACP reiterated its earlier point about Point 1.1 of the Terms of Reference and Declaration of Intent as proof that the process underway is designed to have interim arrangements. Obviously, it said, some of the changes underway will have a permanent effect, but a rider could be added to the interim structure- that were it to prove effective and capable of doing tasks set out for it, then there would be no need for its dissolution.
- 9.22 The convenor concurred with the view that if it proved efficient and effective, then it could become a permanent body.
- 9.23 The ANC said its proposal on the intermediate position (point 10.1.2 its submission) leaves open its possibility of permanence. The important thing is that licenses should not be granted on extremely long term basis, like ten years, but a structure with limited regulation in the interim.
- 9.24 The SA govt said it seemed its position, the ANC & DP's were close.
- 9.25 Venda said that its understanding of the position was that preparations were being made for democratic structures. Thus interim proposal that the broadcasting body/authority have a term of office must not tie us beyond CODESA's existence. If the structures created now are acceptable in a future democracy, then they will have to continue functioning, without being entrenched.
- 9.26 The Transkei said it had made own proposals on broadcasting authority, and understood CODESA to be a temporary structure, even in Terms of Reference, issues on which the parties differ are dealt with, like issue of reincorporation.
- 9.27 The convenor said the issue of interim/permanent should be dealt with in concert with the topic under discussion.
- 9.28 The XPP said CODESA could not prevent what the will of the people would be in the new dispensation.
- 9.29 The IFP said concerns expressed by the DP on the capital intensive nature of the electronic media must be noted.
- 9.30 The NP said a procedural [point was being missed, and that is the fact that once agreement had been reached at CODESA, then it needed to be enacted. Those serving would be appointed by the government of the day. The authority/body should be on permanent basis, but could change when a new govt comes into power.
- 9.31 The NPP said it is impossible for the various WGs to work independent of each other. Until it was known what the future holds, including the future of the TBVC, there cannot be a permanent body. Work has to be directed by WG5. Transitional arrangements can only be handled by the transitional authority.
- 9.32 The Dikwankwetla Party said if the body could be changed anytime, then it supported that it becomes interim.

- 9.33 The SACP said the body must not be under party [political control or interference, even a future govt must find it difficult to interfere. There is however no Chinese wall between an interim and permanent structure. The body must be interim, but permanent at a later stage.
- 9.34 The govt said it appreciated consensus reached, but added such a body would have to regulate not just electromagnetic media, but all bodies involved in telecommunications. The body must swiftly be in place, even within two to three months, so as to start considering many applications for frequencies. Secondly, the area of walkie-talkies must also be addressed. The issue of satellites should also be looked at, as there might no longer be any available on the international market.
- 9.35 The ANC said it seemed there was general agreement on three points in the SA govt paper. The issue of the legitimacy of the structure to be put in place needs to be addressed. The ANC rejects the appointment of the board by the president- this is not independent, it simply carries along route that existed previously. The same applies to licensing for a ten year period- its unacceptable. The composition is affected by these factors.
Apart from these points, there seems to be areas of agreement elsewhere.
- 9.36 The SACP proposed that there be time allocated to read through the copious proposal by the government so as to make inputs. It would also be an opportunity to consult.
- 9.37 The ANC said the govt paper is linked to the Myburgh Doc, and further said agreement in principle had been reached on the establishment of a neutral, impartial, independent body or commission.
- 9.38 The chair said total consensus had been reached on above issue. The SG should therefore proceed from thereon. The body agreed upon will deal with the present situation.
- 9.39 The SA govt said the duties and functions must be incorporated into the founding statement through legislation. The powers and functions presuppose empowerment.
- 9.40 The ANC referred to its point 10.1.2 in its submission focusing on community broadcasting. The govt must also have a complaints machinery.
Furthermore, all powers must be referred to the whole comprehensive area of communications.
- 9.41 The NP and SA govt said progress could be made if the headings were to be identified, and then have every point of view, identifying the major elements.
- 9.42 The ANC said there should be consensus on the govt paper, including the additions made to it. The ANC also proposed a further addition to the functions and duties.
- 9.43 The SA govt said careful consideration needed to be given to the authority being dubbed 'non-independent'. There should be criteria established to measure level of independence.
- 9.44 The power of such a body needed to be strengthened by legislation. This is a modification of earlier position.
- 9.45 The SP said it had a problem on the commission being free and independent. How was accountability to be ensured, and to whom ? Need clarity.
- 9.46 The NIC/TIC supported the SP, but said this to be discussed under item "H".
- 9.47 The DP said the emphasis should be on pg. 3 of their paper, dealing with diversity of

- ownership. This was to be included in the duties and functions.
- 9.48 The SA govt said policy establishing this body must be devised by the Standing Committee in parliament to ensure independence of the regulating body.
- 9.49 The IFP supported appointment of the board by govt of the day, and means could be determined whilst still being impartial. The board member should have a, limited period.
- 9.50 Venda said there should be a policy set out for appointment of such a body.
- 9.51 Transkei said in its territory, there is a balanced composition of the board, so even in the case under discussion, the duty of correcting the situation must be given to the independent broadcasting board. Public broadcasters have a duty to be impartial, a way must be found to make commercial ones impartial too.
- 9.52 The ANC said all govt want too control broadcasting, and cited the case of Britain under Thatcher, as well as France. In SA, do not want that situation of political interference in the board. The govt ;proposal based on Viljoen Commission, which is not necessarily neutral.
- 9.53 The NP expressed concern about the fact that a custom seems to have developed whereby all appointments by the government are regarded by some Parties as being contaminated
- 9.54 The govt said the power to devise policy for the creation, appointment and management of broadcasting public authorities' boards should be included in the govt papers.
- 9.55 The DP added promotion of diversity, and suggested a name for the envisaged authority. This was to be called the South African Independent Telecommunications Authority, SAITA.
- 9.56 There was broad support for the name, but it was not agreed on as it would be discussed on the next meeting. There were proposals for the number of people on the board, and the criteria for these. General agreement was reached that they should be SAns, have no vested material/political interest, if they hold political office, to resign with immediate effect on appointment, etc.
- 9.57 The IFP said seven biggest political parties must appoint the board.
- 9.58 The ANC mapped out appointment procedure as ff. the president appoints from a list of people suggested by CODESA who would be from a wide spectrum and institutions, who will also be broadly acceptable and representative of the language, regional and gender groups across the country.
- 9.59 The govt said the commission/authority must be established as soon as possible. Mr Myburgh should identify the remainder of the items for the next discussion.
- 9.60 The govt raised the issue of the funding of political parties. This it said was with the view to changing legislation in this regard. However the convenor said this would be discussed at a later stage.

ADDENDUM D

Report to the Management Committee.

STATEMENT OF WORKING GROUP ONE SUBGROUP THREE ON PROCEEDINGS
OF 30 MARCH 1992.

There is consensus that an independent, neutral body be established to regulate the telecommunications sector.

Consideration was given to the powers, duties and functions of the board. These would be pursued at the next meeting of the subgroup.

It was agreed that there should be no qualifications for appointment to the board except that appointees should be South African citizens of distinguished ability and that none may be an office bearer of any political party. Further details regarding the name of the board, appointment procedures, accountability, finance, staffing, licensing procedures and the SABC and other boards would be discussed at subsequent meetings.