

MCH91-66-1-7



WGAG0903.WP (5)

WORKING GROUP 2\AGENDA\9 MARCH

**DRAFT AGENDA FOR THE SEVENTH MEETING OF
WORKING GROUP 2 (CONSTITUTIONAL PRINCIPLES) ON
9 MARCH 1992 AT THE WORLD TRADE CENTRE**

1. Apologies
2. Ratification of Agenda
3. Ratification of Minutes
4. Meaningful participation of political minorities
 - 4.1 Draft document prepared by the Steering Committee
 - 4.2 Further submissions
5. Key Issues to be Addressed:
 - 5.1 Economic freedom, governmental intervention and economic systems
 - 5.2 Accommodation of the diversity of languages, cultures and religions
 - 5.3 Role of Traditional Leaders
 - 5.4 The Bill/Charter of Fundamental Rights including:
 - 5.4.1 Its nature and scope
 - 5.4.2 Affirmative action
 - 5.4.3 Second generation rights
 - 5.5 Self-determination
6. AOB
7. Next Meeting

CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

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MIN0903.WP (5)

WORKING GROUP 2\MINUTES\9 MARCH

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 SUBJECT TO RATIFICATION BY THE WORKING GROUP AT ITS NEXT MEETING.

MINUTES OF THE SEVENTH MEETING OF WORKING GROUP 2 (CONSTITUTIONAL PRINCIPLES) HELD AT THE WORLD TRADE CENTRE ON MONDAY, 9 MARCH 1992

PRESENT:

Delegates and advisors (See Addendum A)

CW Eglin (Chair)

M Phillips (Secretary)

R Hartley (Minutes)

DOCUMENTS DISTRIBUTED:

1. Draft agenda
2. Draft minutes of the sixth meeting of Working Group 2 held on 9.3.92
3. Ratified minutes of the fifth meeting of Working Group 2 held on 24.2.92 and 25.2.92
4. 9.3.92 Common principles regarding the balance between central, regional and local government agreed to at the meeting of Working Group 2 held on 2 March 1992
5. 9.3.92 Memo to all Working Groups: Letter from Transkei Government regarding SECOSAF
6. 9.3.92 Draft principle on the meaningful participation of political minorities prepared by the Steering Committee for Working Group 2
7. The meaningful participation of minorities: Precis of verbal submission by CW Eglin on behalf of the Democratic Party on 24.2.92
8. Labour Party of SA: The constitutional protection of minorities
9. Transkei government position paper: Meaningful participation of political minorities
10. Inkatha Freedom Party: The principle of the participation of political minorities
11. United People's Front: Meaningful participation of political minorities
12. Solidarity: Meaningful participation of political minorities: Revised submission to Working Group 2
13. 9.3.92 Proposed agreement to be minuted regarding the draft principle on minority political participation

1. Apologies

| | |
|---------------|---|
| VR Zietsman | Ciskei Government |
| MJ Mushasha | Venda Government |
| Dr Delpport | SA Government (Alternate: Dr Venter) |
| J Rabie | National Party (Alternate: S Camerer) |
| SOM Moji | Dikwankwetla Party |
| Prof Cloete | Ximoko Progressive Party |
| Chief Ndamase | Transkei Government (Alternate: Prof Koyana) |

2. Ratification of Agenda

2.1 The agenda was ratified with no changes.

3. Ratification of Minutes

3.1 The draft minutes of the meeting of 2.3.92 were ratified with no changes.

4. Meaningful participation of political minorities

4.1 The following parties made submissions:

- 4.1.1 Labour Party
- 4.1.2 Transkei Government
- 4.1.3 Inkatha Freedom Party
- 4.1.4 United People's Front

4.2 The Working Group agreed on the following principle regarding the participation of political minorities:

4.2.1 "A new constitution shall provide for effective participation of minority political parties consistent with democracy."

4.2.2 The Working Group agreed on the following formulation with regard to the above principle :

4.2.3 "The principle does not imply or reject:

4.2.3.1 constitutional prescription for the participation of minority political parties in any executive structure of government;

4.2.3.2 simple majoritarianism;

4.2.3.3 veto powers by minority political parties on any issue."

5. **Key Issues to be Addressed**

5.1 It was agreed that the Steering Committee will prepare draft principles on the outstanding key issues to be addressed for presentation to future Working Group meetings.

6. **Next Meeting**

6.1 The next meeting of Working Group 2 will take place on Monday 23.3.92 from 10h00 to 16h30 and Tuesday 24.3.92 from 9h00 to 15h00.

7. **Any Other Business**

7.1 It was noted that 97 submissions had been received by Working Group 2 as of 2.3.92. A copy of each submission, together with an index of the submissions received had been prepared for each member of the Steering Committee. It was also noted that further submissions were still arriving and that these would be compiled for Steering Committee members at an appropriate time.

7.2 It was agreed that the Steering Committee would report to the next meeting of Working Group 2 on progress regarding submissions from the general public.

ADDENDUM A

The following delegates and advisors signed the Attendance Register of Working Group 2 meeting held on 9 March 1992:

| Organisation | Delegate/Advisor |
|----------------------------|---|
| African National Congress | C Ramaphosa MV Moosa F Grinwala A Sachs |
| Bophutatswana Government | SG Mothibe TE Scheepers |
| Ciskei Government | MC Kashe IJ Smuts J Laubuschagne |
| Democratic Party | CW Eglin D Worrall AJ Leon D Welsh |
| Dikwankwetla Party | SOM Moji S Mopeli M Mopeli |
| Inkatha Freedom Party | N Brits SH Gumede BS Ngubane |
| Intando Yesizwe Party | SJ Mgidi AP Laka MP Mahlangu IT Mahlangu |
| Inyandza National Movement | C Albertyn I Lephoko BE Mabuza EN Ginindza |
| Labour Party | D Lockey IM Richards G Devenish C Nasson |

| | |
|-----------------------------------|--|
| Natal/Transvaal Indian Congresses | Z Yacoob IC Meer F Haysom |
| National Party | F van Heerden S Camerer I Rautenbach |
| National People's Party | M Mohanlall S Ismail B Singh H Neerahoo |
| Solidarity Party | DS Rajah I Omar K Moodley R Arenstein |
| SA Communist Party | J Slovo B Nzimande N Hoosain E Daniels |
| SA Government | G Viljoen JT Delpport F Venter JHE Basson |
| Transkei Government | S Holomisa R Nogumla DS Koyana |
| United People's Front | MC Ramusi KR Malatji RJ Dombo MJ Mahlangu |
| Venda Government | GM Legege MP Nthabalala A Budeli |
| Ximoko Progressive Party | EE Ngobeni KR Myakayaka EPP Mhinga J Ackron |



PROPAGREE.WP (5)

WORKING GROUP 2\PROPOSED AGREEMENT\9 MARCH

9 MARCH 1992 - WORKING GROUP 2

**PROPOSED AGREEMENT TO BE MINUTED REGARDING DRAFT PRINCIPLE
ON MINORITY POLITICAL PARTY PARTICIPATION**

*Minuted as
previous qualification
was*

The principle does not imply or reject :

1. constitutional prescription for the participation of minority political parties in any executive structure of government;
2. simple majoritarianism ~~in any executive structure of government;~~
3. veto powers by minority political parties ~~on any executive issue.~~

Valli : To be considered when report is drafted.

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9 MARCH 1992

**DRAFT PRINCIPLE ON MEANINGFUL PARTICIPATION OF MINORITIES PREPARED BY THE
STEERING COMMITTEE FOR WORKING GROUP 2**

1. A new constitution should provide for effective participation of minority political parties consistent with democracy.

Valli

Viljoen: 'Consistent with dem.' has many
interprets. Minute: Do not imply
unqualified maj.

Valli (as ANK) -

"This principle does not imply or
reject" compuls. part by a min. party
in the exec

2/ simple majoritarianism in the exec
3/ veto power by minority parties, "



COMPRINC.WP (5)

WG2\COMMON PRINCIPLES\2 MARCH

9 MARCH 1992

**COMMON PRINCIPLES REGARDING THE BALANCE BETWEEN CENTRAL, REGIONAL
AND LOCAL GOVERNMENT AGREED TO AT THE MEETING OF
WORKING GROUP 2 HELD ON 2 MARCH 1992**

1. Government shall be structured at national, regional and local levels.
2. At each level there shall be democratic representation.
3. 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 to be entrenched in the constitution.
4. In addition to the powers, duties and functions entrenched in the constitution, each level of government may delegate powers, duties and functions to the lower level of government.
5. The general principles of the constitution, including the terms of the Bill/Charter of Fundamental Rights shall apply to each level of government.

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24 FEBRUARY 1992

DRAFT DOCUMENT ON COMMON PRINCIPLES REGARDING THE BALANCE BETWEEN CENTRAL, REGIONAL AND LOCAL GOVERNMENT PREPARED BY THE STEERING COMMITTEE OF WORKING GROUP 2

1. Government shall be structured at national, regional and local levels.
2. At each level there shall be democratic representation and the general principles of the constitution, including the terms of the Bill/Charter of Fundamental Rights, shall apply to each level.
3. Each level of government shall have legislative and executive powers, duties and functions which shall be entrenched in the constitution.
4. In addition to the powers, duties and functions entrenched in the constitution, the central government may delegate powers, duties and functions to regional and local government.

5. The different levels of government shall may have concurrent powers.

Handwritten notes: effective and delegate (appropriate) of government. each level of govt may delegate powers, duties & functions to the lower level of govt.

M/W/E
Appropriate forms or principles of revenue-sharing shall be provided for in the Constitution.

Delfort: Regional and local govt. shall have defined fiscal powers and shall also have access to central funds according to a pre-determined formula.

Powers, duties & functions shall be allocated to regional govt in acc. with the principle of maximum devolution consistent with effective govt.

Vertical handwritten notes on the left margin:
The principle of devolution of powers shall be...
substantial powers, duties & functions...
to regional and local government...
[5]

Vertical handwritten notes at the top:
The principle of devolution of powers shall be...
substantial powers, duties & functions...
to regional and local government...
[5]

① The lives of persons should not depend on where the Bill of Rights item is on our agenda.

② The damage done will be irreversible ~~irreparable~~. That is why urgent intervention is necessary - to prevent irreparable harm.

(1) We do not deny that
the SA Govt. has the
power to execute.

Govt

NP

NPP

Bop

Inkatha -

opposed putting
the death penalty
issue on the agenda