

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 agreed 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.