



WGSC/MINUTES/23 MARCH

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 RATIFICATION BY THE WORKING GROUP STEERING COMMITTEE AT ITS NEXT MEETING.

MINUTES OF THE WORKING GROUP STEERING COMMITTEE 1 (No 6) HELD AT THE WORLD TRADE CENTRE ON MONDAY 23 MARCH AT 16H00.

PRESENT: (see ADDENDUM A)

APOLOGIES: Rev Mohapi
Mr Dalling

ABSENT: Dr Madide

CHAIR: Mr Webb

Secretary: A Feinstein

Minutes: K Morgan

1. **Opening:**

Mr Webb opened the meeting.

2. **Ratification of minutes**

The minutes were ratified without amendment.

3. **Approval of agenda**

It was agreed:

3.1 That an item allowing for a critical evaluation of the aim, direction and function of the WGSC1 should be placed on the agenda

3.2 That the position of Mr Dalling should be assessed and a solution arrived at

3.3 That items 5 to 5.3 on the agenda be deleted

3.4 That the WGSC1 examine mechanisms of activating Assignment Two of WG1: The role of the International Community

CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

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4. **Requests for oral submissions**

Resolved:

- 4.1 That the administrators circulate a list of requests for oral submissions to members of the WGSC1 for their consideration
- 4.2 That these requests be dealt with at the next WGSC1 meeting

5. **Critical evaluation of WGSC1**

It was recorded :

- 5.1 That very little progress has been made in WG1
- 5.2 That this was due to some extent, to the failings of the WGSC1
- 5.3 That the WGSC1 has failed to facilitate the work of its SubGroups
- 5.4 That this has led to discussions in SubGroups being directionless
- 5.5 That the WGSC1 has not attended sufficiently to the way in which discussions in SubGroups should be addressed
- 5.6 That the WGSC1 had failed to instill a sense of urgency in the SubGroups
- 5.7 That the WGSC1 has not worked out how it planned to report to CODESA II
- 5.8 That members of the WGSC1 failed to assist the Chair in pin pointing critical issues to be placed on the agenda of SubGroup meetings
- 5.9 That leadership, exercised on the basis of consensus, in the SubGroups can only emerge from the WGSC1

5.10 **It was agreed :**

- 5.10.1 That the WGSC1 needed to play a role in expediting the progress of SubGroups
- 5.10.2 That the WGSC1 should investigate mechanisms to facilitate work in the SubGroups
- 5.10.3 That the WGSC1 should sift through past minutes and identify crucial areas of discussion which has emerged in the SubGroups
- 5.10.4 That the WGSC1, at its next meeting, put forward proposals on these critical areas, for discussion and response in the SubGroup meetings
- 5.10.5 That when putting forward such proposals, the WGSC1 should be sensitised to the feelings in some of the SubGroups about the WGSC1, and should avoid being dictatorial

6. **Rapporteurs and Staffers**

- 6.1 Prof Asmal presented the Terms of reference and job description of Rapporteurs. (see Addendum B)
- 6.2 The proposal was accepted

It was agreed :

- 6.3 That a grouping of three people was needed to assist in drafting progress reports of the SubGroups for

WG1 and CODESA II

- 6.3 That the Mr Myburgh:NP, Mr Bester:DP and Mr Shaikh:NIC/TIC be considered for these positions
- 6.4 That these rapporteurs will be accountable to the WGSC1
- 6.5 That the rapporteurs should have access to all SubGroup meetings
- 6.6 That they will have access to all secretarial services
- 6.7 That they will be invited to attend WGSC1 meetings
- 6.8 That the Management Committee should be informed of the WGSC1 decision to appoint the said rapporteurs
- 6.9 That Mr Feinstein should draft a letter of appointment for the rapporteurs
- 6.10 That the next WGSC1 meeting discuss and finalise the role of the rapporteurs

7. **Staffers**

Minister Coetsee put forward a written proposal on the need for staffers.(see Addendum C) He motivated his proposal with an outline of his heavy schedule stressing that he needed assistance to timeously fulfill the tasks and requests requiring his response. Some members of the WGSC1 however felt that this would tilt the balance in favour of Parties in a position to employ the services of such staffers.

No consensus was reached on this issue. Minister Coetsee stated that the lack of a staffer might result in his missing deadlines and being less prepared than he would like to be.

8. **Assessment of the position of Mr Dalling**Resolved:

- 8.1 That a DP delegate be approached to replace Mr Dalling at the WGSC1 meetings during his absence
- 8.2 That Mr Samuels act as Convenor of SubGroup 1 during Mr Dalling's absence

9. **Activating Assignment 2**Resolved:

- 9.1 That a document prepared by Prof Asmal on the Role of the International Community be circulated to members of the WGSC1 with a view to looking at the aims, functions and direction of Assignment two and that the WGSC1 use the document as a basis for working out an action plan as to how Assignment 2 should be dealt with in WG1.

10. **Date of Next meeting**Resolved:

That the next meeting be held on 30 March at 16h00

11. **Any other business**Resolved:

- 11.1 That the meeting focus its attention on giving leadership and direction to WG1 on assignment 2.
- 11.2 That the issue of rapporteurs be finalised.
- 11.3 That Mr Webb continue Chairing the WGSC1 meetings until the next WG1 meeting.

Present:

K Asmal
MB Webb
E Samuels
E Pahad
LV Ntsubane
HJ Coetsee

ANC
Ciskei Government
Labour Party
SACP
Transkei Government
SA Government

Addendum C

A staffer could be:

- a) Person rendering support service to the minute takers by making available at the end of every meeting issues and notes relevant to a particular delegation.**

Such staffers may be drawn from the ranks of a delegation's outside staff

or

- b) Person rendering support staff work for a particular delegation with special approval of the Steering Committee**

Memorandum on Rapporteurs

1. The Steering Committee of Working Group I is urged to reconsider its earlier decision concerning the appointment of a rapporteur or rapporteurs. The need for such reconsideration is pressing and urgent as the responsibility of Working Group I to Codesa will be seriously affected unless we grapple with the issue.
2. A rapporteur is not a scribe, a secretary, a note-taker, an administrator or a general dogsbody. We have been reminded by the secretariat (see delegate fact sheet no 2 of 2nd March 1992) that such administrative staff is appointed "under the aegis" of the Consultative Business Forum.
3. A rapporteur's function is therefore very different from that of secretariat or administrative staff. She or he has to have drafting ability, the capacity to synthesise discussions and to provide a degree of creativeness to the writing-up process.
4. The Steering Committee has the responsibility to prepare a report which has to be presented to the Working Group, prior to its submission to Codesa II. Such a task cannot be fulfilled, in my view, by a committee of nine people, however well-meaning and earnest they may be in approaching the task. The function of a rapporteur is therefore to prepare the report, which the Steering Committee will discuss and then submit to the Working Group.
5. There is a degree of sensitivity involved in the work of the rapporteur and the appointment must therefore be by consensus.
6. The rapporteur cannot write up a report on the basis of minutes. He or she will have to attend debates to get their flavour and an appreciation of whether there is general agreement or a majority or minority view or sufficient consensus.
7. As the Working Group has divided itself into three sub-groups, it may be necessary to appoint three different rapporteurs, one for each sub-group who could then work as a team to prepare a consolidated report for the Steering Committee. Ideally, such rapporteurs should either be members of the Steering Committee or, if that is unacceptable, should at least be in attendance at meetings of the Steering Committee, if they are not already members of the Steering Committee.

8. If the suggestion made in paragraph 7 is accepted, then the Steering Committee is the appropriate organ to appoint such rapporteurs. It is up to the Steering Committee to identify, from among the delegates and advisors, potential rapporteurs. Alternatively, the Steering Committee may invite participating organisations to make nominations from which the Steering Committee may make its choice. Such rapporteurs may remain as delegates or advisors.
9. The chief advantage of choosing a rapporteur from each of the sub-groups is that such a person has already participated in the series of meetings held over the past month or so and will not come fresh to the debates.
- 10 The Steering Committee is therefore invited to give consideration to this issue.

5th March 1992

Kader Asmal

wgxcl

Kader Asmal: The Role of the International Community

Item VI Paragraph 1.1.3 expects the Working Group to identify areas of "commonality and aspects where agreement already exists between participating delegations." We will have to be careful about any a priori assumptions about agreement on these topics as so much turns on the details and interpretation. We will have to guard against premature agreement, while trying to ensure that the Working Group does not get bogged down in details.

Query: Is it a fruitful exercise at this stage to identify certain areas where agreement already exists?

The Role of the International Community

Item VII: This assignment may well prove to be the most complex, controversial and difficult of all. There is, in principle, no reason as to why effective machinery should not be established by the parties to negotiations in CODESA to deal with the range of issues which require urgent action. In other words, there could be a purely internal solution to the issue of creating conditions for confidence building and consensus by relying solely on structures established by CODESA.

If this approach is adopted then, 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, including the restructuring of the police etc., the conduct of the whole electoral process, access to the publicly-owned media and decisions taken in relation to controversial matters.

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Query:

However, there are two dimensions that we will have to look at if we are to rely entirely on South African resources. Firstly, there is the extraordinary power differential between a government which has state power and the ANC which does not have the resources or capacity to ensure a level playing field; neither is there the existence in South Africa of people or bodies with sufficient impartiality or clout to ensure that agreements entered into will be carried out or where intervention may be accepted by the major parties. Secondly, there is now in existence a rich history of international assistance in situations where an illegitimate authority/government is attempting to transform itself to a democracy. This ranges from the purely technical and legal aspects of conducting a democratic parliamentary election (under the UN Programme of Advisory Services and Technical Assistance in the Field of Human Rights) to a more avowedly political and mediation role for a range of international organisations, from the OAU to the European Community, and not limited to the UN.

Item VII: We must therefore work on the basis that some form of international participation is both necessary and desirable. This should be done under two headings, participation by the international community and the possible modes of participation.

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.

Modes of Participation by the International Community

The Working Group should therefore investigate the extent to which the international community can assist

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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;
- (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 usefulness of observers from international and regional bodies to ensure that agreed procedures are followed and who could report back to their own constituencies;

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- (viii) The extent to which UN or other international participants could, if necessary, supervise and control vital areas of national administration;
- (ix) 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;
- (x) 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 all the aspects of importance for the holding of free and fair 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.

15 January 1992

Kader Asmal