

**DRAFT AGENDA FOR THE THIRTEENTH MEETING OF
WORKING GROUP 2 (CONSTITUTIONAL PRINCIPLES) ON
04 MAY 1992 AT THE WORLD TRADE CENTRE**

1. Apologies
2. Ratification of Agenda
3. Ratification of Minutes
4. Discussion on Assignment 2
 - 4.1 Presentation of redrafted Steering Committee Proposal on Constitution-Making Body
 - 4.2 Discussion of redrafted Steering Committee Proposal on Constitution-Making Body
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
 - 5.6 Inclusion of new items, namely :
 - 5.6.1 The role of standing committees in the formulation of legislation
 - 5.6.2 Government will be open, accessible and accountable
 - 5.6.3 Power Sharing
6. AOB
 - 6.1 Codesa 2: Expectations and Progress Report
 - 6.2 Progress with Public Submissions and Oral Evidence
 - 6.3 Item 4.4 of the Minutes of the Meeting of 2 March 1992:
Further discussion of the common principle regarding the balance between central, regional and local government
 - 6.4 Decision-making procedure regarding the proposed constitution
7. Next Meeting

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

MINUTES OF THE THIRTEENTH MEETING OF WORKING GROUP 2 (CONSTITUTIONAL PRINCIPLES) HELD AT THE WORLD TRADE CENTRE ON MONDAY 4 MAY 1992 AND TUESDAY 5 MAY 1992

PRESENT:

Delegates and advisors (See Addendum A)
M Richards (Chair)
M Phillips (Secretary)
R Hartley (Minutes)

DOCUMENTS DISTRIBUTED:

1. Draft agenda
2. Ratified minutes of the eleventh meeting of Working Group 2 held on 21.04.92
3. Draft minutes of the twelfth meeting of Working Group 2 held on 27.04.92
4. Inkatha Freedom Party: Comments of IFP on document of Working Group 2 Steering Committee proposal on Constitution Making Body
5. Inkatha Freedom Party: Assessing Working Group 2 phase 1 proposals
6. United Peoples' Front: Submission on the proposal of Working Group 2 Steering Committee on Constitution Making Body
7. Ximoko Progressive Party: 1.5.92 Position paper on the Working Group 2 Steering Committee proposals on a Constitution Making Body dated 27.4.92
8. National Peoples' Party: Comment on questions re Constitution Making Body 27.5.92

1. **Apologies**

C Ramaphosa	African National Congress
I Findlay	Bophuthatswana Government
A Leon	Democratic Party
F van Heerden	National Party
Z Yacoob (subs. T Pillay)	Transvaal/Natal Indian Congresses
VR Zietsman	Ciskei Government
EN Ginindza (subs. BE Mabuza)	Inyandza National Movement
Adv Holomisa (subs. M Nonkonyana)	Transkei Government
PZ Ndamase	Transkei Government
K Moodley	Solidarity Party
R Arenstein	Solidarity Party
Dr Viljoen	SA Government

2. **Ratification of Agenda**

The agenda was ratified without amendments.

3. **Ratification of Minutes**

The minutes of the meeting of 28 April 1992 were ratified subject to the following amendments that were agreed upon:

3.1 **Regarding apologies**

3.1.1 N Hoosain of the SA Communist Party was present.

3.1.1.1 In paragraph 4.3.3, the words "/interim constitution" were deleted.

3.2 The second sentence of paragraph 4.3.7 was made paragraph 4.3.8. and the motivation in brackets was deleted.

4. **Discussion on Assignment 2**

4.1 The Inkatha Freedom Party presented their two written submissions.

4.2 4.2.1 The Steering Committee proposal on a Constitution Making Body of 27.4.92 was amended by consensus to read:

*1. *Codesa shall agree to legislation that would make provision for a constitution making body operating within the framework of an interim constitution. The legislation shall be submitted to and legislated by parliament.*

2. *Codesa shall consult governments of the self-governing states and other interested parties in the drafting of the legislation and interim constitution.*

3. *Codesa shall agree on a set of general constitutional principles.*
4. *The interim constitution shall make provision for:*
 - 4.1 *An elected parliament, the structure of which to be decided on with the power to:*
 - 4.1.1 *In terms of agreed procedures, draft a new constitution which shall enshrine and not be in conflict with the general constitutional principles*
 - 4.1.2 *Act as an interim legislature in terms of such special majorities and general constitutional principles agreed upon.*
 - 4.2 *The composition, functions and procedures of a multiparty interim executive in accordance with the principle of an interim government of national unity.*
 - 4.3 *Justiciable civil and political rights during the transition.*
 - 4.4 *The balance between the executive, legislature and judiciary according to the principles underlying a constitutional state.*
 - 4.5 *Regional boundaries for the purposes of the implementation of the interim constitution.*
 - 4.6 *Elections for a national assembly on the basis of proportional representation and universal adult suffrage, half the seats being allocated through national lists and half being allocated through regional lists.*
 - 4.7 *Decision making on all matters relating to the constitution to be taken in general by a special majority.*
 - 4.8 *Decisions on matters relating to regional structures and the distribution of power between central, regional and local levels of government to require a special majority of the regional representatives in the NA in addition to a special majority of all the delegates in the NA.*
 - 4.9 *Regional government and/or the phasing in of such government and entrenched powers, duties and functions for these regional governments in the interim/transitional phase.*
 - 4.10 *Transitional provisions to ensure that there is no legal, administrative or constitutional hiatus during the interim/transitional phase.*
 - 4.11 *The establishment of an independent mechanism which will be the only body to determine that the general constitutional principles (as referred to in paragraph 3 above) have been enshrined and not contradicted in the final constitution which determination may only be initiated by a party to the NA.*

5. *The interim constitution shall not be amended unless the amendment has first been approved by the parties/organisations in Codesa in accordance with the standing rules of Codesa and after consulting the parties referred to in Clause 2 above.*
6. *Codesa shall agree upon special mechanisms to ensure that the NA completes the work of drafting and adopting the new constitution within a specified period of time."*

4.4 It was agreed by consensus that this amended proposal be submitted to principals and further discussed at the next meeting.

4.5 The Working Group noted that the United People's Party was in favour of constituency based elections in the regions.

5. **Next Meeting**

5.1 The Steering Committee will meet on Monday 11.5.92 from 9h00 to 12h30.

5.2 The Working Group will meet on Tuesday 12.5.92 from 10h00 to 17h00.

ADDENDUM A

The following delegates and advisors signed the Attendance Register of Working Group 2 meeting held on 4 May 1992

Organisation	Delegate/Advisor
African National Congress	MV Moosa F Ginwala A Sachs
Bophutatswana Government	TE Scheepers S G Mothibe R Cronje
Ciskei Government	MC Kashe IJ Smuts
Democratic Party	D Worrall CW Eglin D Welsh
Dikwankwetla Party	DP Wessels SOM Moji S Mopeli M Mopeli
Inkatha Freedom Party	N Brits SH Gumede BS Ngubane
Intando Yesizwe Party	AP Laka SJ Mgidi MP Mahlangu
Inyandza National Movement	BE Mabuza C Albertyn I Lephoko
Labour Party	D Lockey G Devenish C Nasson IM Richards

Natal/Transvaal Indian Congresses	IC Meer T Pillay F Cachalia F Haysom
National Party	I Rautenbach J Rabie S Camerer
National People's Party	M Mohanlall S Ismail B Singh H Neerahoo
Solidarity Party	I Omar DS Rajah TS Barnabas R Arenstein
SA Communist Party	J Slovo B Nzimande E Daniels N Hoosain
SA Government	JT Delpont JHE Basson F Venter
Transkei Government	M Nonkonyana DS Koyana R Nogumla
United People's Front	RJ Dombo MJ Mahlangu Adv Malatji MC Ramusi
Venda Government	GM Ligege MP Nthabalala A Budeli Adv Mushasha
Ximoko Progressive Party	EE Ngobeni KR Myakayaka EPP Mhinga J Ackron

ADDENDUM A

The following delegates and advisors signed the Attendance Register of Working Group 2 meeting held on 5 May 1992

Organisation	Delegate/Advisor
African National Congress	MV Moosa F Ginwala A Sachs
Bophutatswana Government	TE Scheepers S G Mothibe R Cronje
Ciskei Government	MC Kashe IJ Smuts J Labuschagne VR Zietsman
Democratic Party	D Worrall CW Eglin
Dikwankwetla Party	DP Wessels SOM Moji S Mopeli M Mopeli
Inkatha Freedom Party	N Brits SH Gumede BS Ngubane
Intando Yesizwe Party	AP Laka SJ Mgidi MP Mahlangu IT Mahlangu
Inyandza National Movement	BE Mabuza C Albertyn I Lephoko EN Ginindza

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National Party	I Rautenbach J Rabie S Camerer F van Heerden
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SA Government	JT Delport JHE Basson F Venter PJ Steenkamp
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Ximoko Progressive Party

EE Ngobeni
KR Myakayaka
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J Ackron