

THESE ARE DRAFT MINUTES. THEY ARE CONFIDENTIAL AND RESTRICTED TO THE MEMBERS OF THE SUBCOMMITTEE AND THE MC. THEY ARE STILL SUBJECT TO RATIFICATION BY THE SUBCOMMITTEE AT ITS NEXT MEETING.

**MINUTES OF THE MEETING OF THE SUBCOMMITTEE ON THE DECLARATION OF INTENT HELD ON MONDAY 9 MARCH 1992 AT 17H00 AT THE WTC**

PRESENT: CW Eglin  
FT Mdlalose  
GvN Viljoen  
  
T Eloff (secretary, minutes)

apology: R Cronje

1. **Chairperson's opening remarks**

The Chairperson welcomed the delegates present.

2. **Report from the IFP (see previous minutes, item 2)**

2.1 Dr Mdlalose presented a memorandum from the IFP (Annexure A)

3. **On the interpretation of the Declaration of Intent**

The subcommittee taking note of both the draft statement previously prepared and the draft contained in the report by Dr Mdlalose, agreed to recommend to the MC:

that the MC and CODESA II endorse the following statement:

"For the avoidance of doubt as to the interpretation of the Declaration of Intent, it is declared by its signatories that irrespective of their individual interpretive views thereof, no provision of the Declaration, interpreted alone or in conjunction with any other provision thereof shall be construed as -

1. favouring or inhibiting or precluding the adoption of any particular constitutional model, whether unitary, federal, confederal, or otherwise, consistent with democracy;
2. preventing any participant from advocating the same or the separation, in terms of any constitutional model, of powers between a central government and the regions; during the proceedings of CODESA or any of its Committees or Working Groups;
3. and that its Addendum shall be added to and form part of the Declaration."

4. **On the IFP's commitment to the CODESA process**

The subcommittee took note of the IFP's statement of commitment to CODESA as set out below and agreed to report this to the MC:

"We the representatives of the IFP, solemnly declare:

- (a) the IFP to be bound by agreements we conclude or reach together with other participants in CODESA on our behalf in accordance with the Standing Rules and to which we have expressly assented if such agreements affect our vital interest, and hereby commit ourselves to the implementation thereof within our capacity, powers and authority;
- (b) that our participation in CODESA or any of its Committees or Working Groups since 20 December 1991 and in the future shall not be construed to mean or expressly, impliedly or tacitly mean that we have consented to the Declaration of Intent in its original form but only as construed in accordance with the intent of the Addendum."

It was noted that the subcommittee has now concluded its business.

The meeting adjourned.



# INKATHA

Inkatha Freedom Party

IQembu leNkatha yeNkululeko

4 March 1992

## RESPONSE TO SUB-COMMITTEE ON THE DECLARATION OF INTENT AND PROPOSED AMENDMENTS

### Introduction

1. The IFP expresses its appreciation for the constructive spirit in which its Terms of Reference have been deliberated upon by the Sub-Committee's participants with a view to addressing the serious concerns of the IFP, as expressed by its tabled amendments to the Declaration of Intent.
2. With continued goodwill, the IFP considers that there is no good reason why consensus cannot be reached in the Sub-Committee's deliberations.

### IFP's First and Second Proposed Amendments (Paragraphs 1 and 5 a and d of the Declaration of Intent)

3. The Sub-Committee's approach, to acknowledge the principle that there are sincerely held differing interpretive views of the intentions expressed by the language of the Declaration, is a sound starting point.
4. Likewise, the IFP sees the difficulties inherent in reverting to the signatories of the Declaration and asking them to approve formal amendments thereto. The IFP approves therefore in principle the proposed method of going forward, namely, providing a means whereby all signatories will declare that irrespective of differing interpretations which

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may exist between them in regard to the Declaration, there will be total freedom by any participant to advocate its views on forms of government of a democratic nature during proceedings of CODESA and its Working Groups.

5. It can only be described as unfortunate and regrettable, in the IFP's view, that the wording of the Declaration had the effect of immediately excluding altogether from CODESA at least one important political player. The IFP would like to think that in the current process of re-examining the Declaration from its stand point, which is that CODESA is not sufficiently inclusive as presently constituted while political players such as Azapo, PAC and the CP are not participants, the effort should be made to arrive at a formulation to encourage such wider participation. The IFP believes that CODESA is only laying up future problems for itself and the country while it reflects its current seriously flawed inclusivity.
6. In the IFP's view the first proposal with regard to the IFP's proposed amendments, reflected in 2.1 of the Minutes of the Sub-Committee held on 17 February 1992 does not meet the IFP's position sufficiently, for the following reasons -
  - 6.1 the formal statement proposed to be issued by the Management Committee and by CODESA must be prepared and agreed to now as part of the current deliberations and not merely left to the Management Committee later to decide upon;
  - 6.2 signatories cannot declare the Declaration of Intent "is neutral" on the issue of a unitary versus a federal state when that issue is precisely a source of serious contention;

- 6.3 the formal statement referred to in 6.1 should take the form of an Addendum to the Declaration of Intent to be adopted by signatories to the Declaration of Intent at CODESA II as a mark of their solemn, clear and unambiguous commitment to its terms, thus specifically incorporating it into the main document by reference as an annexure thereto;
- 6.4 it should be more general in its conceptualisation of constitutional models which can be freely debated in CODESA, the only rider being that they should be consistent with democracy. It should not simply or necessarily be a matter of negotiation between a straight unitary versus a federal constitutional model. This would completely accord with and add force to the paragraph of the Declaration of Intent numbered 1 under "We agree" reading "that the present and future participants shall be entitled to put forward freely to the Convention any proposal consistent with democracy".

The IFP therefore tables before the Sub-Committee the following proposed Addendum for consideration

RESOLVED :

For the avoidance of doubt as to the interpretation of the Declaration of Intent, it is declared by its signatories that irrespective of their individual interpretive views thereon, no provision of the Declaration, interpreted alone or in conjunction with any other provision thereof shall be construed as -

1. favouring or inhibiting or precluding the adoption of any particular constitutional model, whether unitary, federal, confederal, or otherwise, consistent with democracy;
2. preventing any participant from advocating the same or the separation, in terms of any constitutional model, of powers between a central government and the regions; during the proceedings of CODESA or any of its Committees or Working Groups; and that this Addendum shall be added to and form part of the Declaration.

IFP's Third Proposed Amendment

(Final Paragraph of the Declaration of Intent)

7. The second proposal to the IFP's proposed amendments, reflected in 2.2 of the Minutes of the Sub-Committee dated 17 February 1991, in the IFP's view might be interpreted as meaning that if an agreement is arrived at by "sufficient consensus" in accordance with the standing rules, then the IFP would be bound thereby, even though it had not expressly assented thereto or may even have dissented therefrom. The following amending proposal is therefore tabled by the IFP for consideration -

"We the representatives of the IFP, solemnly declare :-

- the IFP*
- (a) ~~it~~ to be bound by agreements we conclude or reach together with other participants in CODESA on ~~its~~ *our* behalf in accordance with the Standing Rules and to which we have expressly assented if such agreements affect ~~its~~ *our* vital interest, and hereby commit ourselves to the implementation thereof within our capacity, powers and authority;

- (b) that our participation in CODESA or any of its Committees or Working Groups since 20 December 1991 and in the future shall not be construed to mean or expressly, impliedly or tacitly mean that we have consented to the Declaration of Intent in its original form but only as construed in accordance with the intent of the Addendum".