

THESE ARE DRAFT MINUTES. THEY ARE CONFIDENTIAL AND RESTRICTED TO THE MEMBERS OF THE WORKING GROUP AND THE MANAGEMENT COMMITTEE. THEY ARE STILL SUBJECT TO RATIFICATION BY SUBCOMMITTEE 1 AT ITS NEXT MEETING

DRAFT MINUTES OF THE MCSC1 MEETING (No 1) HELD AT THE WTC ON 8 JUNE AT 11H00

PRESENT: (SEE Addendum A)

Chair: Mr Webb

Secretary: Mr Feinstein

Minutes: K Morgan

1. Chairperson's Opening

Mr Webb welcomed members to the MC Subcommittee 1 meeting. Mr Webb expressed his hope that the MCSC1, with its new mandate would display the same team spirit that prevailed during CODESA II.

2. Apologies

None

3. Ratification of Minutes of WGSC1 held on 8 May.

The minutes were adopted without amendment

4. Discussion on the Terms of Reference as adopted by the Management Committee meeting on June 1 1992.

Noting that members who constituted the WGSC1 now constitute the MCSC1, the following observations were made:

- 4.1.1 That there was a disjuncture in terms of the mandate and accountability of the newly constituted MCSC1 and the WGSC1
- 4.1.2 That the overall Terms of Reference of the MCSC1 have changed, that they are no longer draft terms of reference, they are now mandated terms of reference
- 4.1.3 That the MCSC1 is now constituted by the Management Committee
- 4.1.4 That it is the MC that would convene the WG1 plenary, as and when it deems necessary, whereas previously it was the WGSC1 who was obliged to convene the WG1 meetings
- 4.1.5 That the MCSC1 is obliged to refer its discussions and agreements to the MC, without necessarily referring to WG1
- 4.1.6 That WG1's function has changed, it should now be referred to for comment and formulating of recommendations

- 4.1.7 That the MCSC1 is directly accountable to the MC
- 4.1.8 That the MCSC1 had acquired a referee role from CODESA 11
- 4.1.9 That in the light of the above the WGSC1 should now be referred to as the MCSC1

It was agreed that the CODESA 11 recommendations on the powers of the MC should be circulated to the MCSC1

5. Role of Rapporteurs

Resolved:

- 5.1 That the rapporteurs should continue to service the MCSC1
- 5.2 That the rapporteurs should be regarded as participants but not full members of the MCSC1 since the MC retains the right to extend the MCSC1 should it so desire
- 5.3 The following interventions on the MC were made by members on the MCSC1 :(see Addendum B)

5.4 It was resolved:

That those Parties objecting to the MC's decisions and style of work should make representations to the MC on the issue

6. Paragraph 2.1 of Terms of Reference: Agreements which require elaboration and refinement

- 6.1 The finalisation of matters relating to political prisoners and political trials (a)

It was agreed:

- 6.1.1 That the MCSC1 should accept the MC recommendation: "that in regard to the agreement on the release of political prisoners, the MC recommends that the SC1 advises on the composition of the Task Group for purposes of identifying and compiling a list of political prisoners in order to facilitate giving effect to the agreement. That the Task Group considers invoking the assistance of the Department of Justice, the Department of Correctional Services, the Human Rights Commission and of any other experts or interested persons to facilitate the execution of this task. That the Subcommittee shall invite such bodies to participate in discussions".
- 6.1.2 That the proposed Task Group should report to the MCSC1 who would in turn report to the MC
- 6.1.3 That other bodies employed to assist the Task Group should be regarded as bodies merely assisting the Task Group and are not full members of the Task Group
- 6.1.4 That the appointed Task Group should have investigatory powers
- 6.1.5 That item 4.5 of the WG1 report: "That with the exception of the reports on the bilateral meetings between the SA Government and the ANC, any further discussions on the issue of political prisoners will be conditional on submissions being received on the current existence and detention of political

prisoners" be included in the assignment of the Task Group

- 6.1.6 That the task group should not be burdened by problems encountered in the bilateral talks and that the bilateral Parties in the Task Group should instead seek to facilitate the work of the task group
- 6.1.7 That in respect of Item 2.7 of the terms of reference for the MCSC1, the MC's recommendation that "the word "identifying" would include amongst other things, establishing criteria or definitions to assist in this process provided this would in itself not in any way delay the process", should be accepted
- 6.1.8 That the Task Group should comprise the following individuals:
- 6.1.8.1 SA Government (1 rep)
 - 6.1.8.2 ANC (1 rep)
 - 6.1.8.3 IFP (1 rep)
 - 6.1.8.4 Mr Bester Democratic Party
 - 6.1.8.5 Mr Samuels Labour Party
 - 6.1.8.6 Mr Shaik Nic/Tic
- 6.1.9 That Mr Bester and Mr Samuels should be co-convenors of the Task Group
- 6.1.10 That the Task Group proceed with its first meeting on 16 June at the WTC

6.2 The return of exiles and their families (b)

Resolved:

To refer this issue to item 4.2 on the agenda: Outstanding and other matters, for further discussion by MCSC1

6.3 The amendment and or repeal of any remaining laws militating against free political activity, including the elimination of all discriminatory legislation. (c)

In making its recommendations on this item the MCSC1 took into consideration the following:

That the WG1 report to CODESA II, specifically items 6.1.1.1: that there needs to be acceptance of the principle of free political activity, and 6.1.1.3 : That attention must be given to specific pieces of legislation, as well as the MC recommendation: That the MCSC1 recommend steps which would facilitate the implementation of the agreements including setting up and supervising a panel of draftspersons for the above mentioned task. In this regard it should be noted that this task should be carried out under the co-ordination of the MC. Further that the MCSC1 will call upon the assistance of the MC to identify and provide suitable draftspersons with the necessary specialised skills.

It was agreed:

- 6.3.1 That a Task Group should be established to deal with Item C of the terms of reference
- 6.3.2 That Task Group should look at the issues of security legislation, emergency legislation, the climate for free political activity in the broader context of laws militating against free political activity, since the issue of free political activity subsumes discriminatory legislation
- 6.3.4 That in identifying discriminatory legislation, the Task Group should prioritise those laws discriminating against free political activity, for example, laws relating to the election process

- 6.3.5 That the Task Group should report to the MCSC1 on how it intends prioritising such laws
- 6.3.6 That the Task Group should use as a basis, the work already accomplished in WG1 on this issue
- 6.3.7 That the Task Group has the right to employ the assistance of draftspersons
- 6.3.8 That the draftspersons appointed by the Task Group should not have decision making powers
- 6.3.9 That technocrats employed to assist the Task Group should merely assist the group in reaching agreement
- 6.3.10 That the Task Group should consist of the following members:
- | | | |
|----------|------------------|------------------|
| 6.3.10.1 | Mr Bester | Democratic Party |
| 6.3.10.2 | Mr Esterhuizen | Bop. Govt. |
| 6.3.10.3 | Minister Coetsee | SA Govt. |
| 6.3.10.4 | Mr Ntsubane | Transkei Govt. |
| 6.3.10.5 | Mr Webb | Ciskei Govt. |
| 6.3.10.6 | Mr Samuels | Labour Party |
| 6.3.10.7 | Dr Madide | IFP |
| 6.3.10.8 | K Asmal | ANC |
| 6.3.10.9 | Rev Mohapi | Dikwankwetla |
- 6.3.11 That Mr Bester be the interim convenor of the Task Group
- 6.3.12 That the Task Group should proceed with its first meeting on June 16 at the WTC

6.4 **The following points were tabled as urgent matters on the agenda :**

- 6.4.1 The ANC felt that there was a need for introducing a moratorium on legislation in the pipeline, which might impinge on the work of CODESA and its Task Groups, for example, the Defence Amendment Bill.
- 6.4.2 The government felt that apart from its joint agreements with Parties in CODESA it had an obligation to govern the country and maintain law and order, and therefore it could not support the proposal of the ANC. Minister Coetsee also gave notice that he would be tabling a Bill on the issue of violence and intimidation and arms which will have an effect on private armies self defence units and which he would endeavour to have passed without delay
- 6.4.3 Some members responded by questioning the usefulness of setting up Task Groups if their work was going to be nullified by proposed legislation. Delegates also expressed their concern for the far reaching consequences of the passing of such legislation. Parties felt that this could affect the negotiations process

6.5 **It was resolved:**

- 6.5.1 That Prof Asmal would present a written argument for introducing a moratorium on legislation which might impinge on the work of CODESA, to the next meeting of the MCSC1
- 6.5.2 That Prof Asmal's recommendation be circulated to members of the MCSC1 before the meeting
- 6.5.3 That Minister Coetsee offered to present the recommendation, to his cabinet on Wednesday 10 June, if he receives it in writing by then

- 6.5.4 That the MC should be informed that no finality had been reached on this matter and that it was open for discussion by the MC

6.6 **Political Intimidation (d)**

Resolved:

- 6.6.1 That in the light of work already accomplished under items (d) Political intimidation, (e) The termination of the use of military and/or violent means or the threat thereof to promote the objectives/views of a political party or organisation and (g) The successful implementation of the NPA, a report should be given to the MC, with the purpose of requesting that the said report be conveyed to the NPC .
- 6.6.2 That the MCSC1 reserves the right to look at aspects not dealt with under these items
- 6.6.3 That where there has been agreement on issues under these items they should be referred to the MC and task group 2 for drafting purposes
- 6.6.4 That the MC should request the NPC to report back on the MCSC1 recommendations

6.7 **Political neutrality of, and fair access to the state controlled/statutorily instituted media (particularly the SABC and SATV) including those of the TBVC states (f)**

Resolved:

- 6.7.1 That a Task Group be set up to deal with agreements already achieved by WG1 in relation to Item f as well outstanding issues
- 6.7.2 That the terms of reference of the Task Group should embrace both the issues of SAITCOM and the reconstitution of the SABC Board
- 6.7.3 That the decision of the WGSC1 on 8 May: "That in view of particular circumstances of the subject matter, WGSC1 will be the mechanism for the drafting of legislation of an independent body in co-cooperation with the SA government and other administrations", should be taken into consideration by the Task Group
- 6.7.4 That the task group should comprise the following people:
- 6.7.4.1 Mr Webb
 - 6.7.4.2 Mr Soal
 - 6.7.4.3 Mr Myburgh
 - 6.7.4.4 Mr Pahad
 - 6.7.4.5 ANC (1 rep)
 - 6.7.4.6 SA Govt) (1 rep)
 - 6.7.4.7 Bop. Govt. (1 rep)
 - 6.7.4.8 Transkei (1 rep)
- 6.7.5 That Prof Asmal and Minister Coetsee should be present during the proposed talks with the SABC as well as in discussions in the Task Group regarding the reconstitution of the SABC
- 6.7.6 That Mr Pahad be the convenor of the task group

- 6.7.8 That the issue of the printed media and item L of the terms of reference be attended to by the task group

It should be noted that Minister Coetsee felt strongly that the issues of SAITCOM and the reconstitution of the SABC should be separated and that the Task Group should only deal with the issue of SAITCOM.

- 6.8 **The prevention of violence related crimes and matters giving rise thereto (h)**

This item was referred to Item 4.2 on the agenda for future discussion by the MCSC1

- 6.9 **The composition and role of the security forces in South Africa and the TBVC states (i)**

This item was referred to point 4.2 on the agenda for future discussion

- 6.10 **Funding of political parties**

Resolved:

That this item has been completed by WG1 and should be referred to Task Group 2 for refinement

- 6.11 **The fair access to public facilities and meeting venues (k)**

Resolved:

To refer this item to Task Group 2

- 6.12 **The need for an improvement in socio-economic conditions(m)**

Resolved:

To refer this issue to Item 4.2 on the agenda for future discussion by the MCSC1

- 6.13 **The fostering of a spirit of tolerance among political parties (n)**

Resolved:

To refer this item to point 4.2 of the agenda for future discussion by the MCSC1

- 6.14 **The role of intensive and continuous educative and informative campaigns in respect of political tolerance, the working of democracy, and the processes of CODESA (o)**

Resolved:

To refer this Item to point 4.2 on the agenda for further discussion

- 6.15 **The advisability of fair and reasonable access for political parties to all potential voters wherever they may reside (p)**

Resolved

To refer the issue to Task Group 2

6.16 **Other matters which the WG may consider relevant to its brief (q)**

Resolved:

6.16.1 To reconstitute the Task Group dealing with the issue of refugees

6.16.2 That the Task Group should comprise nominees from:

- 6.16.2.1 SA. Govt
- 6.16.2.2 Venda Govt
- 6.16.2.3 Gazankulu Govt
- 6.16.2.4 Kangwane Govt
- 6.16.2.5 Lebowa Govt

6.16.3 That the assistance of the UNHCR should be enlisted to assist the task group

6.16.4 Mr Feinstein was requested to contact Deputy Min. Schutte with regard to the reconstitution of the Task group

6.16.5 That the IFP should contact the Task Group for matters relating to their region

6.17 **The role of the international community**

Resolved:

6.17.1 That this issue be referred to item 4.2 on the agenda for future discussion

6.17.2 That the discussions on this item should proceed from agreements arrived at in WG1

7. **Paragraph 2.2 of terms of reference:outstanding and other matters**

Resolved :

7.1 That the following outstanding items of the terms of reference would be dealt at a future meeting of the MCSC1:

7.1.1 The return of exiles and their families (b)

7.1.2 The prevention of violence related crimes and matters giving rise thereto (h)

7.1.3 The composition and role of the security forces in South Africa and the TBVC states(i)

7.1.4 The need for an improvement in the socio-economic conditions (m)

7.1.5 The fostering of a spirit of tolerance among political parties(n)

7.1.6 The role of intensive and continuous educative and information campaigns in respect of political tolerance, the working of democracy and the processes of CODESA(o)

7.1.7 The role of the international community (Ass 2)

8. **Paragraph 2.4 of terms of reference:formulation of priority lists and target dates**

Resolved:

- 8.1 That all task groups should report to the MCSC1 by 29 June
- 8.2 That the MCSC1 recommend to the MC that a WG1 meeting be convened on 30 June so that the MCSC1 may present a substantive report to the WG
- 8.3 That the MCSC1 hand in a progress report to the MC and that the MCSC1 secretary and Chairperson should draft the report to the MC
- 8.4 That minutes of all Task Groups and the subcommittee be sent to WG1 members on a regular basis

9. **Arrangements concerning business of subcommittee**

This item has been dealt with under the items above

10. **Administration**

Resolved:

WG1 administrators will coordinate administration of the MCSC1 in the usual way

11. **Chairing of meetings**

Resolved:

- 11.1 Mr Ntubane should deputise MCSC1 meetings in the absence of Mr Webb

12. **Work schedule and schedule of meetings: see Addendum C**

13. **General**

Resolved:

That in consultation with the MC, the MCSC1 might consider extending the MCSC1 to be more representative of other parties

ADDENDUM A

PRESENT:

E Samuels
K Asmal
HJ Coetsee
PG Soal
DRB Madide
E Pahad
MB Webb
TJ Mohapi
LV Nisubane

Mr GB Myburg
Mr M Shaikh
Mr H Bester

Addendum B

Dr Madide and Rev Mohapi commented:

That they reject the decisions reached at CODESA 11. That the deadlock at CODESA 11 should not have been allowed to overshadow the achievements of other working groups especially that of WG1. That the decision not to deal with the reports of other Groups in the light of deadlock reflected a noncommittal to negotiations.

Furthermore, Dr Madide felt that the IFP was steamrolled by the MC into taking decisions that were not necessarily acceptable to their delegations. The IFP requested clarity from the MC on how the negotiations process was to proceed and suggested that members of the MC, other than those present at the MCSC1, be invited to a future MCSC1 meeting to give clarity on these issues.

Other delegations felt this issue was a matter of different perceptions based on different expectations. That while the achievements in WG1 shouldn't be minimised, it must be recognised that WG1 had not reached agreement on major issues. That the momentum of WG1 should have been more acute and sharper. The priority however should be that the MCSC1 should proceed from the recommendations of the MC which provides continuous momentum to the work of WG1.

SCHEDULE FOR MCSC1 MEETING

THURSDAY	JUNE 11	TASK GROUP 3	13H00-19H30 (PENINSULA-CT)
TUESDAY	JUNE 16	TASK GROUP 1	09H00-13H00
	JUNE 16	TASK GROUP 2	14H00-18H00
MONDAY	JUNE 22	TASK GROUP 1 2 3	
TUESDAY	JUNE 23	SC1 (OUTSTANDING MATTERS)	
MONDAY	JUNE 29	SC1 (REPORT BACK)	
TUESDAY	JUNE 30	WG1	

REPORT TO MC EACH WEDNESDAY AT 12H00.

**RESOLUTION ADOPTED BY CODESA 2 PLENARY (16 MAY 1992)
ON THE WAY FORWARD**

1. The MC is extremely conscious of the fact that the participants in CODESA entered the negotiations process in the belief that it can take our country to a stable order. We have a responsibility to approach our task in such a manner that the confidence of the participants, and our people, in the negotiations process is reinforced.
2. In order to promote better co-ordination and improve efficiency and effectiveness, CODESA 2 mandates the MC as follows:
 - 2.1 The MC shall suspend the work of the Working Groups with the mandate to convene any Working Group if necessary.
 - 2.2 The MC shall be given responsibility for resolving all outstanding matters of Working Groups.
 - 2.3 The MC shall examine all Working Group agreements with a view to establishing what work can be done in order to facilitate their speedy implementation as soon as all agreements have been adopted.
 - 2.4 The MC shall establish such structures (e.g. technical committees, sub-committees, Working Groups) as are necessary to assist the MC in accomplishing the tasks allotted to it.
 - 2.5 The MC shall call a CODESA plenary with suitable representation as a matter of urgency to adopt all agreements and to receive a report on all matters which have been assigned to it by CODESA 2, having regard to the scheduled adjournment of the current session of Parliament.

2.6 The MC be given the authority to constitute a mechanism which will draft all the legislation required as a result of agreements reached at CODESA.

2.7 Subject to 2.5 above, the MC be authorised to exercise such authority, as is necessary, to ensure that the objectives of the Declaration of Intent are attained; including the power to implement any agreement reached by Working Group 1 and also any other agreement falling within its mandate without summoning a plenary session of CODESA and that it also be given the power to increase the representation of individual parties/administrations/organisations represented in the MC.

SUMMARY OF PROGRESS IN SUB-COMMITTEE 1

FOR THE MANAGEMENT COMMITTEE

1. 4 Task Groups have been established, dealing with:
 - 1.1 Political Prisoners;
 - 1.2 Security, emergency and discriminatory legislation;
 - 1.3 Media;
 - 1.4 Refugees;
2. A list of the members of the Task Groups is attached, as is the schedule of meetings.
3. The 4 Task Groups will give their first progress reports at the sub-committee meeting of the 29 June.
4. In the interim the sub-committee will meet on 23rd June 1992 to discuss outstanding matters that will not be considered in the Task Groups.
5. The sub-committee suggests that a plenary session of Working Group 1 be called by the Management Committee for the 30th June. This will enable the Task Groups to have made some progress. If the MC feels that a WG1 plenary meeting needs to take place before this date, it should advise the chair -Mr. Mick Webb - as a matter of urgency.
6. The meeting agreed that Mr. V Ntsubane, of the Transkei, will deputize in the absence of Mr. Webb.