

MANAGEMENT COMMITTEE REPORT:
AGREEMENTS REACHED IN THE WORKING GROUPS
AND TABLING OF THE GENDER ADVISORY COMMITTEE REPORT

1. Introduction:

- 1.1 The adoption of the Declaration of Intent at CODESA 1 effectively established CODESA as a negotiation forum to set in motion the process of drawing up and establishing a democratic constitution for South Africa.
- 1.2 By means of the Terms of Reference of the five Working Groups as set out by CODESA 1, CODESA participants sought to give practical effect to the way in which this objective could be realised through the negotiation process.
- 1.3 More specifically, Working Group 2 was entrusted with the task of negotiating a set of general constitutional principles to be enshrined in the constitution and of making recommendations on the appropriate body/process to draft such a constitution.
- 1.4 Having addressed the task of giving content to the goal of the CODESA negotiating process, other Working Groups were established in order to take into account current realities in the country and shape them into practical measures which would enable us to move from the present conjuncture to the expressed goal of CODESA.
- 1.5 Accordingly, Working Group 3 was required to make recommendations with regard to the manner in which the country may be governed and managed until the introduction of a democratic constitution.
- 1.6 Working Group 1 was required to address itself to the creation of a climate in which all individuals and organisations can participate freely, without interference or intimidation, in all political activity. In this context it was also charged with the task of making recommendations with regard to the role that the international community and/or organisations could be asked to play in the formal and informal processes involved in the transition to a democratic government based on the democratic constitution which participants were seeking to create.
- 1.7 In the same context, the future of the TBVC states was assigned to Working Group 4.
- 1.8 In order to ensure that agreements reached in CODESA are recorded and implemented, Working Group 5 was required to report on a mechanisms to translate agreements into properly documented form and draft legislation and establish time-frames and target completion dates for all the processes and assignments undertaken by CODESA.
- 1.9 In the course of the functioning of the Working Groups it became apparent that in numerous areas the tasks of one Working Group overlapped or were intertwined with the tasks of another Working Group. Furthermore, agreements arrived at in some of the Working Groups, derive their significance when they are located around the tasks that Working Groups 2 and 3 were charged with; namely, the nature of the constitution making body and processes as well as the interim/transitional mechanisms defining how the country would be governed in the period leading to the drafting and adoption of a new democratic constitution.
- 1.10 The way in which the summary of agreements is presented in this document, is aimed at enabling us to see how far the process has taken us. Such an evaluation also provides a framework for addressing the manner in which we may wish to implement the agreements as well as to attend to outstanding tasks.
- 1.11 Against this background, the reports of the five (four if a report from Working Group 2 is outstanding) Working Groups are submitted to CODESA 2.

- 1.12 This summary of the agreements reached in Working Groups 1 to 4 must be understood in the context that the actual agreements reached as recorded in the Working Group Reports which constitute the definitive version of what has been agreed upon. The reports from the Working Groups are tabled before CODESA 2 with the expectation that, after discussion at plenary, they will be adopted as formal agreements reached in CODESA.

2. Summary of agreements reached to date

REPORT FROM WORKING GROUP 2 STILL AWAITED

- 2.2 Working Group 3 agreed on a two-phased approach in respect of the interim/transitional arrangements. The first is a preparatory phase premised on facilitating the transition to a democratic constitution, and, in particular, the levelling of the playing field, and ensuring a climate favourable to free political participation and the holding of free and fair elections.
- 2.2.1 Working Group 3 elaborated the structures necessary for phase 1, their powers and the manner in which decisions would be taken. There will be an overarching Transitional Executive Council which, together with its sub-councils, to be vested by legislation with powers necessary to enable them to carry out their functions. The transitional executive structure will function in conjunction with the existing legislative and executive structures and is to be constituted by legislation agreed to by CODESA. Some of the powers and functions that it should have are spelt out in the Working Group Report.
- 2.2.2 The Terms of Reference of the Transition Executive Council shall be the facilitation of the transition to a democratic constitution, including the levelling of the playing field, and it shall ensure that a climate conducive to free political participation and the holding of free and fair elections, exists.
- 2.2.3 The Transitional Executive Council will consist of at least one member of the governments/administrations who commit themselves to comply with and implement its decisions and at least one member each of the political organisations participating in CODESA, making the same commitment. Other parties not presently in CODESA can be admitted by the Transitional Executive Council.
- 2.2.4 Members of the Transitional Executive Council will be full-time executives.
- 2.2.5 The sub-councils shall operate within the same terms of reference, but shall be given specific responsibilities in particular areas of concern which will be identified for each sub-council. Every sub-council will have a multi-party character and will ordinarily consist of up to six members.
- 2.2.6 The following sub-councils were agreed upon and their areas of responsibility described:
- Regional and local government
 - Finance
 - Law and Order, Stability and Security
 - Defence
- 2.2.7 Regarding the sub-council on Foreign Affairs it has been agreed that, due to the unique character thereof, there is need for broader discussion concerning it.
- 2.2.8 It was also agreed that there be an Independent Election Commission with responsibility for the holding of free and fair elections. The Working Group agreed to a statutorily established Commission/Authority concerned with the media which will be institutionalised in accordance with recommendations made by Working Group 1.

- 2.2.9 There may be a need for an election sub-council to provide services and information to the Independent Election Commission. The Transitional Executive Council will decide whether or not there is a need for such a sub-council.
- 2.2.10 The Independent Election Commission will be independent of the Transitional Executive Council and will consist of respected and suitably qualified persons drawn from the broad cross-section of the population. Its composition, powers and functions shall be provided for in legislation to be agreed upon by CODESA.
- 2.2.11 The Transitional Executive Council and sub-councils will endeavour to take their decisions by consensus. Where consensus cannot be achieved, a majority of at least 80% will be sufficient for a decision. If a party is of the opinion that a minority view should have prevailed, the matter can be referred for adjudication to the Independent Election Commission.
- 2.2.12 All these structures would be constituted by legislation agreed to by CODESA.
- 2.2.13 It was agreed that the agreement reached with regard to phase 1, as well as its implementation, would be dependent upon agreement being reached by CODESA in respect of phase 2, including the interim constitution and the general constitutional principles.
- 2.3 Working Group 4 agreed that the TBVC states will participate in the phase 1 arrangements agreed upon by Working Group 3 on the understanding that these arrangements shall impact mutatis mutandis on the TBVC governments and territories in the same way as they impact upon the South African government and the territory of the RSA. Furthermore the people of the TBVC states shall take part fully in the processes of constitution making and transitional arrangements, including elections as may be proposed by Working Groups 2 and 3. Their participation will be arranged in such a way that their votes in a national election shall signify support for, or rejection of, reincorporation thus constituting a test of the will of the people. This would lead to the restoration of South African citizenship to all citizens of the TVBC states who would have been South African citizens had the TVBC states not come into existence.
- 2.4 Working Group 1 has arrived at a number of agreements on principles in regard to various elements involved in the creation of a climate for free political participation. It has also reached agreement on certain courses of action to be taken with regard to specific issues. Because they are highly detailed, we refer you to the full Working Group Report.
- 2.5 Working Group 5 tried to formulate a working plan which would ensure the speedy implementation of any agreements which would be reached in Working Groups 1 to 4. It has not been possible for Working Group 5 to attend to any of the agreements set out above because they were arrived at recently and this did not allow sufficient time for Working Group 5 to attend to them. Together with the Daily Management Committee, it has agreed on the need to establish a Drafting Committee which will ensure that suitably qualified experts will be drawn into the task of drafting legislation flowing from agreements reached at CODESA.

3. Gender Advisory Committee Report

- 3.1 The Management Committee also established the Gender Advisory Committee whose main task is to evaluate, look into and recommend on, the gender implications of any decision which may be taken by any of the five Working Groups. The Gender Advisory Committee has since prepared a report which had to be considered by the Working Groups. We take this opportunity to table, formally, the report prepared by the Gender Advisory Committee.

4. Resolution

- 4.1 The Working Group agreements as set out in the individual Working Group Reports are hereby moved for ratification.

5. Outstanding matters from Working Group Reports

- 5.1 The outstanding matters have been tabulated and will be tabled under item 7.1.2. Recommendations will then be made on how they should be dealt with.
