



Extremely Urgent .

TO : ALL MEMBERS OF THE DAILY MANAGEMENT COMMITTEE  
 FROM : CODESA ADMINISTRATION  
 QUERIES : LOVEDALIA / LORRAINE

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DAILY MANAGEMENT COMMITTEE/AGENDA/1905

**DRAFT AGENDA FOR THE DAILY MANAGEMENT COMMITTEE MEETING TO BE HELD ON 19  
MAY 1992 AT 14H00 to 17H00 AT THE ROYAL HOTEL IN DURBAN**

1. Opening remarks of the Chairperson
2. Apologies
3. Adoption of the agenda
4. Minutes of the last meeting
5. Follow up from Codesa 2
  - 5.1 Identification of tasks
    - 5.1.1 Existing agreements
      - 5.1.1.1 WG1's discussion with the SABC
    - 5.1.2 Existing disagreements
    - 5.1.3 Outstanding matters
  - 5.2 Approach to these tasks
  - 5.3 Possible structures to address these tasks
6. Any other business
7. Date of next meeting
8. Closure

CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

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## MANAGEMENT COMMITTEE REPORT TO CODESA 2 REGARDING GUIDELINES ON THE WAY FORWARD

### 1. INTRODUCTORY REMARKS

- 1.1 Mr Chairman, flowing from the discussions we had yesterday and today regarding the manner in which the various Working Group reports would be handled, the Management Committee had to consider the way in which the Codesa negotiating process would be taken further, taking into account, in particular, the difficulty which Codesa plenary has had with the further consideration of the work of Working Group 2.
- 1.2 We have analysed carefully the different remarks made by the various leaders who addressed plenary yesterday and today. Without going into detail, it has been observed that, despite varying views on this matter, not a single leader has rejected negotiation as the best acceptable option for South Africa. A number of speakers have emphasised the urgency of the matter under discussion and expressed the view that unless an acceptable solution is found as soon as possible, difficulties may arise. We are conscious of the fact that the impasse which retarded progress yesterday may endanger the whole negotiation process and, consequently, as a Management Committee, we are committed to finding an acceptable way in which the views and aspirations of all can be accommodated.
- 1.3 The Management Committee has taken all the above considerations into account. After having had recourse to the Working Groups' views on the way forward we have now formulated a way forward which, we think, will meet the requirements of all concerned and the people of South Africa in particular. We are mindful of the fact that the outside world, too, is anxiously awaiting the final outcome of Codesa negotiations. But before I can deal with specifics I would like to make a few brief comments on the reports of the other Working Groups, for the recommendation to be made hereafter does not only relate to Working Group 2 but to all Codesa negotiation structures.
- 1.4 The Working Group reports which have been tabled indicate clearly that there is still a lot of ground which needs to be covered before it can be said that we have reached the goals we set for ourselves when we agreed, and appended our signatures, to the Declaration of Intent.
- 1.5 The question which now arises for consideration is : what kind of structures should be put in place to ensure that outstanding work is processed properly and on a coherent and urgent basis?
- 1.6 It is clear from the reports referred to, that a number of decisions and agreements need to be implemented. CODESA needs to devise a way which will ensure that the implementation process goes on smoothly and in a well-structured and well-coordinated manner, which will be worked out by the Management Committee at which all the CODESA participants are represented.
- 1.7 As has already been said the Management Committee has given careful consideration to the views expressed by leaders.
- 1.8 In the light of the above the Management Committee recommends that, for purposes of promoting co-ordination and improving efficiency and effectiveness, CODESA 2 of a complete review by the Management Committee of all the structures currently in place. The structures currently in place were created at a time when we were not aware of the problems which would be encountered during the course of the negotiation process. The Management

Committee is of the view that, with the experience that we now have, we are in a position to improve on the existing situation. As has already been indicated by the Chairperson of the Management Committee in the report presented yesterday, the present structures do not take into account the overlapping functions as between the various Working Groups. With the benefit of hindsight it is our view that we are now in a position to make structural adjustments which will ensure, at the end of the day, that we glean the desired results and that agreements will be implemented in well structured form and with the minimum of delay. As lawyers say, "Justice delayed, is justice denied".

## 2. RECOMMENDATIONS

We therefore recommend that, 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 implementation.
- 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.
- 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.

## 3. CLOSING REMARKS

- 3.1 The Management Committee is extremely conscious of the fact that the participants in CODESA entered the negotiation 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 negotiation process is reinforced. The Management Committee's commitment in this regard has been made public on a number of occasions.
- 3.2 I accordingly move the adoption of these recommendations. The recommendations, it will be observed, are inclined more towards flexibility. They also take into account the dynamics of the negotiation process. I also attach hereto a summary of the substantive agreements reached so far (Addendum A) as well as a list of outstanding matters (Addendum B).

**INDEX - WORKING GROUP AGREEMENTS**

**WORKING GROUP 1:**

1. Definition of "political intimidation - paras. 7.1 - 7.3.
2. Independent body to regulate tele communications sector - paras. 9.1 - 9.2.
3. Successful implementation of National Peace Accord - paras. 10.1 - 10.18.
4. Composition and role of the security forces in South Africa and the TBVC States - para. 12.4.
5. Funding of political parties - para. 13.

**WORKING GROUP 2:**

No agreements yet.

**WORKING GROUP 3:**

1. Transitional executive structure - paras. 9 - 29.
2. Independent Election Commission - para. 30.1.
3. Sub-councils and their areas of responsibility - paras. 32.1, 2, 3, 4, 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43.

**WORKING GROUP 4:**

1. Reincorporation - para. 3.1.1..
2. Transitional arrangements - para. 3.1.2.
3. Testing of the will of the people - para. 3.1.3.
4. Restoration of citizenship - para. 3.1.4.
5. Land transfers - para. 3.2.3.

**WORKING GROUP 5:**

1. Sessions of Working Group 4 - para. 5 (second sentence).

**OUTSTANDING MATTERS OR MATTERS NOT REACHED AGREEMENT UPON**

1. **WORKING GROUP 1**

1.1 **The amendment and/or repeal of any remaining laws militating against free political activity, including the elimination of all discriminatory legislation**

1.1.1 **The definition of general principles underpinning free political activity (WG1 report 6.1.3.3. See also paragraph 6.1.2.3. of the said report.)**

1.1.2 **Specific measures (WG1 report 6.1.4):**

Regarding 6.1.1.3 various oral and written submissions were received about legislative measure which may offend against free political activity. The submissions dealt with the following broad categories of legislation:

6.1.4.1 Emergency measures;

6.1.4.2 Security measures;

6.1.4.3 Measures affecting the funding of political Parties and organisations;

6.1.4.4 Measures affecting the freedom of assembly and association;

6.1.4.5 Measures affecting the free flow of information and access to the media.

1.1.3 **The recommendation that the timing of the implementation of the various agreed proposals be negotiated as a matter of urgency amongst the parties (WG1 report 6.1.6.2).**

1.1.4 **Security legislation (WG1 report 6.1.7):**

It was agreed that:

6.1.7.1 **Special measures are necessary to deal with the threat to the public peace and order during the transitional period.**

6.1.7.2 **In the light of 6.1.7.1, the Internal Security Act 1982, and other relevant legislation be scrutinised with a view to the substitution of the said provisions so as to bring legislation in line with the criteria mentioned in 6.1.7.1, and to remove the emphasis from national security;**

6.1.7.3 **A task group be appointed to undertake the task referred to in 6.1.7.2, taking cognisance of relevant discussions by and submissions to SG1.**

1.1.5 **Discriminatory Legislation (WG1 report 6.2):**

6.2.1 **It was agreed that the following categories of discriminatory legislation can be identified and that individual legislative measures within each category should be dealt with in the manner outlined as being appropriate for that category:**

6.2.1.1 **Discriminatory legislation which impedes the creation of a climate for free political activity. Such legislation must be identified by WG1 and amended/repealed as soon as possible.**

6.2.1.2 **Discriminatory legislation which emanates from the nature of the**

CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

tricameral constitution. This should be dealt with at the time and in the manner decided on by negotiation on the phasing out of the tricameral constitution and the own affairs dispensation.

- 6.2.1.3 Discriminatory legislation which need to be amended/repealed to support and enhance the process of democratisation. These should be identified as soon as possible and suitably amended/repealed.
- 6.2.1.4 Discriminatory legislation which needs to be removed in the interests of society. These should be dealt with at the relevant stage of the democratisation process.
- 6.2.1.5 Discriminatory legislation which would infringe upon an agreed Bill of Rights. These should be dealt with through the procedures that stand to be created in a new constitution which will include a justiciable Bill of Rights.

6.2.2 The WG received proposals on discriminatory legislation which falls in the above categories and which should be amended and/or repealed. The discussions on these proposals are incomplete and it was agreed that the task group constituted in terms of para 6.1.7.3 above, or any other mechanism set up by Codesa, discuss the proposals regarding discriminatory legislation which falls within categories 6.2.1.1 and 6.2.1.3 above with a view to making appropriate recommendations. Such task group or appointed body should report to Codesa or any other appropriate executive body that may be set up by Codesa.

**1.2 The termination of the use of military and/or violent means or the threat thereof to promoted the objectives/views of a political party or organisation**

This matter was not discussed separately, but dealt with within the broader context of the subject matter discussed in SG 2 (WG1 report 8).

**1.3 Independent Body to Regulate Telecommunications Sector**

1.2.1 The name of the Independent Body (either "SA Independent Telecommunications Authority" or "SA Independent Telecommunications Commission")(WG1 report 9.1.4.).

1.2.2 The immediate reconstitution of the Board of the SABC (WG1 report 9.1.9).

1.2.3 Affirmative action and cross-ownership restrictions (WG1 report 9.1.12).

**1.4 The following matters relating to the implementation of the NPA should still be discussed (WG1 report 10.18):**

10.18.1 Co-ordination between 3 levels of NPA.

10.18.2 Education Programmes/Publicity.

10.18.3 Liaison between NPC and organisations and NPC and Codesa.

**1.5 Consensus could not be reached on the following (WG1 report 11.2):**

11.2.1 The use of the death penalty as a deterrent to criminal activity.

11.2.2 A call by Codesa for the lifting of sanctions as a means of improving socio-economic conditions.

**1.6 The composition and role of the security forces in South Africa and the TBVC states**

1.3.1 The composition of the security forces (WG1 report 12.8.1).

1.3.2 Operations of the security forces that may limit free political activity (WG1 report

12.8.2).

1.7 **The advisability of statutory provisions guaranteeing equal opportunity for all parties to establish and maintain their own means of mass communication.**

1.4.1 Not discussed due to a lack of time (WG1 report 15).

1.8 **The need for an improvement in socio-economic conditions**

1.5.1 Details were not discussed (WG1 report 16).

1.9 **The fostering of a spirit of tolerance among political parties**

1.6.1 No consensus on further recommendations (WG1 report 17).

1.10 **The role of intensive and continuous educative and informative campaigns in respect of political tolerance, the working of democracy, and the processes of Codesa (WG1 report 18):**

Various submissions dealing with the above matter were received, however, due to lack of time, the SG was unable to discuss the matter.

1.11 **Other matters which the WG may consider relevant to its brief (WG1 report 20):**

The WG agreed to discuss the issue of Mozambican refugees in the South Africa. It was agreed that a joint task force of the SA Government, and other involved parties and governments be formed to address the problem of Mozambican refugees, internal refugees and other displaced persons.

1.12 **The role of the International community**

1.7.1 Certain proposals were not discussed (WG1 report 21.4).

1.13 **The way forward**

The WG had insufficient time to discuss and agree on the future handling of matters falling within the ambit of its assignments and terms of reference. However, proposals are put forward for consideration by Codesa (WG1 report 22).

2. **WORKING GROUP 2**

Report outstanding.

3. **WORKING GROUP 3**

3.1 **Composition of the TEC (WG3 report 46.1)**

3.2 **Composition of the sub-councils (WG3 report 46.2)**

3.3 **Composition, powers and functions of the Independent Election Commission (WG3 report 46.3)**

3.4 **Sub-council on foreign affairs (WG3 report 46.4)**

3.5 **Legislation to give effect to agreements (WG3 report 47).**





## REPORT OF THE GENDER ADVISORY COMMITTEE TO CODESA 2

Due to enormous public pressure about the lack of representation at CODESA of women, who form 53 % of the population, and subsequent suggestions and submissions by women's organisations, political parties and other organisations, the Management Committee of CODESA decided to form the Gender Advisory Committee. The GAC is a subcommittee of the Management Committee charged with the special task of looking into the Terms of Reference, minutes and decisions of each of the Working Groups, and those of the Management Committee, and advising on their gender implications. All CODESA participants have so far sent representatives to the GAC with the exception of the Bophuthatswana and Venda Governments.

The GAC met for the first time on 6 April and has diligently studied the Terms of Reference, minutes and most of the decisions already taken by the Working Groups as well as internal and external submissions from women's organisations and political parties, with an unusual spirit of unity. The GAC has reached consensus on many issues, but consensus was not reached on others.

1. **RECOMMENDATIONS AND ADVICE ON THE GENDER IMPLICATIONS OF ISSUES RAISED IN WORKING GROUP 01**

1.1 **The Free Political Participation of Women**

Noting the Terms of Reference of Working Group 01, Items 1.1.4 (k), (p) and (o), the GAC recommends the following:

- 1.1.1 The rights of access of women to public facilities and meeting venues should be ensured, as should their right to meet with political organisations. This recommendation is necessary so that women can participate without fear and on an equal footing in the political process.
- 1.1.2 The right of access of political organisations to public facilities, and their right to meet with potential voters, is meaningless unless women may participate in the democratic process on an equal footing without fear of public or private harassment and intimidation.
- 1.1.3 That the roles mentioned here (Item 1.1.4 (o) of the Terms of Reference of Working Group 1) concerning educative and informative campaigns should be broadened to include specific educational campaigns informing women of, inter alia, their right to vote, particularly in areas where women are unlikely to be reached by usual media.

1.2 **Agreements on Political Intimidation and Women**

With regard to the agreement reached by sub group 2 of Working Group 1 on the Definition of Political Intimidation, the GAC recommends that the following additions be made to the activities which would, as per the aforesaid agreement, be considered, in particular, as forms of political intimidation (refer to Item 4.2 of the Minutes of the meeting of Sub-Group 2 of Working Group 1, 2 March):

- 1.2.1 To compel women, both within and outside the home, by virtue of the "power" vested in men with whom they may associate, to adopt a particular political position; or to similarly prevent women from engaging in free political activity.
- 1.2.2 To use political patronage in any form that threatens or denies an individuals political, social and economic rights, especially noting that women are frequently the victims of such practices.
- 1.2.3 To sexually harass any individual and thereby prevent him/her from the freedom of the right of expression/opinion, association and movement.

With regards to item 1.3.3 above the GAC defines sexual harassment, in general terms, as sexual advances without express consent, including innuendos or language of a defamatory or offensive nature, in all spheres, including political, social and economic life and in the media.

1.3 **Agreements of the Interpretation of the National Peace Accord**

With regards to agreements reached by Sub-Group 2 of Working Group 1 re the implementation and interpretation of the National Peace Accord, the GAC recommends that the following additions be made (refer to Item 6.1.6 and Item 6.4.1, respectively, of the minutes of Sub-Group 2 of Working Group 1, on 7 April):

- 1.3.1 That the reference to "Business representatives" in clause 7.4.4.3 of the NPA be interpreted to include representatives from professional and women's organisations.
- 1.3.2 The NPA make special efforts to include representatives of relevant local and tribal authorities as well as local women's structures into all RDRC and LDRC structures.
- 1.3.3 With regards to item 1.4.2 above (and with specific reference to items 6.1.6, 6.3.2, 6.4.2, 6.5.2, 6.6.2, 6.6.3 and 6.8 of the minutes of the meeting of WG1 SG2, 7 April) the GAC recommends that as part of its input on the interpretation and implementation of the NPA Working Group 1 recommend that women be included in all structures created by the NPA, RDRC's and LDRC's to ensure that gender implications of all decisions and functions of these structures, are considered.

#### 1.4 On the Security Forces, Free Political Activity and Women

Noting that the many acts of violence committed against women allegedly by the security forces are a source of grave concern, the GAC recommends that:

- 1.4.1 any such crime be immediately investigated;
- 1.4.2 violent crime against women be treated with stricter and more stringent disciplinary action;
- 1.4.3 when searches of homes are conducted, women police must accompany male police;
- 1.4.4 the position of high ranking officers who are unable or unwilling to maintain adequate control over their forces be urgently reviewed;
- 1.4.5 any peace keeping force should include women within their structures at all levels;
- 1.4.6 the gender sensitivity of these forces (refer to item 1.5.5) be monitored;
- 1.4.7 all individuals be informed of their rights with regard to the role and functions of these forces (refer to item 1.5.5);
- 1.4.8 these forces (refer to item 1.5.5) be trained to be gender sensitive and to ensure that they do not violate the rights of women.

Noting the lack of agreement in Working Group 1 over the definition of political prisoners, no recommendations with regards to the gender implications of this issue could be agreed upon.

The GAC also recommends that any Security Force established in the country, including the TBVC states, must begin to immediately redress race and gender imbalances both in their composition and functioning at all levels and introduce a Code of Conduct and norms which will create confidence among all the people of South Africa.

#### 1.5 Working Group 01 Terms of Reference

The GAC proposes that Item 1.1.4 (c) of the Terms of Reference of Working Group 01 should be amended to read as follows:

"The amendment and/or repeal of any remaining laws militating against free political

activity including the elimination of racial and gender discriminatory laws."

**1.6 The Media in the Transition (Recommendation to Working Groups 01 & 03)**

The GAC recommends that Working Group 1 and Working Group 3 agree upon a politically neutral Independent Communications Authority which shall:

- \* include gender conscious persons;
- \* facilitate media access for women;
- \* monitor and discourage sexist programmes, articles and advertising;
- \* encourage non-sexist, non-discriminatory publications;
- \* ensure the participation of women on all media bodies, at all levels;
- \* organise that radio and television programmes which educate women about the democratic process and their right to participate therein without fear of intimidation, are prepared as a matter of urgency

## 2. Recommendations and Advice on the Gender Implications of the Issues Raised in Working Group 02

### 2.1 Constitutional Principles

The GAC advises that:

- 2.1.1 It fully supports a Justiciable Bill of Fundamental Human Rights to be attached to the constitution.
- 2.1.2 It fully supports the concept of a qualified Equality Clause in the Bill of Rights and the Constitution.
- 2.1.3 It recommends that Working Group 2 address the problem of redressing and eliminating gender inequalities.
- 2.1.4 It recommends to WG 2 that they take note of the desirability of a document containing a set of ideals regarding gender issues, which should be accepted by a future Constitution Making Body as a document to be used by the courts to assist women in claiming and exercising their rights under the constitution and Bill of Rights to ensure gender equality.
- 2.1.5 The GAC further recommends to Working Group 02 that the Bill of Rights include some form of rights and protection for children.

### 2.2 Constitutional Language

The GAC recommends that the terms "men and women" and "men, women and children" be used wherever respectively appropriate, in the drafting of the Constitution, in place of the terms "people" or "persons".

### 2.3 On Agreements Reached Regarding Constitutional Principles

Regarding the "Provisional Areas of Commonality that Already Exist" in Working Group 02 as adopted by the Steering Committee of WG 02 on 27 April, the GAC recommends the following (refer to Document prepared by the Steering Committee of Working Group 2 on 27 April):

- 2.3.1 Item 1.1.3 should be amended to read "The diversity of languages, cultures and religions will be acknowledged, within the non-racial and non-sexist principles of the Constitution."
- 2.3.2 Item 1.1.7.1 should be amended to read "A judiciary that will be independent, non-racial, impartial, gender sensitive and inclusive of women."
- 2.3.3 Item 1.1.7.2 should be amended to read "An entrenched and justiciable Bill/Charter of Fundamental Rights, which will protect the rights of women and children."
- 2.3.4 Item 1.2.2 should read "At each level there shall be democratic representation, consistent with non-racial and gender sensitive principles."
- 2.3.5 Item 1.3.1 should read "A new constitution shall provide for effective

participation of minority political parties consistent with democracy, non-racialism and non-sexism"

#### **2.4 Constitution Making Body/Process**

- 2.4.1 The GAC recommends that when drawing up the electoral procedures, methods should be sought to encourage full participation of women. This should apply to both encouraging women to exercise their political rights to campaign and stand for election as well as to vote. These provisions would include, among others, education programmes, elimination of sexual harassment (refer to item 1.3), drawing up of electoral lists and giving women reasonable exposure in the media.
- 2.4.2 The GAC strongly recommends that all parties include a fair proportion of women in their electoral lists. It is essential that women are evenly distributed within the lists, to ensure their inclusion in the elected body.
- 2.4.3 The GAC recommends that any committees set up by the Constitution Making Body must contain an adequate number of women.
- 2.4.4 The GAC recommends that the Constitution Making Body should consider a sub-committee to monitor and raise gender issues in the drafting of the Constitution and the Bill of Rights.
- 2.4.5 The above 4 proposals should apply to future elections at a local, regional and national government level.

3. **Recommendations and Advice on the Gender Implications of the Issues Raised in Working Group 03**

3.1 **The Funding of Programmes for Women**

The GAC advises that Working Group 3 reach an agreement on the principle of funding and programmes to ensure the meaningful participation in, and education about the democratic electoral process.

In order that women be timeously informed about the franchise, and thus enabled to participate in interim elections without fear of pressure or intimidation, it is suggested that such agreement be expeditiously concluded.

3.2 **The Technical Report to the Steering Committee of Working Group 3**

The GAC advises the Technical Committee, Working Group 3 and its Steering Committee on the following points concerning the Technical Committee's recommendations made on 27 April:

3.2.1 In addition to Item 7.1 of the report:

"\* Shall include women in its composition."

3.2.2 Item 10 of the report should state:

"The transitional executive structure will be constituted by legislation agreed to by Codesa, will have a multi-party character, including women and be . . ."

3.2.3 The reference to "persons" in line 14 of Item 10 of the report should be replaced by a reference to "men and women".

3.2.4 Line 5 of Item 14 of the report should read:

"Save for agreement that the TEC must have multi-party character, including women, the precise criteria . . ."

3.2.5 It is also recommended that the proposed TEC should include a Gender Structure, the exact nature of which is still to be determined.

3.3 **Women and Local Government**

The GAC advises that special mechanisms be created to promote the participation and representation of women in local government structures, so that these structures more closely reflect the gender composition of the populace.

Any projects undertaken during the life of CODESA and the Interim or Future Governments should be aimed at the interests of all groups in local communities including women.

3.4 **The Media in the Transition (Recommendation to Working Groups 01 & 03)**

The GAC recommends that Working Group 1 and Working Group 3 agree upon a politically neutral Independent Communications Authority which shall:

- \* include gender conscious persons;
- \* facilitate media access for women;
- \* monitor and discourage sexist programmes, articles and advertising;

- \* encourage non-sexist, non-discriminatory publications;
- \* ensure the participation of women on all media bodies, at all levels;
- \* organise that radio and television programmes which educate women about the democratic process and their right to participate therein without fear of intimidation, are prepared as a matter of urgency

### 3.5 Women and the Foreign Service

Noting that South Africa's foreign relations have mainly been conducted by men, as from the interim government women should be trained, employed, promoted and recognised on an equal basis with men within the diplomatic service. Any existing discriminatory regulations and practices with respect to gender and race in South Africa's foreign service need to be removed.

### 3.6 Land and Women

The GAC wishes to place on record that no consensus could be reached on the following proposals concerning land and women:

**Proposal 1:** That Working Group 3 suggest an urgent Commission of Enquiry into legislation which prevents women's access to land ownership in South Africa and the TBVC states, and that the results of such an enquiry be immediately embodied in legislation.

**Proposal 2:** That Working Group 3: (1) look into those laws which prevent/inhibit women's ownership of or access to land in South Africa and the TBVC states, with the intention of amending or repealing those laws and (2) that there should be an immediate moratorium on the sale and transferral of all state property to private or corporate individuals and organisations.



4. **General Recommendations to Codesa (to all Working Groups)**

4.1 **Non-Sexist Language in CODESA documentation**

The GAC recommends that CODESA documents should explicitly define the word "person" as referring to both men and women.

4.2 **Gender Discriminatory Legislation**

The GAC recommends the repeal of all legislation in South Africa and the TBVC states which discriminates on the basis of race, creed or gender which circumscribe and impede free political, economic or social activity. We suggest that this be attended to by a general law asserting certain basic civil and political rights, combined with an omnibus law repealing all legislation in accordance with a schedule of Acts to be provided by the GAC. We advise Working Groups 1, 2, 3, 4 and 5 to assist in the identification of such legislation.

5. **Conclusion and The Way Forward**

In conclusion, and in view of the short period of time which the GAC had had at its disposal, the GAC wishes to point out that, as of 7 May, proposals and recommendations on the proceedings of Working Group 4 and 5 have not yet been formulated, and that there are certain areas in other Working Groups on which consensus has not yet been reached. The GAC would also wish to look at present discriminatory legislation which needs to be repealed or amended. The GAC therefore recommends that it continues with its work after CODESA II both in terms of uncompleted work, feed-back on its submissions from the relevant Working Groups and forthcoming agreements emanating from the various Working Groups and committees.

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 WGSC1 AT ITS NEXT MEETING

DRAFT MINUTES OF THE WGSC1 MEETING HELD IN CAPE TOWN ON 8 MAY AT 11H00

PRESENT: (see ADDENDUM A)

Chair: Mr Webb

Secretary: A Feinstein

Minutes: M du Plessis

1. Chairperson's opening

Mr Webb welcomed members to the meeting and made his apologies for the late start of the meeting owing to travel problems.

2. Attendance and Apologies

The Steering Committee was fully represented.

3. Adoption of the Agenda

The agenda was adopted with the following amendments:

- 3.1 That Item 8 a) which reads: "Implementation of the decisions of CODESA", should be added.

4. Adoption of the Minutes

The minutes were adopted with the following amendment:

- 4.1 That Item 8.1.2 should be removed.

5. Matters arising

- 5.1 SABC Meeting with Mr Harmse and Dr Viljoen

- 5.1.1 Mr Coetsee would make inquiries on when the meeting would take place. (Refer item 8(a)2.)

- 5.2 The submission from the Film and Broadcasting Forum (FBF) was distributed to the members.

6. **The role of the International Community**

6.1 Consensus was reached on the following statement in this regard:

The Working Group welcomes the initiative of the international community concerning the developments in South Africa. In this regard the Working Group considers it helpful that members of the international community acquaint themselves with the circumstances surrounding the violence in our country through fact-finding missions with a view to making an independent, objective assessment of the facts and realities surrounding the violence.

In addition to any other such missions, the Working Group recommends that CODESA invite an independent international mission.

7. **Emergency Legislation**

7.1 It was agreed:

7.1.1 That the timing of the implementation of the various agreed proposals to amend the Emergency legislation be negotiated as a matter of urgency among the parties.

7.1.2 That the established task force for emergency and security legislation now consist of Prof Asmal and messrs Bester (Convenor), Coetsee, Esterhuizen, Ntsubane, Samuels and Webb.

7.1.3 The meeting agreed on the following statement:

That a task force referred to above Scrutinised Security legislation as soon as possible. The task group may continue or be substituted by any other mechanism after CODESA II.

8. **Specific Items of Discriminatory Legislation to be addressed as a matter of priority**

The meeting agreed on the following statement, which will be included in the Report:

8.1 The Working Group received proposals on discriminatory legislation which impede free political activity and which should be amended and or repealed. The discussions on these proposals are incomplete and it was agreed that the task group as mentioned above or any other mechanism set up by CODESA II, should convene to consider discriminatory legislation which impedes the climate for free political activity or which needs to be amended or referred to support and emphasise the process of democratisation.

8a) **Implementation of the decisions of CODESA**

It was agreed:

8(a) 1. That the Independent Body to regulate Telecommunications Sector shall be established as soon as possible.

8(a) 2. That the WGSC1 and the SABC will meet on 14 May 1992 from 13:30 to 15:30 at the HF Verwoerd Building, Cape Town.

8(a) 3. 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-operation with the SA Government and other administrations.

9. **Discussion on Report to CODESA II**

It was agreed:

9.1 That any amendments to the Working Group Report by members of the Working Group should reach Mr Bester not later than Tuesday 12 May 1992 at 11 pm. The report will then be finalised by Mr Bester.

10. **Presentation to CODESA II**

10.1 That Messrs Webb and Samuels and Prof Asmal with the support of the rapporteurs, would handle the presentation of the report representing the WG1, not their political parties. Delegates however have the right to differ from the presentation made.

11. **Close**

11.1 The chairperson thanked members for the work done. Mr Coetsee was thanked for making the venue available and for the lunch provided.

The meeting adjourned.

ADDENDUM A

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

Mr GB Myburg  
Mr M Shaikh  
Mr H Bester

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

## 9.1 Independent Body To Regulate Telecommunications Sector:

### 9.1.1 Establishment

It was agreed that an independent, neutral body be established to regulate the telecommunications sector, such body to be created in terms of an Act of Parliament.

### 9.1.2 Functions

It was agreed that such an Independent Body would have as its principal functions:

9.1.2.1 The regulation of the utilisation of the electromagnetic spectrum, including the allocation of licences and the determination of licence conditions according to an agreed set of standards.

9.1.2.2 The appointment of a suitable structure to monitor the proper exercise of licence conditions.

### 9.1.3 Powers

9.1.3.1 It was agreed that the powers of the Post Master General in relation to telecommunications shall be transferred to the Independent Body.

9.1.3.2 It was further agreed that the Independent Body would have the following powers:

9.1.3.2.1 To ensure that a wide range of telecommunication services, including regional and community broadcasting program services, is available throughout South Africa.

9.1.3.2.2 To ensure fair and effective competition in the provision of such and related services.

9.1.3.2.3 To ensure fair and equitable opportunity to opinion formers to express their views freely.

9.1.3.2.4 To ensure optimum affordable research and development with a view to improving the utilisation of the available electromagnetic spectrum and to introduce technologies to improve signal quality.

9.1.3.2.5 To ensure impartial control of all broadcasting by laying down norms and standards for more equitable and fair access for all political parties to air time on broadcasting services.

9.1.3.2.6 To work out guidelines for the impartiality of news and current affairs programmes on all broadcasting services.

9.1.3.2.7 To take punitive measures against broadcasters who violate

provisions of the code of conduct, or to suspend or withdraw licences if licence conditions are not complied with.

9.1.3.2.8 To deal with complaints by the public and political parties.

9.1.3.2.9 Such other powers as may be expedient.

9.1.4 Name of Independent Body

It was agreed that such Independent Body should be called either SAITA (South African Independent Telecommunications Authority) or SAITCOM (South African Independent Telecommunications Commission) but there was no consensus on which of the two names is the most desirable.

9.1.5 Constitution of Independent Body

It was agreed that:

9.1.5.1 Members of the Independent Body shall be South African Citizens of merit who act in the public interest.

9.1.5.2 No board member shall be an office bearer of any political organisation or have a vested interest in the film and broadcasting industries, or any other conflicting interest.

9.1.6 Appointment Procedures

It was agreed that organs of civil society shall be invited, inter alia, by advertisement in the press, to nominate names to either CODESA or the interim structure, whichever is appropriate at the time, bearing in mind the urgency of the matter, for purposes of preparing a short list of names from which the board of the Independent Body can be appointed.

9.1.7 Accountability and Finance

9.1.7.1 It was agreed that the Independent Body shall be accountable to the executive of the interim constitutional authority, provided that once a representative Parliament comes into being such a body shall be accountable to Parliament or one of its standing committees; further provided that the independence of such a body shall not be impinged upon in any way whatsoever.

9.1.7.2 The extent of the Independent Body's accountability shall be dependent upon the method of financing such a body. In this regard various methods are possible and should be considered.

9.1.8 Licensing procedures, conditions and standards

It was agreed that the above matters should devolve upon the Independent Body.

9.1.9 SABC

There was no consensus on a proposal regarding the immediate reconstitution of the Board of the SABC.

It was however agreed that, since WG1 had reached consensus that an Independent Body to regulate the telecommunications sector be created at the earliest opportunity:

9.1.9.1 The Steering Committee of WG1 will initiate discussions with the chairperson of the Board of the SABC, and such representatives as he may determine, on the possible early reconstitution of the Board of the SABC, the appropriate ministry to be included in such discussions;

9.1.9.2 The first such meeting to take place before Codesa II;

9.1.9.3 The mechanism for monitoring the performance of the SABC be considered to at the same discussions.

9.1.10 Complaints/Disputes and Monitoring

It was agreed that the Independent Body shall, with Parliamentary sanction by way of legislation, set up structures as may be necessary, inter-alia for:

9.1.10.1 adjudicating disputes;

9.1.10.2 monitoring the efficiency of the licensee and to ascertain whether licensees comply with their licensee conditions;

9.1.10.3 investigating complaints and for giving effect to remedial actions

9.1.11 Code of Conduct

9.1.11.1 It was agreed that the Independent Body shall lay down the standards to be complied with by licensed broadcasters (such standards could be included in a Code).

9.1.11.2 Individual Broadcasters shall compile a Code of Conduct to which they will have to comply and which could be made a condition of their licenses.

9.1.12 The following issues were raised but discussions have not been completed:

9.1.12.1 affirmative action

9.1.12.2 cross-ownership restrictions

9.2 Printed Media

The SA Government agreed to repeal Section 4 (a) and (b) of the Registration of Newspapers Amendment Act of 1982 which relate to Ministerial powers to cancel the registration of a newspaper. The repeal of these sections will be dealt with in a General Law Amendment Bill.



WG 1 STEERING COMMITTEE 14 MAY 1991

The Steering Committee held a meeting with the Chairman of the SABC Board and his delegation and also the Minister of Home Affairs and his delegation.

Views were expressed by all delegations on the possible early reconstruction of the SABC Board and an understanding of each other's view was reached.

It was agreed that a future meeting should be held as soon as possible between such structural as CODESA 11 might determine and the SABC delegation (through the Minister of Home Affairs), to pursue the matter.