

MCH 91-65-5-9

African National Congress

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CODESA

PREPARATORY

DOCUMENTS

The People Shall Govern!

CODESA

STRUCTURE

BRIEFING MEMO FOR INTERNATIONAL ORGANISATIONS, FOREIGN GOVERNMENTS AND HEADS OF FOREIGN MISSIONS IN SOUTH AFRICA

1. Preparatory Meeting held at the Jan Smuts Holiday Inn, Johannesburg on 29-30 November 1991.
2. The following attended the Preparatory Meeting:
 - 3.1. African National Congress (ANC)
 - 3.2. Bophuthatswana Government
 - 3.3. Ciskei Government.
 - 3.4. Democratic Party (DP)
 - 3.5. Dikwankwetla (Qwaqwa)
 - 3.6. Inkatha Freedom Party (IFP)
 - 3.7. Intando Yesizwe Party (KwaNdebele)
 - 3.8. Inyandxa National Movement (KaNgwane)
 - 3.9. National Party (NP)
 - 3.10 National People's Party (NPP)
 - 3.11 Natal Indian Congress (NIC)
 - 3.12 Pan Africanist Congress (PAC)
 - 3.13 Solidarity Party (SP)
 - 3.14 South African Communist Party (SACP)
 - 3.15 South African Government
 - 3.16 Transvaal Indian Congress (TIC)
 - 3.17 Transkei Government
 - 3.18 United People's Front (UPF)
 - 3.19 Venda Government
 - 3.10 Ximoko Progressive Party (Gazankulu)

Towards the end of the proceedings the Pan Africanist Congress (PAC) withdrew from the meeting.
3. The meeting decided that the all-party process would be convened under the title "Convention for a Democratic South Africa" (CODESA). It was agreed that the first meeting of CODESA would take place on the 20-21 December 1991, to be held at the World Trade Centre, Kempton Park, Johannesburg.

TASK GROUPS

Justice Corbett, were considered as one of the options of serving as convenors of CODESA, would be invited to lead prayers. Leaders from the Muslim, Jewish and Hindu faiths would also be invited to offer prayers at the opening of CODESA.

9. It was decided that decisions of CODESA would be taken by consensus; that where consensus does not exist, the principle of sufficient consensus shall be invoked.
10. All plenary sessions of CODESA will be open to the media.
11. It was decided that Justices PJ Schabert and I Mohamed would co-chair all plenary sessions of CODESA.

O R G A N I S A T I O N

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P L A N N I N G

C O D E S A

PREPARATORY COMMITTEE

STEERING COMMITTEE

SECRETARIAT

MANAGEMENT

TASK GROUP 1

TASK GROUP 2

TASK GROUP 3

ADMINISTRATIVE
OFFICE

SECRETARIAL
SERVICES TO
ALL MEETINGS

TRAVEL AND
ACCOMMODATION
ARRANGEMENTS

CONVENTION
MANAGEMENT

MEDIA
MANAGEMENT

PROTOCOL
MANAGEMENT

SECURITY
MANAGEMENT

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Murphy Morobe (ANC) be appointed as office manager and Mr Deon du Plooy (CDS) as finance manager for the period leading up to and including CODESA 1. It was noted that delegates to Task Group 1 were given the opportunity to propose alternatives to both recommendations of appointment.

7. It was agreed that TFC and three other travel agencies should be recommended to the Steering Committee to take responsibility for travel and accommodation arrangements for CODESA 1 (and that one agency should be selected for the task.) *delete*

8. Regarding the appointment of convenors for the sub-committees responsible for Protocol, Security and Media, it was agreed that the following recommendation should be made:

That the convenors for each of the three political groups for Media, Protocol and Security be appointed by the Steering Committee on the basis of availability and expertise, and that appointments of non-political professionals should be considered. That, where political appointments are made, the Steering Committee should cover the widest possible political spectrum.

It was agreed that these sub-committees should start to function as soon as possible.

The following names were proposed as convenors:

Protocol	M Myeni (IFP)	<i>Isabelo L. J. Mahlangu</i>
Security	V Ntsubane (Transkei Government)	
	J Scheepers (National Party)	<i>Vanda</i>
Media	P Coetser (NP)	<i>Madona</i>
	S Macomoza (ANC)	

9. It was agreed that each organisation/government/party represented in Task Group 1 should make proposals to its respective representative on the Steering Committee regarding representation on the sub-committees detailed above, and that appointments to these sub-committees should be decided by the Steering Committee.
10. Regarding invitations to religious representatives, it was agreed that it should be recommended to the Steering Committee that the South African Catholic Bishops' Conference should be invited to send a representative to CODESA 1 to join the other five religious representatives already invited. It was further agreed that it should be recommended that the Steering Committee appoint a sub-committee to attend to future requirements in this regard following CODESA 1.
11. It was agreed that it should be recommended to the Steering Committee that each participating party/organisation/ government should be provided with an office at the World Trade Centre for the duration of the period leading up to and including CODESA 1. It was further agreed that it should be recommended that the managing secretariat should prepare an appropriate budget in this regard (in consultation with the various delegations./It was further recommended that, in the interim, requests for funding should be channelled via Mr Deon du Plooy, with adequate justification.)
12. Regarding back-up/support staff for the various delegations to CODESA 1, it was agreed that it should be recommended to the Steering Committee that each delegation should be allowed twelve delegates and two plenary session ^{assistants} on the convention floor and that expenses relating to these should be met from public funds. It was further recommended that a maximum of twelve back-up/office staff per delegation should be allowed and that these would be in attendance at CODESA 1 at the expense of each party/government/organisation concerned. It was agreed that it should be recommended to the Steering Committee that an adequate number of messengers should be provided by the managing secretariat for use during the proceedings of CODESA 1.

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TASK GROUPS

1. ORGANISATION AND PLANNING

1.1 TASKS

- * VENUE
- * FINANCE
- * INVITATIONS
- * SECRETARIAT/ADMINISTRATION
- * SECURITY
- * MEDIA
- * PROTOCOL

1.2 CONVENOR

— DR MAJUNA

2. DRAFTING

2.1 TASKS

- * DECLARATION OF INTENT
 - PURPOSE/GOALS
 - BROAD PRINCIPLES
- * COMMITMENT OF PARTIES/GOVERNMENT
- * STANDING RULES
- * DECISION MAKING
- * PURPOSES AND GOALS

2.2 CONVENOR

— FELGATE

3. PROCESS

3.1 TASKS

- * AGENDA OF CODESA
- * WORKING GROUPS OF CODESA
 - IDENTIFYING OF WORKING GROUPS
 - ASSIGNMENT FOR WORKING GROUPS
 - FUNCTIONING OF WORKING GROUPS
- * ADDITIONAL ITEMS TO BE HANDLED BY STEERING COMMITTEE
- * MEDIATION AND FACILITATION
- * CHAIRMEN
 - PANEL
 - FUNCTIONING
 - KEEPING JUDGES INFORMED
- * WAY FORWARD

3.2 CONVENOR

— MAHLANGU

CODESA

DRAFT

AGENDA

**RECOMMENDATIONS EMERGING FROM THE MEETING OF TASK GROUP ONE
(ORGANISATION AND PLANNING), HELD AT 09H30 ON MONDAY 9 DECEMBER 1991
AT THE WORLD TRADE CENTRE**

PRESENT:

Delegates:

A Arbee(Solidarity Party)
GS Bartlett (Government)
D Bjorkman (Ciskei Government)
BJ du Plessis (National Party)
M Govender (Natal/Transvaal Indian Congress)
K Lategan (Labour Party)
P Maduna (ANC)
PMH Maduna (convenor)
V Mahlangu (IYP)
KA Mariri (Lebowa/UPF)
DS Mkhwanazi (Kangwane/INM)
DT Mokoena (Dikwankwetla Party)
M Myeni (IFP)
E Ngobeni (XPP)
V Ntsubane (Transkei Government)
A Rajbansi (NPP)
PN Ranwashe (Venda Government)
T Setiloane (Boputhatswana Government)
P Soal (Democratic Party)

Secretariat:

Theuns Eloff (CBM)
Pam Saxby (CBM)

**RECOMMENDATIONS TO THE STEERING COMMITTEE EMERGING FROM THE
MEETING ARE AS FOLLOWS:**

1. With regard to the venue for CODESA 1, it was agreed that the central area popularly termed the 'Well' should be recommended as the venue for CODESA 1 and that venues for subsequent CODESA meetings should be decided at a later stage, bearing in mind the merits of using the large sub-divided area in the west wing of the World Trade Centre for large plenary sessions. It was noted that additional finances would have to be allocated for the securing of the 'Well', it being an open area.
2. It was agreed that the recommended starting time for CODESA 1 should be 10h00, and not 14h00 as previously suggested.
3. The organisational proposals as per chart were approved for recommendation to the Steering Committee.
4. It was agreed that it should be recommended that CBM should be responsible for providing secretarial services to the Steering Committee, the Secretariat and the task groups during the period leading up to and including CODESA 1.
5. It was further agreed that it should be recommended that CBM should be responsible for the convention arrangements regarding CODESA 1, and that CBM should be mandated to subcontract specific duties in this regard to appropriate consultants should this be necessary, and with the approval of the managing secretariat.
6. Noting the need for a process of inclusivity regarding representation at management level, was agreed that a recommendation should be made to the Steering Committee that Mr

Secretariat

DECLARATION
OF
INTENT

13. With regard to finance, and noting the need for autonomy, it was agreed that the recommended independent bank account and financial system/budget to be set in place for the process after CODESA 1 should be dealt with in accordance with the Exchequer Act in order to satisfy the Auditor General. It was noted that the issue of signatories still needs to be addressed. It was recommended that tenders for the account be requested from all major banks, and that the management secretariat oversee this process.

and executive and administrative acts necessary to give effect to the decisions of CODESA.

Nkosi sikelel' Afrika. Morena boloka sechaba sa heso.
Ons vir jou Suid Afrika. May the Lord bless our country.
Mudzimu Phatutsheza Afrika. Hosi katekisa iAfrika.

Signed: _____

PROCESS TASK GROUP

SESSION 1: MONDAY 9 DECEMBER, 1991

Preliminary discussion was held regarding the order in which the agenda for the group proposed by the Steering Committee should be tackled; requests were also tabled regarding the need for clarity on the Steering Committee's interpretation of certain points.

The following proposed agenda for the CODESA meeting on 20-21 December was decided upon:

PROPOSED AGENDA FOR CODESA
20-21 DECEMBER 1991

~~Chair~~: Corbett C.J. *removes*

- 1. Prayers
- ~~2. Opening Address: Corbett C.J.~~
- 3. Handing over of chair to Co-Chairpersons
- 4. Opening remarks of leaders of delegations [10 mins.]¹⁵
- 5. Report of Steering Committee:
 - a. Confirmation of Agenda x
 - b. Consideration of Standing Rules
 - c. Consideration of Proposals on Administration
 - d. Recommendations on Working Groups.
 - e. Consideration of Declaration of Intent.
- 6. Formation of Working Groups.
- 7. Adoption of Declaration of Intent.
- 8. Way Forward.
- 9. Press Conference. - *Media Committee*

¹ Tea and lunch breaks should punctuate presentations.

DECISION -
MAKING

MECHANISM

DECLARATION OF INTENT

We, the representatives of political parties, political movements and administrations, aware of the responsibility that rests upon all South Africans to work towards healing the divisions of the past and bringing peace, justice and advancement of all to our country, declare our solemn commitment to:

- 1) Bring about an undivided South Africa under one nation sharing a common citizenship, patriotism and loyalty - pursuing, amidst our diversity, freedom, equality and security for all irrespective of race, colour, sex or creed; a country free from apartheid or any other form of discrimination or domination;
- 2) Work for the establishment of a free and open society based on democratic values where the dignity, worth and rights of every South African man and woman is protected by law;
- 3) Set in motion the process of arriving at constitution which will ensure -

that South Africa will be an undivided, democratic, non-racial and non-sexist state;

that there will be a multi-party democracy with regular elections in which all South Africans will be able to vote for the parties of their choice on the basis of universal suffrage and one person one vote on a common voters roll;

that in general the basic electoral system shall be that of proportional representation;

that there shall be a separation of powers between the legislature, executive and judiciary with appropriate checks and balances;

that all shall enjoy universally accepted human rights, freedoms and civil liberties, including freedom of religion, speech and assembly, protected under an entrenched and justiciable Bill of Rights;

that the legal system shall guarantee equality of all before the law;

that South Africa has an independent, non-racial judiciary (Representatives representing the skills, wisdom and life experience of all) South Africans.

We further solemnly commit ourselves to be bound by the decisions of CODESA and in good faith to take all such steps as are within our power and authority to realise their implementation.

We agree that CODESA will establish an implementing mechanism (which shall include the government) whose task it will be to determine the procedures and draft the texts of all legislation

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THE BOPHUTHATSWANA GOVERNMENT

They are unwilling to accept decisions of CODESA unless 'sufficient consensus' is defined in a way which in effect gives them a veto on what they call "issues affecting their very existence". They argue that agreement on common principles should first be established before forcing the issue on questions that might divide CODESA; thus "consideration of the future of the TBVC states need not be an issue until greater clarity on the future dispensation is known".

IFP

Their position is that it is premature now to argue that decisions of CODESA should be binding. They say that the issues of negotiations for a new constitution and interim governing should be separated. Competitive rivalry cannot be eliminated but aggressive politics should be avoided: "Challenges inherent in having to move forward through consensus or at worst through sufficient consensus should not be abandoned by adopting fail-safe and head counting mechanisms when impasses are reached...."

VENDA GOVERNMENT

The Venda Government takes an inbetween position favouring either consensus or Sufficient Consensus depending on the circumstances of each case. They reject majority decision-making (presumably this means "simple majority"). (SEE ANNEXURE "E")

COMMENTS

It is clear that there must be equal status and rights for all participants in CODESA. The question is whether the individual parties should have the power to block decisions. Sufficient Consensus implies something less than unanimity. It could accommodate express reservations and even votes against. The key word is "sufficient". The government proposes a procedural solution that leaves the issue open viz: mediation. Clearly the Bophuthatswana Government wishes to retain a veto on the question of reincorporation. The IFP ~~expects~~ ^{accepts} that consensus need not be absolute but reject any system of voting.

It would seem on the basis of discussions in the Task Group that most participants support Sufficient Consensus as it is already operating. They clearly want the Government and all parties to be bound by decisions of CODESA. We cannot assume however that they are willing to give up, at least at the formal level their equal voting rights and status (that is they might accept that the ANC and Government are the crucial players but that they should not be in a position analagous to the permanent members of the Security Council).

It is difficult to see the ANC being so isolated that we ever have to submit to a

DEC 13 '91 09:45

DECLARATION OF INTENT

We, the representatives of political parties, political movements and Governments meeting as the CONVENTION FOR A DEMOCRATIC SOUTH AFRICA constitute ourselves as a forum and

- * declare our commitment to bring about an undivided South Africa, pursuing amidst the diversity of our communities, freedom, equality and security for all regardless of colour, creed or sex, free from authoritarian rule apartheid or any other form of discrimination or domination, a constitution that will guarantee a multi-party democracy and fundamental human rights for all under the supremacy of the law;
- * dedicate ourselves in a spirit of goodwill, to set in motion a process of peaceful negotiations which will, when properly authorised by all the people, realise our vision for a new South Africa.

DECISION MAKING MECHANISM

1. Decisions will be taken by consensus.
2. Where no consensus exists, decisions will be taken by sufficient consensus. Dissenting parties shall have the right to record their objections.
3. Sufficient consensus shall be ~~deemed~~ to exist when the degree of agreement on a proposal is of such a nature that if the proposal is carried, the work of CODESA will continue.
4. Where such disagreement exists, the chairperson will allow parties adequate time to consult amongst each other.

ANC

14.12.91

MEMORANDUM ON DECISION MAKING IN CODESA

TO: Comrade Cyril Ramaphosa

FROM: Albie Sachs / Firoz Cachalia

INTRODUCTION

It has become clear that defining Sufficient Consensus has become crucial to the whole concept and functioning of CODESA. It affects not only how decisions are taken but the very willingness of certain parties to commit themselves in advance to CODESA decisions. At present the majority of participants are anxious that no participant should be able to escape from being bound. There are groups however that are worried about being bound by decisions to which they are opposed.

The former group includes the Transkei. We attach a memorandum (C annexure A) from them indicating their support for the following procedure:

1. Attempts to achieve consensus without a vote;
2. In the absence of consensus, reference to a mediation committee;
3. When mediation fails, reference back to CODESA where a two thirds majority will be sufficient.

The second position is that adopted by the NP (and presumably the South African Government), the IFP and the Bophuthatswana Government. They all propose to allow themselves a veto over decisions to which they are opposed, and which affect their vital interests. We attach copies of these proposals. (See annexures B, C, and D).

THE NP POSITION

Their approach is as follows:

1. To strive for consensus;
2. Where substantial and total disagreement occurs to refer the issue to mediation. The mediating committee, which should include the dissenting party/s should then attempt to achieve consensus. Independent facilitators be brought in to facilitate this. Foreign mediators are not contemplated. It is not clear from our notes whether the mediators would be empowered to make a final determination as to whether Sufficient Consensus exists. Note: The NP insists that all the parties be treated equally. They argue that the process itself will compel dissenting groups to find an accommodation;
3. Participants should have the right to indicate disagreement without destroying consensus. ("We don't like it, but we will live with it").

SUGGESTED TOPICS FOR WORKING GROUPS

The following topics were received from the steering committee:

- i. Creation of a climate for free political participation.
- ii. General Constitutional principles.
- iii. Constitution making body/process.
- iv. Transitional arrangements/interim government/transitional authority.
- v. Future of TBVC states.
- vi. Role of international community.
- vii. Time frames.
- viii. Implementation of CODESA's decisions.
- ix. Other items identified by Steering Committee and decided upon by CODESA.

The following additional topics were proposed by members of this task group. Consensus on the validity of including proposed topics was reached only on point 3:

1. Formation of an economic forum.
2. Interim Bill of Rights.
3. Future role of traditional leaders.
4. General constitutional elements.
5. Self-determination.
6. Commission on women's rights and status.

sufficient consensus against us. The issue is important for the Government, Bophuthatswana and the IFP in different ways. Bop is the most vulnerable. In our view Bop should be obliged to commit itself to be bound right from the beginning as a condition of participation in CODESA. They should be promised a dignified burial as a state and a sensibly organised reintegration into South Africa. The Government will be hard-pressed to demand special consideration for Bop, especially if the Transkei and Venda encourage reintegration, and the Ciskei continues to sit on the fence.

The IFP is anxious now not to be seen as 'a spoiler.' We must insist that they not be allowed on their own to destroy sufficient consensus. Similarly, if the Government/NP should not be allowed an automatic veto.

The task group agreed to consider further the question of assignments and terms of reference for each of the working groups. Written proposals are to be tabled at the next meeting of this task group on Tuesday 17 December at 9h00.

With reference to the functioning of the working groups, and in the light of the disparate resource capacities of the delegations, the following proposals were agreed to:

- a. Each delegation should be entitled to an equal basic budget fixed by the Steering Committee to cover costs incurred in preparation for and attendance of Working Group meetings. (A modest sum for transport, accommodation, etc.)
- b. Each delegation participating in each working group should be entitled to a maximum of two delegates and two support staff. The option of substitution should be allowed at any and all times. Proxies are not acceptable.
- c. A pool of administrative/resource staff should be commonly and equally available to meet the reasonable logistical needs of working groups.
- d. A pool of infrastructural facilities (telephones, facsimile machines, copiers, etc.) should be commonly and equally accessible to each working group.
- e. A pool of researchers should be available for the common and equal use of the working groups to assist with preparations on delegation's requests. Special requests by delegations for funding to cover particular research needs should be addressed by the Steering Committee.

ADDITIONAL ITEMS FOR THE STEERING COMMITTEE:

Refer to items 1-6 listed on page 2.

MEDIATION AND FACILITATION:

It was agreed that no decision or suggestions were necessary at this point. This matter was thus deferred and will be taken up by this group in due course.

WORKING GROUPS

WORKING GROUPS

TERMS OF REFERENCE

Furthermore, it was suggested by the task group that those topics suggested by the Steering Committee and the single topic agreed upon by the task group be grouped together in the following manner and dealt by working groups:

WORKING GROUPS' FOCII:

Group 1

[i.] Creation of a climate for free political participation.
[vi.] Role of international community.

2 ^{1/2} hrs
x 2 advisers
+ 6 back-up

Group 2

[ii.] General Constitutional principles.
[iii.] Constitution making body/process.
[3.] Future role of traditional leaders.

Group 3

[iv.] Transitional arrangements/interim government/transitional authority.

Group 4

[v.] Future of TBVC states.

Group 5

[vii.] Time frames.
[viii.] Implementation of CODESA's decisions.

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Terms of Reference

1. The 'working group on a climate for free political participation' should in the first instance investigate and agree upon the necessary steps to be taken to ensure that all the political parties are free to operate and that all their members are not prevented from playing a role in the political process. In particular the working group must investigate whether -
 - (i) all political prisoners including awaiting-trial prisoners and security detainees, have been released;
 - (ii) steps need to be taken to facilitate the return of all exiles;
 - (iii) any statutory provision exists which limits or proscribes any political activity or the expression of any viewpoint.

2. The working group should secondly examine what measures need to be taken to prevent the perpetration of political violence, and to protect political party members from violence while exercising their rights to free expression, assembly and association. In this regard the provisions of the National Peace Accord must be examined and revised where necessary. In addition, and in conjunction with the 'Working Group on Interim Government/Transitional Arrangements', this Working Group must consider the creation of a control and command structure for the security forces which will be charged with enforcing the peace, and protecting the political process. Even should a mechanism be agreed upon to perform this control function, clear guidelines and rules of conduct for these forces agreed at the Convention for a Democratic South Africa will assist in directing this mechanism, especially

CHAIRPERSONS:

It was noted that the two judges who are to chair the first plenary session of CODESA have made it known that they may not always be available to fulfil this role during the course of 1992.

This group could not come to an agreement as to the constitution of a panel of chairpersons or their functions; hence it was agreed to finalise this matter at the next meeting on 17/12/91.

With reference to the plenary sessions of CODESA, it was agreed that the principle of the presence of support staff at the meeting was acceptable. The Steering Committee should decide on an appropriate and equal number of such staff for each delegation.

WAY FORWARD:

This matter should also be dealt with on 17/12/91, as there is no urgency at present.

*Jake
Venner*

Draft Terms of Reference of the Working Group on the Role of the International Community

1. The Context: International

For over forty years, the international community has played a vital and direct role in the evolution of events and policies in South Africa. As a result, both the Harare and the United Nations Declarations on South Africa of 1989 anticipate a continuing role for the international community in the transition process towards a non-racial and democratic society in South Africa. The UN Declaration, for example, requests the parties concerned to conclude an "agreement on the role to be played by the international community in ensuring a successful transition to a democratic order".

2. The Context: National

The validity and acceptability of the process of transition and its recognition nationally and internationally will depend on the extent to which it is open and fair and provides for the full and effective participation of all sections of our society.

The Working Group will therefore need to analyse the extent to which it is possible to create confidence building measures and decision-making by consensus by relying solely on structures established by the parties in the present negotiations.

3. The Role of the Working Group

The Working Group will therefore be expected, in the light of the above, to identify the most likely body or body of persons which is best qualified or most appropriate to assist in the period of transition. The Working Group will also have to determine whether separate ad hoc arrangements should be made for different purposes, depending on the specific objective or task to be dealt with.

In particular, the Working Group is expected to investigate and report on the necessity and feasibility of the following options for international assistance:

- an international guarantee concerning the process of transition;
- a peace-keeping force to ensure the maintenance of order and compliance with agreements;
- good-offices to overcome deadlocks;
- monitoring activities of the interim government or participation in its activities;
- supervision of transitional security mechanisms;
- mission of experts to investigate complaints against security forces or national administration;
- role in monitoring of and assisting in electoral process

TERMS OF REFERENCE

Group 1

WORKING GROUP ON A 'CLIMATE FOR FREE POLITICAL PARTICIPATION'

Background/Context

The Declaration of the OAU Ad-Hoc Committee on Southern Africa, (the Harare Declaration) which was adopted in the same form by the Non-Aligned Movement and in a similar form by the United Nations General Assembly specifies that the creation of a 'Climate for Negotiations' is an essential stage of the transitional phase towards democracy. Some of these minimum preconditions have not yet been fully met.

The creation of a climate for free political participation must go further than such a minimum set of preconditions for negotiations. The premise upon which democracy rests is that every adult should not only be free to participate in the political process without fear, but also that he/she should participate on an equal footing with others. For this condition to be met each contending party must be placed on an equal footing in regard to access to the means of communication and in regard to access to the electorate. No party must have a preferential access to public funds and facilities. The political process must be fair and free in form and substance. This is particularly so where one party has special access to the state institutions and public resources and has a history of bolstering allied parties through clandestine patronage. In short, the political playing field must be level. Any suspicion that the practices which took place in Namibia will be repeated here must be dispelled.

Finally, it is obvious that where political violence is pervasive, one can not speak of a free political climate. What is required is a level of personal security guaranteed by the transitional authority supervising the process, as well as a level of political tolerance promoted by the political parties and the electorate.

3. To the acceptance by all the parties that all men and women have the right and duty to participate in the process of making a new constitution.

if it deadlocks on crucial issues.

3. In conjunction with other working groups dealing with the form of the transitional process this working group should consider those aspects of the process which might favour one or other party and lay down clear rules and steps to be taken regarding:
- (i) funding of political parties including the use of state resources or public funds by parties which exercise control over central, bantustan or local government resources;
 - (ii) fair access to public facilities including venues controlled by the central and bantustan governments, and tribal and local authorities;
 - (iii) fair access to and control over the use of government controlled media including television and radio;
 - (iv) an appropriate media code to provide for fair political reporting by the private media, and statutory provisions guaranteeing equal opportunity by all parties to establish and maintain their own means of mass communication;
 - (v) the adoption of a code of conduct for political parties which will regulate the conduct of such parties and their members at gatherings;
 - (vi) the uniform application of the above rules in urban and rural areas, and in the bantustans;
 - (vii) fair access by political parties to residential areas and institutions where persons, (especially employees) reside.

including agreements concerning the amendments to existing legislation which will be necessary in order to give effect to such arrangements.

7. The preparation of the legal instruments which will be required for the purposes of implementing decisions taken by the Commission.

DRAFT TERMS OF REFERENCE: WORKING GROUP ON
THE CONSTITUTION MAKING BODY

THE WORKING GROUP IS REQUESTED TO FORMULATE PROPOSALS AND MAKE RECOMMENDATIONS:

1. The most appropriate mechanism for drawing up the new Constitution.
2. The method whereby the Constitution Making Body will be brought into existence and the terms of the legislation according to which it will be constituted.
3. The determination of representation to the Constitution Making Body; the electoral systems to be adopted; persons eligible to vote and the necessity for the registration of voters.
4. The supervision and monitoring of the electoral process and whether such monitoring should include an international element. The period of time to be set aside for purposes of conducting elections.
5. The powers of the Constitution Making Body and the role of the principles of the new Constitution adopted by the Convention for a democratic South Africa. The method for the adoption of the new Constitution.
6. The procedure to be followed by the Constitution Making Body in its deliberations. Who should preside at its meetings.
7. The manner in which decisions will be taken - will it be by simple majority or by special majorities.
8. The implementation of the decisions of the Constitution Making Body.
9. Whether it is feasible or necessary to impose a time limit on the work of the Constitution Making Body.

IN THE PERFORMANCE OF THE TASKS SET OUT ABOVE, THE WORKING GROUP SHALL HAVE REGARD:

1. To the determination of all the parties to create a single, non-racial, non-sexist democratic South Africa that enjoys internal legitimacy and international acceptance; and
2. The common commitment of all the parties to allow all people of an undivided South Africa to determine for themselves the structures and a system of government under which they want to live.

TERMS OF REFERENCE OF WORKING GROUP ON REINCORPORATION OF THE BANTUSTANS INTO A SINGLE UNITED SOUTH AFRICA

THE TERMS OF REFERENCE OF THIS WORKING GROUP ARE AS SET OUT HEREUNDER

1. THE WORKING GROUP IS REQUESTED TO FORMULATE RECOMMENDATIONS:
 - 1.1 For the Reincorporation of the Bantustans including the TBVC States into the South African State as a single entity.
 - 1.2 In this regard to identify both in relation to South Africa as a whole and in relation to each of the Bantustans, the various constitutional and/or legal provisions which presently exist and need to be taken into account.
 - 1.3 Specific constitutional, legal and political measures and steps which will have to be taken to effect reincorporation.
 - 1.4 With regard to the time frame/s for the reincorporation of the various Bantustans as aforesaid.
 - 1.5 On appropriate measures and steps to be taken to ensure the full participation by the people living in the Bantustans in the process of constitution making as well as in all transitional arrangements.
 - 1.6 On appropriate measures and steps to be taken to ensure that in the process of reincorporation of the Bantustans, interruption or disruption in administration and the rendering of services and in the daily lives of people in the affected areas are reduced to an absolute minimum.
2. The Working Group shall submit a written report containing its recommendations with motivations to the Steering Committee by not later than
Where differences exist between parties in the Working Group and such differences are not resolved, the Report shall fully set out the different positions with motivations.
3. IN THE PERFORMANCE OF THE TASKS SET OUT ABOVE, THE WORKING GROUP SHALL HAVE REGARD:
 - i) To the common desire of all the parties to end the fragmentation of the South African state and to restore the integrity of the country as a single country in accordance with the boundaries commonly recognised in international law.

DRAFT TERMS OF REFERENCE
FOR THE COMMISSION ON INTERIM GOVERNMENT/
TRANSITIONAL ARRANGEMENTS/TRANSITIONAL AUTHORITY
ESTABLISHED BY CODESA

Whereas the African National Congress has called for the establishment of an Interim Government in terms of the Harare Declaration

And Whereas it has been agreed that a Commission of CODESA should be appointed to consider the issue of interim government/transitional arrangements/transitional authority

And Whereas it has been agreed that the terms of reference for this Commission will be as follows:

IT IS RECORDED that the Commission will give consideration to and endeavour to reach agreement upon the need for interim government/transitional arrangements/transitional authority and in that context will have regard to

1. The structures of and the manner in which the parties to CODESA will participate in the interim government/transitional arrangements/transitional authority.
2. The way in which decisions will be taken by the structure/s established for the purposes of the interim government/transitional arrangements/transitional authority.
3. The mechanisms which will be established for the purposes of resolving deadlocks within the structures of the interim government/transitional arrangements/transitional authority.
4. The way in which the interim government/transitional arrangements/transitional authority will function, the impact that this will have upon the day to day control and administration of departments and other organs of government, and the changes (if any) that will be required in the organisation and administration of such departments and organs of government in order to implement the interim government/transitional arrangements/ transitional authority.
5. The date on which the interim government/transitional arrangements/transitional authority will commence and the duration thereof.
6. The recording of agreements reached between the parties to CODESA in regard to the abovementioned matters

DRAFT

RULES

**DRAFT TERMS OF REFERENCE FOR THE COMMISSION ON IMPLEMENTATION
ESTABLISHED BY CODESA**

Whereas it has been agreed that various commissions will be established by CODESA for the purpose of considering and if possible reaching agreement upon issues of importance to CODESA

and whereas it is necessary to record agreements which are reached by the commissions and to prepare in draft form the documentation which will be necessary to give effect to such agreements, so that CODESA can take decisions thereon

and whereas it has been agreed that a Commission on the Implementation of Agreements/Decisions shall be appointed by CODESA in order to prepare such documentation

and Whereas it has been agreed that this Commission will have the following terms of reference

IT IS RECORDED THAT

1. The Commission on Implementation will consider whether it is necessary to amend the terms of any existing legislation in order to give effect to any decisions taken by CODESA, or any of its commissions, and if it is, the Commission will
 - (i) Identify the legislation that needs to be amended
 - (ii) Formulate the terms of the amendments necessary to give effect to such decisions

2. The Commission on Implementation will also consider whether it is necessary for the parties to CODESA to enter into any formal agreements in order to give effect to decisions taken by CODESA or any of its commissions, and if it is, the Commission will
 - (i) Identify the agreements that are necessary
 - (ii) Formulate the terms of the agreements which are necessary

(2) The Chairperson may suspend discussion on any proposal or matter for a reasonable period if so requested by any participant for the purpose of consulting with its principal before expressing its response or position on the matter.

(3) The Convention shall determine all proposals, issues and matters before it by sufficient consensus, unless it decides otherwise.

(4) Each delegation shall be entitled to one vote, to be exercised by the leader of the delegation or his or her representative.

(5) The Chairperson may declare a meeting open and permit the debate to proceed when delegates of at least one half of the participants are present. The presence of a majority of the participants shall be requiring for any decision to be taken.

Speeches and Interventions

4. (1) Every delegate shall be entitled to speak in the debate. The Chair shall call up speakers in the order in which they signify their desire to speak but shall ensure that no two speakers from a delegation speak consecutively and that each delegation is provided with a reasonable opportunity to intervene.

(2) The Chair shall apply the standard rules applicable to meetings, except as otherwise stipulated herein in any decision adopted in terms of Article 8.

The Chairperson

5. (1) Meetings shall be convened, adjourned and prorogued by the Chair who shall be appointed for this purpose by the Steering Committee.

(2) If a duly appointed Chairperson finds it necessary to be absent from a meeting or any part thereof, the Convention may appoint a temporary replacement for the duration of the absence.

(3) Neither the Chairperson nor a temporary replacement shall vote.

- ii) To the common commitment of all the parties to create a constitutional framework for South Africa which will ensure that all South Africa's people including the Bantustans shall enjoy equal and common citizenship in one single united South African state.
- iii) The need to provide for the meaningful and democratic participation, from the earliest possible moment, of all the people living in the Bantustans - as part of the people of South Africa - in the process of drawing up and adopting a new constitution for South Africa as well as in all transitional arrangements.
- iv) The reality of the current existence of a number of separate but parallel institutions such as different administrations, civil services, armed forces, police forces and judiciaries as well as differing laws in certain instances which presently exist in South Africa and the different Bantustans.
- v) The need to ensure that the lives and livelihood of people in the affected territories shall not be subjected to any unnecessary disruption.

NP proposals

CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

Standing Rules of Procedure at Plenary Sessions

Participants

- 1. (1) Participants in the Convention shall be the political parties, organizations and governments listed in the Annexure hereto.
- (2) The Convention may resolve *by consensus* to admit further participants.
- (3) The Government of the Republic of South Africa shall be a debating, non-voting participant.

Exemptions: who will \rightarrow
category would intend

Delegates

- 2. (1) Each participant shall be entitled to be represented by 12 (twelve) delegates. advisors? : support already
who must contain a delegate
- (2) Each participant shall submit and register the names of its delegates with the Secretariat at least 5 (five) days before a plenary session of the Convention and shall likewise register the name of the leader of the delegation. aliases
- (3) A delegate may not be substituted without prior registration with the Secretariat.

Adoption of Resolutions

- 3. (1) Every participant shall, when called upon by the Chair to express its position on any proposal, have such position stated by the leader of the delegation or by a spokesman appointed by the leader. person
- (2) The Chair shall suspend and postpone a matter for a reasonable period if so requested by any participant for the purpose of consulting with its principal before expressing its position on the matter. See annex for further details

(3) In the event of no opposition being expressed to a proposal, the Chair shall declare the resolution *adopted by consensus.* *prev.*

Rules of procedure

4. (1) Every registered delegate shall be entitled to speak in the debate. *When made by vote the order is by the order of the day*

X (2) The Chair shall apply the standard rules applicable to public meetings, save as is otherwise stipulated herein or in any resolution adopted in terms of rule 7. #

Minutes

5. (1) Plenary sessions of the Convention shall be recorded and transcribed as expeditiously as possible and the Secretariat shall make the transcription available to all participants.

1 (2) All other official meetings of delegates to the Convention, including meetings of working groups, shall be recorded in full, but only the decisions, recommendations and conclusions of such meetings shall be minuted and made available to all participants by the Secretariat.

Access of media and public

6. Plenary sessions of the Convention shall be open to the media but ~~all~~ other official meetings shall be ^{held} in closed session.

Further procedural arrangements

7. Further procedural arrangements shall be resolved by the Convention *by consensus.*

*See the working basis
expenses
meetings*