

- 4.2 With respect to item 6.5 it was reported that the reply from the SA Government was included amongst delegates' papers for the meeting.

5 Report to Codesa 2

Comments on the First Draft of Report of WG 4 to Codesa 2 had been received from:

- Ciskei (see Addendum B)
- Democratic Party (see Addendum C)
- National Party (see Addendum D)
- South African Communist Party (see Addendum E)
- South African Government (see Addendum F)
- GM Budlender (Rapporteur) (see Addendum G)

It was agreed that WGSC 4 could not make changes to the portions of the report already agreed to by WG 4. Mr Godden of the Ciskei government recorded his objection to this decision.

5.1 Factual correctness of "First draft of Report of Working Group 4 to Codesa 2"

5.1.1 Report of the Task Group

- 5.1.1.1 Mr Godden expressed his unhappiness with the wording of paragraph 3.1.4 of the task group report because of the implication that South African citizenship would be restored to citizens of the TBVC states no matter what was decided when the will of the people was tested. He again recorded his objection to the decision not to alter the wording of this portion of the report.

5.2 Report of sub-group 3

- 5.2.1 It was agreed that only the first sentences of points 8.2 and 11.2.2 should have been deleted from the report of sub-group 3. The points should read as follows:

8.2 On re-incorporation, personnel from the TBVC states should be absorbed into the national/regional structure.

11.2.2 The subsequent absorption of TBVC personnel on re-incorporation.

5.2.2 It was agreed

5.2.2.1 to integrate all of the report of sub-group 3 (Annexure F) into the report of WG 4, under point 3.2.

- 5.2.2.2 that because the report of the sub-group had become the report of the working group all references to the sub-group should therefore be removed
- to delete the introduction to the report of sub-group 3 and begin point 3.2 with the following sentence: "Consensus was reached on a number of issues relating to the practical, financial and administrative effects of reincorporation."
 - all references to 'the sub-group' should be changed to 'the working group'.

5.2.3 Comments received on First Draft of Report of WG 4 to Codesa 2

- 5.2.3.1 It was agreed that the comments by the DP had been dealt with/accommodated by WGSC 4.
- 5.2.3.2 It was agreed that the comments by the SACP on paragraphs 8.2 and 11.2.2 had been dealt with. It was agreed that the other comments of the SACP were amendments to the content of the report of sub-group 3. These had not been agreed to by the sub-group or WG 4 and therefore could not be included.
- 5.2.3.3 It was agreed that the National Party comments had been dealt with.
- 5.2.3.4 Mr Godden placed on record that Ciskei's views had not been correctly represented in the meeting of the task group appointed by WG 4 and in the subsequent plenary session on 5 May. He objected to not being permitted to amend the task group's report to reflect that the Ciskei government, along with the Bophuthatswana government, also "reserves its position in relation to paragraphs 3.1.2, 3.1.3 and 3.1.4."
- 5.2.3.5 It was agreed to compile a separate report containing the comments received from principals and hand it to the MC together with the Report of WG 4 to Codesa 2. This report would contain the comments received from:
- Ciskei Government
 - Democratic Party
 - National Party
 - South African Government
 - South African Communist Party
- 5.2.3.6 It was agreed not to incorporate the suggestion made by the rapporteur, GM Budlender, into the report to Codesa 2.

6 Suggestions regarding the way forward after Codesa 2

(these suggestions will be discussed at the joint meeting with the DMC and two representatives from each WGSC to be held on Monday 11 May 1992)

The following suggestions were made:

- 6.1 The strategy after Codesa 2 should be formulated before structures are put in place.
- 6.2 In order to reduce the costs involved the structure of Codesa should be streamlined to operate along the lines of what existed prior to Codesa I i.e. a management committee to which a large measure of flexibility is given, and a steering committee on which all parties are represented, that will in turn appoint task groups that will report back to the steering committee.
- 6.3 The frequency of meetings should be considered, with the recommendation that they take place fortnightly, in order to reduce costs as well as give delegates adequate time to report back and consult.

7 **Date and time of future meetings**

- 7.1 It was agreed that it may be necessary for WGSC 4 to meet again in order to discuss the final report of WG 4 to Codesa 2. A meeting of WGSC 4 is therefore scheduled for 14h00 on Thursday 14 May 1992 at the World Trade Centre.
- 7.2 The second draft of the report of Working Group 4 to Codesa 2 will be faxed to principals of all delegations from Monday 9 May 1992.
- 7.3 It was also agreed that WG 4 would not meet on Monday 11 May 1992.

8 **Recommendation to Management Committee**

It was agreed to recommend to the MC that the composite report of the working groups be sent to principals prior to Codesa 2.

9 **Closure**

The chairperson closed the meeting at 16h30.

ADDENDUM A

The following persons were present at the meeting of WGSC 4 on Friday 8 May 1992:

M Phosa	African National Congress
DW Schoeman	Bophuthatswana Government
GF Godden	Ciskei Government
JM Matsana	Inyandza National Movement
T Abrahams	Labour Party
C Streeter	SA Government
SN Sigcau	Transkei Government
SE Moeti	Venda Government

ADDENDUM B

CODESA
JOHANNESBURG

7 May 1992

ATTENTION : SUE ALBERTYN

1. In regard to the first draft of the report of Working Group 4 to CODESA 2, Ciskei wishes to comment as follows :
2. " Ciskei has consistently on all previous occasions stated its position clearly on reincorporation into South Africa.

In regard to Ciskei's participation in an interim Government, our position is clear in that Ciskei will not participate in an interim Government at this stage but will remain a participant at Codesa and be part and participate in the Constitution-making body.

Until the constitutional principles have been clearly stated and approved by CODESA, Ciskei will keep its options open. At that stage Ciskei will decide on reincorporation into South Africa.

The fundamental consideration on the part of the Ciskei Government is that Ciskei must be better off in the " New South Africa " than has been its circumstances."

3. Please note that Mr G F Godden will be attending the meeting of the Steering Committee at 1400 hours on Friday 8 May 1992 as substitute for Minister N N Nqacantsi.


G F GODDEN

CHANCELLOR : DEPARTMENT OF COUNCIL OF STATE

ADDENDUM C

COMMENTS ON
FIRST DRAFT REPORT OF WORKING GROUP 4 TO CODESA 2

We wish to submit the following comments on the first draft report of Working Group 4 to Codesa 2:

1.1 AD PAR 3.2:

We think it is inadvisable simply to state that: "A copy of the report is attached marked annexure F"; the main points contained in the annexure, reflecting consensual agreements arrived at in Working Group 4, should be presented to Codesa 2 so that their acceptance by Codesa 2 could represent final decisions with respect to the issues dealt with therein.

We therefore propose that par. 3.2 should be amended to read as follows:

3.2 "Consensus was reached on a number of issues relating to the practical, financial and administrative effects of reincorporation. The following is a summary of the main principles on which consensual decisions were taken; a copy of the full report is attached marked annexure F.

3.2.1 RETENTION OF BUSINESS CONFIDENCE AND TAXATION

The process of reincorporation should be conducted in such a way that it ensures retention of business confidence.

3.2.1.1 Where there is a conflict between RSA legislation and that of the respective TBVC states, temporary exemptions be granted until the new legal system is in place.

3.2.1.2 Labour legislation should be harmonised throughout South Africa including stipulations on a stable relationship with unions.

3.2.1.3 The taxation regime should be harmonised in respect of all forms of tax structures; the question of tax concessions may be considered in relation to regional development issues.

3.2.1.4 A commission is to be appointed to investigate and report to the relevant parties on the best means to retain business confidence and use of the existing infrastructure, with special reference to the matters listed in par. 11.1 of the annexure.

3.2.2 A MORATORIUM ON LAND TRANSFERS

3.2.2.1 No further attempts are to be made to identify new land for transfer to the TBVC governments.

3.2.2.2 This moratorium will apply to all TBVC states and to all land in the Schedule to the Borders of Particular States Extension Act 2 of 1980 which has not yet been excised from South Africa.

Reservations were expressed by the SA Government, Bophuthatswana and Ciskei; these are listed in the annexure under par. 4.

3.2.3 DISPOSAL/TRANSFER OF ASSETS AND LIABILITIES

3.2.3.1 All assets and liabilities of the TBVC states should be transferred to the new government on reincorporation.

3.2.4 OPTIMAL USE OF EXISTING INFRASTRUCTURE

3.2.4.1 All structures and functional operations such as education, health, unemployment insurance etc. should continue functioning during transition, until they are replaced by rationalised structures and operations.

3.2.4.2 Existing financial arrangements and transfers should continue uninterrupted until they are replaced by new arrangements.

3.2.5 REVIEW OF DEVELOPMENT PROJECT PRIORITIES

3.2.5.1 On reincorporation priorities of development projects should form part of the national/regional prioritisation programme.

3.2.6 GOOD ADMINISTRATION DURING TRANSITION

3.2.6.1 Efficient and accountable administration should be maintained during transition. The current administration should remain in place until orderly rationalisation takes place as a result of absorption into a non-racial national/regional service.

3.2.6.2 Administrations should be reorganised around existing structures.

3.2.6.3 Certain basic services such as the administration of justice, the civil service, parastatals and security and other public services will have to continue uninterrupted during transition.

3.2.6.4 The TBVC Administrations should operate under the supervision of the Interim Government during transition. (Bophuthatswana made the reservation that this is only applicable once a decision in favour of reincorporation is taken).

3.2.7 FUTURE OF THE CIVIL SERVICE

3.2.7.1 Civil servants should retain their existing salaries, benefits, conditions of service etc until adjustments are made as a result of absorption into a non-racial national/regional service.

3.2.7.2 There should be no retrenchment of workers in these administrations as a result of reincorporation prior to and extensive rationalisation programme in the new South African civil service.

3.2.8 SERVICING AND REPAYMENT OF TBVC DEBTS

3.2.8.1 The servicing and repayment of TBVC debts should be the responsibility of the new national/regional government as soon as the states have been reincorporated.

3.2.9 A COMMISSION IS TO BE APPOINTED TO LOOK INTO THE QUESTION OF GOOD ADMINISTRATION DURING TRANSITION AND THE FUTURE OF THE CIVIL SERVICE.

The commission will deal with the various issues set out in par. 11.2 in the Annexure.

3.2.10 COMPOSITION OF THE COMMISSIONS

3.2.10.1 The two commissions to be appointed should each be a nine-member multi-party commission consisting of five representatives, one from each of the SA and TBVC administrations and four representatives nominated by the remaining parties at Codesa.

3.2.11 RESERVATION BY BOPHUTHATSWANA

The Bophuthatswana Government reconfirmed its position that, in the event of non-reincorporation, all existing bilateral agreements should continue to be in operation.



ADDENDUM D

DIE NASIONALE PARTY • THE NATIONAL PARTY

1992 05 08

FAX TO: CODESA ADMINISTRATION
FAX NO 011-3972211
JOHANNESBURG

FAX FROM: J H W MENTZ M P
FAX NR 021 - 4033021
NATIONAL PARTY

ATTENTION MISS S ALBERTYN

WORKING GROUP 4

Your Fax dated 6 May 1992 received at 10h04 on 8 May 1992 refers.
(Number of Pages : Cover Note & 4)

NATIONAL PARTY COMMENTARY ON FIRST DRAFT REPORT BY WG4 TO CODESA2.

1. The National Party is in agreement with the contents of the First Draft Report.
2. In Paragraph 3.3 the word "committee" at the commencement of the third line should read "Commission"

J H W MENTZ M P
CHAIRMAN : NATIONAL PARTY
DELEGATION WG4 CODESA

ADDENDUM E

The following changes need to be made to the First Draft Report of Working Group 4 to CODESA 2:

3.2 Addition: "...effects of reincorporation. Consensus was also reached on mechanisms of addressing proposals by the various parties which could not be thoroughly dealt with in the sub-committee. It was agreed to establish two multi-party commissions to deal with these matters. A copy of the report is attached ..."

4. Mechanisms for dealing with some of the aspects of the terms of reference not yet covered by Working Group 4 are suggested in paragraphs 3.2 and 3.3 above.

Annexure F

Report on the Administrative, Financial and Practical Effects of Reincorporation

8.2 A single non-racial administration be created from existing "own" and "general" affairs as well as self-governing states ~~and~~ a starting point. On reincorporation, personnel from the TBVC states should be absorbed into the national/regional structure.

Note: Point 8.2 was included in the previous draft report both under the headings "Good Administration during Transition" and "Appointment of Commissions". It was agreed on 5 May that it not be repeated under the second heading, but the First Draft Report has now deleted this essential point. We request that this point be retained under both original headings to avoid any confusions which may arise. Further trimming of the document, by way of accepting or rejecting its recommendations should be done by the CODESA plenary. The present 8.2 then becomes 8.3 as in the final draft to the plenary of Working Group 4.

Terms of reference of the Commissions

There is a lack of clarity in the setting out of the terms of reference. Points 11.1.9, 11.1.10 and 11.1.11 relate specifically to the question of harmonisation of taxation and should therefore be subpoints to 11.1.1 as follows:

- 11.1.3 **Possibility of granting temporary exemptions from tax**
including 11.1.3
- (a) Whether the process of harmonisation should be implemented incrementally
 - (b) Whether, where prejudices arise, exemptions should be granted for a definite period
 - (c) Whether the granting of exemptions should be fairly automatic up to a certain date

The above proposals were made by our party and make no sense as they stand in the First Draft Report. Extracts from our original submission are attached.

- 11.2 As stated above, 8.2 above should be repeated as 11.2.2 as per the sub-committee 3 report of 4 May.

On the basis that reincorporation of the TBVC states is desirable:

(a) the retention of business confidence, particularly in relation to existing investments

* the present situation

Both company and personal taxation are at rates which are lower than under central government. In some instances, businesses have used these opportunities simply as a means of evading the South African tax laws, rather than in attempts to develop the economic/industrial infrastructure in the TBVC states. This should cease immediately.

The focus of the industrial decentralisation incentive schemes have shifted from inputs to profitability and these schemes apply throughout the SATBVC. There appears to be no immediate need to address this issue at present, as the matter should be dealt with by a future government.

*** key issues and problems**

Business confidence will best be maintained and improved, if there is clarity about the direction and pace of change, if there is a sense that, on balance, conditions for business will not deteriorate and if there is good administration during transition. Maintaining business confidence should not become an excuse for delaying appropriate harmonisation of taxation and regulation environments (legislation). The objective should be to protect the people against uncertainty, not to protect people against an inevitable future. In certain cases, phasing will be necessary to ensure that harmonisation is not overly disruptive.

*** recommendations**

1. A formal Statement of Intent should be issued by CODESA 2 by which businesses are informed that on re-integration of TBVC and self-governing territories, the laws and regulations of the RSA and the relevant province will apply. Such a statement should relate both to company and personal income tax.
2. A multi-lateral commission to be set up by CODESA 2 to consider a plan for the harmonisation of taxation and regulation environments. This Commission to consist of representatives of the tax authorities of the TBVC states and to include representatives from organisations who would not have automatic representation - Democratic Party, ANC, etc.
3. The process of harmonisation could be implemented incrementally and the revenue would accrue to the TBVC administrations. A date would have to be established on which agreements on taxation, etc. between businesses and TBVC governments would terminate. This would presumably be the date of dissolution of the "independent" status of the TBVC administrations and the effective date of reincorporation into the central South African state.
4. If this will prejudice their businesses in any way, they should be permitted to be exempted for a defined period from South African laws and regulations, and instead, the agreement between the company and the TBVC administration can be maintained temporarily. This could be organised by applications to the commission to whom all businesses will have to apply for any exemptions,

ensuring that the body managing harmonisation will have full information about the implications of the change to all individual businesses where the businesses consider such implications to be harmful. Advantage gained out of harmonisation should not be a criteria for exemption. The Commission should ensure that tax avoidance ceases immediately.

5. Except where completely impractical, the granting of exemptions (upon application) should be fairly automatic up to a certain date, which would be the "deadline" for harmonisation. The setting of dates is necessary to ensure greater ease of administration of the national process - otherwise four sets of different dates for exemption will apply.

Further changes to the Report of Working Group 4 proposed by the South African Communist Party

Report on the Administrative, Financial and Practical Effects of Reincorporation

5. Disposal/Transfer of Assets and Liabilities

The parties share a common view that the present assets and liabilities of these states should be transferred to the new government on reincorporation.

8. Good Administration during transition

8.4.4 Security services - this will be subject to the decisions of Working Group 1

8.4.5 Other public services

11. Proposed Appointment of Commissions

Terms of Reference of the Commissions

We wish to propose certain changes so that the items which have not been agreed between the parties retain the nature of points for investigation:

11.1.5 Investigation of retaining existing tax concessions for a reasonable period

11.1.7 The future of existing tax investments

11.2.2 Consideration of IMF proposals on the civil service

There are two further points which, we believe, do not fit within the brief of this Working Group and are in fact the subject of other structures or future government policy:

11.1.4 This point is a long-term matter which is dependent on government policy and should therefore be deleted.

11.1.8 This point and the issue of freedom of political expressions is already the subject of discussions in Working Group 1 and is also substantially dealt with in the structures of the National Peace Accord. It should therefore be deleted from the terms of reference.

ADDENDUM F

DEPARTMENT OF FOREIGN AFFAIRSFACSIMILE MESSAGE

TO: MS SUE ALBERTYN (SECRETARY OF WORKING GROUP FOUR)
FAX #: 011 - 397-2211

FROM: CHRIS STREETER FAX #: 012 - 286-925 OR
012 - 286-937

TEL #: 012 - 286-330 X 2200

DATE: 8 MAY 1992

RE: GOVERNMENT'S COMMENT ON THE FIRST DRAFT REPORT OF WG4 TO CODESA 2

1. The telephone conversation between the Director-General, Department of Foreign Affairs and the Secretariat of CODESA WG4 on 7 May 1992, refers.

2. The Government would hereby like to confirm its comments conveyed telephonically yesterday regarding the First Draft Report of Working Group 4 to CODESA 2:

"The position reached in WG4 regarding the Future of the TBVC states, as contained in the First Draft Report of WG4 to CODESA 2, is based on the reaching of consensus in Working Groups 2 and 3.

Until such time as consensus has been reached in the above-mentioned Working Groups, the Government wishes to reserve its position on the acceptance of the First Draft Report of WG4 to Codesa 2".

3. Kindly also submit this communication to the Chairperson of the Working Group 4 Steering Committee, for attention of the Committee at its meeting this afternoon.

ADDENDUM G

CODESACOMMENTS ON THE DRAFT REPORT OF WORKING GROUP 4

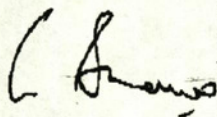
- 1 Paragraph 8.4 (and its subparagraphs) should be renumbered to take account of the deletion of 8.3.

- 2 As I understood the discussion at the plenary meeting of Working Group 4, some delegates were concerned that the terms of reference of the Commissions might be interpreted as limiting the scope of the Commissions, and as prescribing the outcome of some of the policy decisions which would have to be made on these issues. It seemed to be generally agreed that this was not the intention. It was suggested that paragraphs 11.1.8, 11.1.14 and 11.2.5 meet this problem.

In my view, those subparagraphs do not adequately express this concern, as they may be read as being subsidiary to the detailed provisions of the terms of reference.

I therefore suggest that the following be added at the beginning of paragraph 11, before 11.1:

It was agreed that the Commissions should consider the matters listed below. It was further agreed that this should not be interpreted as prescribing the policy decisions which have to be taken on each of these matters, or as limiting the matters to be considered by the Commissions.



G M BUDLENDER
Rapporteur
7 May 1992