



TO: HEADS OF DELEGATION OF CODESA WORKING GROUP 4, CO-ORDINATORS OF WORKING GROUP 4, MEMBERS OF WGSC4

FROM: CODESA ADMINISTRATION

RE: SEE ATTACHMENT

DATE: 12/02/92

SENDER: LOVEDALIA LETSOALO **QUERIES:** LOVEDALIA OR ASHLEY SYMES

URGENT

PLEASE WOULD NOMINATED HEADS OF DELEGATION FOR THE WORKING GROUP, OR CO-ORDINATORS FOR THE WORKING GROUP, ENSURE THAT THIS DOCUMENT IS DISTRIBUTED CONFIDENTIALLY TO ALL MEMBERS OF THE WORKING GROUP REQUIRING IT, INCLUDING DELEGATES, ADVISERS AND MEMBERS OF THE WORKING GROUP STEERING COMMITTEE (WGSC) WHERE APPROPRIATE. WGSC MEMBERS ARE SEPARATELY LISTED BELOW.

THANK YOU.

WORKING GROUP 4

African National Cong.	D. Omar	021-959-2411
Bophuthatswana Gvt	Negotiations Comm	011-333-9090
Ciskei Gvt	Daan Schoeman	0140-842-943
Democratic Pty	N Nogcantsi	0401-951-282
Dikwankwetla Pty	Off: Z de Beer	021-461-0092
Inkatha Freedom Pty	SP Matla	01438-31721
Intando Yesizwe Pty	FT Mdlalose/S Fel.	0358-202-167
	JL Mahlangu	
	c/o JS Mabona	01215-2548
Inyandza Nat Movement	DS Mkhwanazi	013140-879
Labour Party	T Abrahams	021-453-706
NIC/TIC	PG Gordhan	031-309-2278
	Nava Pillay	012-374-4792
		and ask for fax
National Pty	J Mentz	021-461-7617
National People's Pty	M Mohanlall	021-403-2971
Solidarity Pty	MF Cassim	021-403-2955
SACP	G Fraser-	
	Moleketi	011-836-8366
SA Gvt	RF Botha	021-45-6548
	c/o L Niewoudt	012-343-8043
Transkei Gvt	Z Titus	0471-23876
United People's Ft	c/o PR Chief Min.	0156-35244
Venda Gvt	C Neluvhalani:	
	Chief Gvt Liaison	
	Officer	015581-23172
Ximoko Prog. Pty	CD Marivate/Ackron	01526-23140
		(phone Ria Meyer on 01526-24646 ask for fax)

SA Gvt: R Schoeman 012-323-2916

CONVENTION FOR A DEMOCRATIC SOUTH AFRICA



TO: ALL MEMBERS OF WORKING GROUP 4
FROM: CODESA ADMINISTRATION
DATE: 12 FEBRUARY 1992

Please find attached the following:

- 1. Draft Agenda of WG4 for meeting of 17 February 1992**
- 2. Draft Minutes of WG4 meeting of 10 February 1992**
- 3. The Terms of Reference and delegates of:**
 - 3.1 Sub-Committee 1**
 - 3.2 Sub-Committee 2**
 - 3.3 Sub-Committee 3**
 - 3.4 Sub-Committee 4**
- 4. Draft minutes of WGSC4 meeting of 11 February 1992.*

**DRAFT AGENDA FOR THE MEETING OF WORKING GROUP 4 (FUTURE OF THE TBVC STATES)
ON 17 FEBRUARY 1992 AT THE WORLD TRADE CENTRE AT 10H00**

1. **Opening by chairperson**

2. **Sub-Committees**

Explanations by chairperson of the suggestions made by the Working Group 4 Steering Committee for the smooth running of the sub-committees.

3. **Rapporteurs**

THE WORKING GROUP 4 WILL ADJOURN AND THE PARTIES/ORGANISATIONS WILL PROCEED TO SUB-COMMITTEE MEETINGS.

THE AGENDA FOR EACH SUB-COMMITTEE SHALL BE:

1. **Opening by chairperson**

2. **Planning the work to be undertaken by the sub-committee**

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 WORKING GROUP AT ITS NEXT MEETING.

MINUTES OF THE THIRD MEETING OF WORKING GROUP 4 (THE FUTURE OF THE TBVC STATES) HELD AT THE WORLD TRADE CENTRE ON MONDAY 10 FEBRUARY 1992 AT 10H00

PRESENT: Delegates and advisers (See Addendum A)

S Sigcau (chair)

S Albertyn (Secretary)

G Hutchings (minutes)

1. Chairperson's opening remarks

Delegates and advisers were welcomed by the Chairperson.

2. Minutes

The minutes of the second meeting of Working Group 4 (WG 4) held on 6 February 1992 were adopted.

3. Agenda

The agenda was adopted with the following changes:

- * Item no. 7 was moved to become item no. 5, and
- * Item no. 5 was moved to become item no. 7.

4. Consensus

4.1 The question of what is meant by "consensus" was raised.

4.2 It was agreed that WG 4 is bound by the Standing Rules of Codesa and decisions are to be reached by consensus or by sufficient consensus. The Standing Rules of Procedure on Agreement, for Plenary Sessions of Codesa were referred to:

4.2.1 "Every delegation shall, when called by the Chair to express its position on a proposal or matter before the meeting, have such position stated by the leader of the delegation or a spokesperson appointed by the leader of the delegation.

4.2.2 Agreement will be arrived at by consensus.

4.2.3 Agreement by sufficient consensus will have been reached when consensus is of such a nature that the work of the Convention can move forward effectively.

- 4.2.4 Disagreeing participants shall have the right to record their objections or dissent.
- 4.2.5 When disagreement exists, the Chair will allow parties adequate time to consult amongst each other and with their principals before recording any position."
- 4.3 It was agreed that if any party/organisation does not agree with any decision reached in WG 4, their objections would be noted.

5. Reincorporation/Opening Statements : Debate

- 5.1 Sufficient consensus on the principle (and not the procedure) of reincorporation of the TBVC states into South Africa was reached, subject to the testing of the will of the people in the TBVC States.
- 5.2 The Bophuthatswana Government noted its objection to this decision.
- 5.3 The implications of reincorporation and non-reincorporation were referred to the sub-committee's to investigate.

6. Citizenship

- 6.1 It was agreed that the question of citizenship should be linked to the testing of the will of the people.
- 6.2 A sub-committee, guided by the Terms of Reference for WG 4, was established to address the issue of citizenship.

7. Formation of sub-committees and discussion thereof

- 7.1 The following sub-committees were formed:
 - 7.1.1 Testing the will of the people;
 - 7.1.2 Citizenship;
 - 7.1.3 The administrative, financial and practical implications of the reincorporation of the TBVC states into South Africa;
 - 7.1.4 The political, legal and constitutional implications of the reincorporation of the TBVC states into South Africa.
- 7.2 The necessity of forming a sub-committee to look into the effects and implications of non-reincorporation of the TBVC states into South Africa was referred to the Working Group Steering Committee for Working Group 4 (WGSC 4).
- 7.3 It was agreed that all 19 parties/organisations would be represented on each sub-committee. Each party/organisation would submit the name of one person per sub-committee by 10h00 on 11 February 1992. A party/organisation can submit names outside the delegates and advisers of WG 4.

8. **Research**

It was agreed that the sub-committee's would co-ordinate the research they require.

9. **Rapporteurs**

This was deferred to the next meeting of WG 4.

10. **Documents Circulated**

The following documents were circulated at the meeting:

- 10.1 Submission by the Democratic Party to the WGSC 4 - Addendum B;
- 10.2 Submission to WG 4 by the National Party on the future of the TBVC states - Addendum C;
- 10.3 Submission to WG 4 by the ANC on the resolution on restoration of nationality and citizenship - Addendum D;
- 10.4 Submission to WG 4 by the National People's Party on citizenship - Addendum E.

10. **Future meetings**

It was agreed that meetings of the WG 4 or the sub-committees would be held on both Mondays and Tuesdays from the week commencing 17 February 1992. The WGSC 4 will decide on the dates, times and agendas for the various meetings.

11. **Chairperson**

Ms Sigcau was congratulated on the way she had chaired the meetings of WG 4. It was agreed that WGSC 4 should consider the request of WG 4 that Ms Sigcau act as the permanent chairperson of WG 4 until Codesa 2.

11. **Closure**

The Chairperson closed the meeting at 16h00.

ADDENDUM A

The following persons attended:

Organisation	Delegate	Adviser
ANC	Alfred Nzo Matthew Phosa	Brigitte Mabandla Dullar Omar
Bophuthatswana Govt	SS Seane JJ Tlholoe	DW Schoeman
Ciskei Govt	N Nogcantsi GF Godden	MJ Sonyiyazi
Democratic Party	J Jordaan EK Moorcroft	N Olivier C Simkins
Dikwankwetla Party	SP Matla S Manyane	MJ Molapo DA Thejane
Inkatha Freedom Party	VT Zulu BT Anderson	NJ Ngubane
Intando Yesizwe Party	JL Mahlangu JS Mabena	MS Mahlangu WM Mohapi
Inyandza Nat Movement	DZ Makhubela JM Matsana	ND Mokoena
Labour Party	Jannie Douw William Whyte	
NICVTIC	P David NG Patel	Y Carrim J Yawitch
National Party	J Mentz P Farrell	R Radue A Julius
National People's Party	D Govender L Dwarkapersad	S Naidoo RC Panday
Solidarity Party	MF Cassim GN Naidoo	D Bagwandeem Y Seedat
SACP	S Mufamadi T Mtintso	L Nyembe S Ngonyama
SA Govt	RF Botha AT Meyer	NP Van Heerden DT Brand
Transkei Govt	LM Bengu M Titus	WG Makanda X Maybela

United People's Front

NM Malekane
JM Nonyane

ER Maponya

Venda Govt

SE Moeti
N Nefale

RR Sumbana

Ximoko Progressive Party

CD Marivate
C Khosa

Prof Kleynhans

Addendum B

SUBMISSION BY THE DEMOCRATIC PARTY TO THE WORKING GROUP
STEERING COMMITTEE (NO 4)

The Democratic Party proposes that the W.G.S.C. should consider the following issues and report to the W.G. on Monday, 10/2:

- (a) In respect of those members who support re-incorporation, there appear to be three alternative procedures:
- (i) a unilateral action on the part of the S.A. Government
 - (ii) assuming that the governments of the TBVC States are sufficiently representative of the people of these States, their decision should be accepted as final.
 - (iii) a number of participants have indicated that the people themselves should indicate whether they are in favour of incorporation. In connection with this point, the following issues arise:
 - A. What method should be employed to test the feelings of the people:- referendum?, opinion poll?, election?
 - B. Who will be entitled to express an opinion:- citizens?, residents of TBVC States?, and/or citizens also resident outside these States within RSA.
- (b) The W.G.S.C. will also have to consider the implications of the attitude taken by e.g. Bophuthatswana - that the Bophuthatswana Government is not in favour of re-incorporation.
- (c) How to deal with the attitude taken by some participants that before the governments or people of the TBVC states be called upon to express an opinion, clarity must first be achieved about the type of state into which these states may be re-incorporated. In particular, the extent to which there will be strong regional features in a new S.A. Constitution.

6.2.1992

CODESA WORKING GROUP 4
FUTURE OF THE TBVC STATES
NATIONAL PARTY VIEWPOINT

Introductory remarks

In approaching the whole question of the future of the TBVC states, the National Party has noted, from the preamble to the Terms of Reference of Working Group 4, that there is a "need to provide for the meaningful and democratic participation of all the people living in the TBVC states in the process of drawing up and adopting a new constitution for South Africa."

It follows that the National Party in working towards a new democratic South Africa believes that democratic principles should also be applied in the TBVC states during the transitional process.

Reincorporation or Otherwise

The decision as to whether or not each of the TBVC states is to be reincorporated rests in the first place with the wishes of the people of the affected state. The National Party holds the view that the will of the people of that state should be tested democratically. We are in agreement here with the Terms of Reference that some "acceptable democratic means" be employed.

The National Party also agrees with many of the delegations that one of the most practical means of testing the will of people is by way of a referendum.

We refer specifically to the Republic of Transkei which on page 38 of their initial statement referred to the fact that a referendum is accepted by the international community as the best means of testing the will of the people democratically.

The delegation from the Republic of Bophuthatswana in paragraph 1.4 of their founding statement also emphasised that they favoured "the application of democratic principles and approaches in allowing the people themselves a final say in determining the desired outcome."

We emphasise, however, that the initial choice to opt for reincorporation or otherwise must be exercised by the people of each of the TBVC states.

RSA Participation

Since the TBVC states achieved independence by virtue of bilateral agreements with the South African government, it is constitutionally and legally necessary that, if they opt for reincorporation, they will have to re-negotiate this with the South African Government.

Non interference

The National Party is not in favour of the coercion of the people of any TBVC state to come to a decision to be reincorporated or otherwise and believes that they have a free and inalienable right to decide for themselves. No other party, including Codesa, has the right to decide for them. Provided the choice is democratic, free and fair the National Party will abide by any such decision.

Conclusion

While it might appear desirable to reach early decisions in regard to the reincorporation issue, the NP must caution against overhasty action. If reincorporation is decided upon by individual TBVC states and the South African Government, the South African Parliament and the legislatures of the TBVC states concerned will have to pass enacting legislation. Many other complicated factors will come into play e.g. time frames, use of existing infrastructure, interim administration, the civil service, taxation, financial implications, development projects, priorities, etc. These are all set out in paragraph 1.1.5 of the Terms of Reference of Group 4.

This will be a huge and responsible task. There are many complicated issues involved. We will be obliged to call in experts in these fields to advise us so that we make the correct decisions. This task will be Working Group 4's greatest challenge.

AFRICAN NATIONAL CONGRESS

RESOLUTION ON RESTORATION OF NATIONALITY AND CITIZENSHIP

THIS WORKING GROUP ON "THE FUTURE OF THE TBVC STATES":

NOTING

1. That various laws creating Bantustans and in particular the four Status Acts which conferred independence on the TBVC states, have DENATIONALIZED millions of persons to whom homeland citizenship was allocated and have deprived them of South African citizenship;
2. That such denationalization and deprivation of South African citizenship was imposed upon a disfranchised people against their wishes and without any form of real consultation.
3. Further that the international community (through the United Nations Organisation, Commonwealth, European Economic Community and the Organisation of African Unity) have never recognised this action on the part of the South African government and has declared such action invalid and contrary to international law;

BELIEVING

That persons thus deprived of their South African nationality and citizenship are entitled to the restoration thereof and that all citizens of South Africa (including the people of the TBVC states) are entitled as of right to participate in the process of constitution-making and in all transitional processes;

AND BELIEVING FURTHER

That such participation will be rendered meaningless unless the South African citizenship of all affected persons is restored with immediate effect

THIS WORKING GROUP THEREFORE RESOLVES

That South African citizenship should be restored to all persons who lost their citizenship as a result of the enactment of the various Status Acts, provided also that any child born after independence to any such person, shall also automatically become a South African citizen, and that any person born of a South African parent in a TBVC state shall also automatically be a South African citizen.

**NATIONAL PEOPLE'S PARTY SUBMISSION TO WORKING
GROUP 4
RE: CITIZENSHIP**

If the TBVC states were spawned by an error of the past, that should not be the cardinal consideration for saying there should now be automatic restoration of citizenship. A great deal of water has flowed under the bridge since then, so it is imperative that the man in the street be allowed to say what he favours at this point in time and according to the exigencies of the present situation.

The National People's Party feels that the question of citizenship is rightly reflected in the Terms of Reference as the penultimate topic for discussion on the subject of re-incorporation of TBVC states.

The members of this Working Group cannot stipulate for the rights of millions of people who will be affected by the deliberations carried out here.

We strongly believe that the will of the people be tested first and then the question of citizenship be decided.

There are those who are against re-incorporation. What if these people are given South African citizenship but decide to reject it in the ultimate analysis?

Finally, the new constitution will embody the necessary clauses that will effect the inclusion of the country concerned as citizens of the New South Africa.

We support the idea of dividing into two sub-groups that will go into the implications and consequences of incorporation or otherwise.



Addendum C4

TERMS OF REFERENCE FOR WORKING GROUPS FOR CODESA

WORKING GROUP 4

ASSIGNMENT

Future of TBVC states.

1. Terms of Reference

- 1.1 WHEREAS the parties at Codesa have committed themselves in the terms set out in the Declaration of Intent as amended from time to time

AND WHEREAS the parties recognise the need to provide for the meaningful and democratic participation, of all the people living in the TBVC states in the process of drawing up and adopting a new constitution for South Africa as well as in all possible transitional arrangements

AND WHEREAS 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 TBVC states; calls for a re-evaluation of this situation

AND WHEREAS in the event of re-incorporation the need to ensure that the lives and livelihood of people in the affected territories shall not be subjected to any unnecessary disruption

IT IS RECORDED that the terms of reference of the Working Group on the future Re-incorporation of the TBVC states are as follows:

- 1.1.1 To investigate and report upon all proposals and make recommendations with regard to the relationships between South Africa, the TBVC states and the people of those states under a new South African constitution.
- 1.1.2 To identify the key issues and problems that need to be addressed.
- 1.1.3 To identify areas of commonality and aspects where agreement already exists between participating delegations.
- 1.1.4 Specifically, but without vitiating the generality of the above to consider whether and how:
- to make recommendations to Codesa regarding the manner in which the constitutional status of the TBVC states may be affected by the outcome of negotiations within the framework of Codesa;
 - the desirability or otherwise of the re-incorporation of such states;
 - testing the will of the people concerned regarding re-incorporation or otherwise, of the TBVC states, by acceptable democratic means;
 - strategies to keep the people of the TBVC states fully informed, especially

CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

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- to avoid unfortunate misunderstandings:
- (e) the retention of business confidence, particularly in relation to existing investments in the TBVC states;
 - (f) land transfers by South Africa to these states;
 - (g) citizenship;
 - (h) any other matters which the working group may consider relevant to its brief.

- 1.1.5 If re-incorporation is decided upon in respect of any TBVC state, matters that will need to be addressed include:
- (a) proposals for the re-incorporation into South Africa of a TBVC state;
 - (b) consider the question of transitional arrangements in those states which want to be incorporated;
 - (c) the time frames for such a re-incorporation and related processes;
 - (d) disposal/transfer of assets of TBVC governments;
 - (e) optimal use of existing infrastructure;
 - (f) review of development project priorities;
 - (g) good administration during transition;
 - (h) the formulation of appropriate measures and steps to be taken to ensure that in the process of re-incorporation of a TBVC state, 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;
 - (i) consider future of civil service in such states;
 - (j) the exact form of authority in the TBVC territories;
 - (k) harmonisation of legislation and taxation;
 - (l) orderly termination of bilateral and multilateral agreements and treaties;
 - (m) servicing and repayment of TBVC state debts;
 - (n) ensuring public accountability of actions taken for the purposes of re-incorporation;
 - (o) the identification of specific constitutional, legal and political measures and steps which will have to be taken to effect re-incorporation.

TERMS OF REFERENCE FOR SUB-COMMITTEE 1 "TESTING THE WILL OF THE PEOPLE"

WORKING GROUP 4

1. Terms of Reference

IT IS RECORDED that the terms of reference of the Sub-Committee are as follows:

- 1.1 To investigate and report upon all proposals and make recommendations with regard to the relationships between South Africa, the TBVC states and the people of those states under a new South African constitution.
- 1.2 To identify the key issues and problems that need to be addressed.
- 1.3 To identify areas of commonality and aspects where agreement already exists between participating delegations.
- 1.4 Specifically, but without vitiating the generality of the above to consider:
 - (a) testing the will of the people concerned regarding re-incorporation or otherwise, of the TBVC states, by acceptable democratic means;
 - (b) strategies to keep the people of the TBVC states fully informed, especially to avoid unfortunate misunderstandings;
 - (c) the method to be employed to test the feeling of the people (referendum? opinion poll? election?);
 - (d) deciding on who will be entitled to express an opinion (citizens? residents of TBVC states? and/or citizens also resident outside these states, within South Africa).

SUB COMMITTEE 1 : TESTING THE WILL OF THE PEOPLE
EFFECTS OF REINCORPORATION OF THE TBVC STATES

ANC:	M Phosa
Bophutatswana:	SS Seane
Ciskei Government:	N Nogcantsi
Democratic Party:	EK Moorcroft
Dikwnakwetla Party:	MJ Molapo
Inkatha:	B Anderson
Intando Yesizwe Pty:	M Mahlangu
Inyandza National Mvm:	J Matsana
Labour Party of SA:	W Whyte
National Party:	PJ Farrell
N P P:	RC Panday (or substitute)
N I C:	J Yawitch
SACP:	S Ngonyana
SA Government:	AT Meyer
Solidarity Party:	Y Seedat
Transkei Government:	LM Bengu
UPF:	NM Malekana
Venda Government:	RR Subana
Ximoko Party:	C Khosa

TERMS OF REFERENCE FOR SUB-COMMITTEE 2 "CITIZENSHIP"

WORKING GROUP 4

1. Terms of Reference

IT IS RECORDED that the terms of reference of the Sub-Committee are as follows:

- 1.1 To investigate and report upon all proposals and make recommendations with regard to the relationships between South Africa, the TBVC states and the people of those states under a new South African constitution.
- 1.2 To identify the key issues and problems that need to be addressed.
- 1.3 To identify areas of commonality and aspects where agreement already exists between participating delegations.
- 1.4 Specifically, but without vitiating the generality of the above to consider:
 - (a) the question of citizenship (dual citizenship? single citizenship?);
 - (b) the time-frames for the sub-committee to report;
 - (c) the proposal of the ANC;
 - (d) the proposal of the NPP.

SUB COMMITTEE 2 : CITIZENSHIP
EFFECTS OF REINCORPORATION OF THE TBVC STATES

ANC:	D Omar
Bophutatswana:	B Keikelame
Ciskei Government:	RB Tokota
Democratic Party:	JA Jordaan
Dikwnakwetla Party:	SP Matla
Inkatha:	FT Mdlalose
Intando Yesizwe Pty:	W Mohasi
Inyandza National Mvm:	D Makhube
Labour Party of SA:	S Verveen
National Party:	JHL Mentz
N P P:	S Naidoo
N I C:	NG Patel
SACP:	T Mtintso
SA Government:	RS Schoeman
Solidarity Party:	NF Cassim
Transkei Government:	S Sigcau or SHL Matebese
UPF:	LM Mokoena
Venda Government:	SR Makhuvha
Ximoko Party:	C Marivate

**TERMS OF REFERENCE FOR SUB-COMMITTEE 3
"THE ADMINISTRATIVE, FINANCIAL AND PRACTICAL EFFECTS OF REINCORPORATION
OF THE TBVC STATES"**

WORKING GROUP 4

1. Terms of Reference

IT IS RECORDED that the terms of reference of the Sub-Committee are as follows:

- 1.1 To investigate and report upon all proposals and make recommendations with regard to the relationships between South Africa, the TBVC states and the people of those states under a new South African constitution.
- 1.2 To identify the key issues and problems that need to be addressed.
- 1.3 To identify areas of commonality and aspects where agreement already exists between participating delegations.
- 1.4 Specifically, but without vitiating the generality of the above to consider:
 - (a) the retention of business confidence, particularly in relation to existing investments in the TBVC states;
 - (b) land transfers by South Africa to these states;
 - (c) disposal/transfer of assets of TBVC governments;
 - (d) optimal use of existing infrastructure;
 - (e) review of development project priorities;
 - (f) good administration during transition;
 - (g) the formulation of appropriate measures and steps to be taken to ensure that in the process of re-incorporation of a TBVC state, 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;
 - (h) consider future of civil service in such states;
 - (i) servicing and repayment of TBVC state debts.

**SUB COMMITTEE 3 : ADMINISTRATIVE, FINANCIAL AND PRACTICAL
EFFECTS OF REINCORPORATION OF THE TBVC STATES**

ANC:	A Nzo
Bophutatswana:	DW Schoeman
Ciskei Government:	T Sondiyazi
Democratic Party:	C Simkins
Dikwnakwetla Party:	DA Thejane
Inkatha:	NJ Mgubane
Intando Yesizwe Pty:	JL Mahlangu
Inyandza National Mvm:	D Mokoena
Labour Party of SA:	J Douw
National Party:	R Radue
N P P:	L Dwarkapersad
N I C:	Y Carrim or S Singh
SACP:	L Nyembe
SA Government:	G Croeser
Solidarity Party:	D Bagiwandeen
Transkei Government:	M Titus
UPF:	ER Maponya
Venda Government:	SE Moeti
Ximoko Party:	TW Tshabala

**TERMS OF REFERENCE FOR SUB-COMMITTEE 4
"THE POLITICAL, LEGAL AND CONSTITUTIONAL EFFECTS OF REINCORPORATION OF
THE TBVC STATES"**

WORKING GROUP 4

1. Terms of Reference

IT IS RECORDED that the terms of reference of the Sub-Committee are as follows:

- 1.1 To investigate and report upon all proposals and make recommendations with regard to the relationships between South Africa, the TBVC states and the people of those states under a new South African constitution.
- 1.2 To identify the key issues and problems that need to be addressed.
- 1.3 To identify areas of commonality and aspects where agreement already exists between participating delegations.
- 1.4 Specifically, but without vitiating the generality of the above to consider:
 - (a) the exact form of authority in the TBVC territories;
 - (b) harmonisation of legislation and taxation;
 - (c) orderly termination of bilateral and multilateral agreements and treaties;
 - (d) ensuring public accountability of actions taken for the purposes of re-incorporation;
 - (e) the identification of specific constitutional, legal and political measures and steps which will have to be taken to effect re-incorporation.

SUB COMMITTEE 4 : THE POLITICAL, LEGAL AND CONSTITUTIONAL

EFFECTS OF REINCORPORATION OF THE TBVC STATES

ANC:	B Mabandla
Bophutatswana:	JJ Tlholoe
Ciskei Government:	GF Godden
Democratic Party:	NJ Olivier
Dikwnakwetla Party:	S Manyane
Inkatha:	VT Zulu
Intando Yesizwe Pty:	JS Mabena
Inyandza National Mvm:	H Motaung
Labour Party of SA:	T Abrahams
National Party:	A Julies
N P P:	D Govender
N I C:	P David
SACP:	S Mufamadi
SA Government:	NP Van Heerden
Solidarity Party:	GN Naidoo
Transkei Government:	Makanda
UPF:	JM Nonyane
Venda Government:	N Nefale
Ximoko Party:	OC Mavanyisi

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

MINUTES OF THE THIRD MEETING OF THE STEERING COMMITTEE OF WORKING GROUP 4 (THE FUTURE OF THE TBVC STATES) HELD AT THE WORLD TRADE CENTRE ON TUESDAY 11 FEBRUARY 1992 AT 09H45

PRESENT: Delegates (See Addendum A)

Ms SN Sigcau (chair)

S Albertyn (secretary)

G Hutchings (minutes)

1. Chairperson's opening remarks

The delegates were welcomed by the chairperson.

2. Chairpersonship

It was agreed that Ms SN Sigcau would chair all meetings of the Working Group 4 (WG 4) and the Working Group 4 Steering Committee (WGSC 4) until Codesa 2.

3. Minutes

3.1 The minutes of WGSC 4 of 27 January 1992 were adopted.

3.2 The minutes of WG 4 held on 10 February 1992 were amended by WGSC 4. It was noted that these minutes had to still be adopted by WG 4.

4. Matters arising from WGSC 4 meeting of 27 February 1992:

4.1 It was noted that the WGSC 4 proposal on the formation of sub-committees had been accepted by WG 4 with amendments.

4.2 It was noted that individuals, including but not limited to delegates/advisers could be used as rapporteurs.

4.3 It was further noted that WG 4 had taken a different approach to the question of research to that suggested by WGSC 4.

5. Sub-Committees

5.1 It was agreed that the Terms of Reference for each sub-committee would be drawn from the Terms of Reference for WG 4 and from proposals made by the parties. The Terms of Reference for each sub-committee should be:

5.1.1 Sub-committee 1 - Testing the will of the people:

(a) Testing the will of the people concerned regarding reincorporating or otherwise, of the TBVC states, by acceptable democratic means;

- (b) Strategies to keep the people of the TBVC states fully informed, especially to avoid unfortunate misunderstandings; and
- (c) Proposal by the Democratic Party - items no. iii, A and B.

5.1.2 Sub-committee 2 - Citizenship:

- (a) The question of single or dual citizenship;
- (b) Proposal from the ANC; and
- (c) Proposal from the NPP

5.1.3 Sub-committee 3 - The administrative, financial and practical implications of the reincorporation of the TBVC states into South Africa:

- (a) The retention of business confidence, particularly in relation to existing investments in the TBVC states;
- (b) Land transfers by South Africa to these states;
- (c) Disposal/transfer of assets of TBVC governments;
- (d) Optimal use of existing infrastructure;
- (e) Review of development project priorities;
- (f) Good administration during transition;
- (g) The formulation of appropriate measures and steps to be taken to ensure that in the process of reincorporation of a TBVC state, 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;
- (h) Consider future of civil service in such states;
- (i) Servicing and repayment of TBVC state debts.

5.1.4 Sub-committee 4 - The political, legal and constitutional implications of the reincorporation of the TBVC states into South Africa:

- (a) The exact form of authority in the TBVC territories;
- (b) Harmonisation of legislation and taxation;
- (c) Orderly termination of bilateral and multilateral agreements and treaties;
- (d) Ensuring public accountability of actions taken for the purposes of reincorporation;
- (e) the identification of specific constitutional, legal and political measures and steps which will have to be taken to effect reincorporation.

5.2 The chairperson of WG 4 will report back to WG 4 on suggestions made by the WGSC 4 for the smooth running of the sub committees. These suggestions include:

- 5.2.1 Sub-committees should be aware of potential overlap in their activities.
- 5.2.2 Sub-committees should report back to WG 4 on their suggestions so that WG 4 can debate the proposals.
- 5.2.3 Any difficulties experienced by sub-committees should be referred to WG 4.
- 5.2.4 Sub-committees should determine their own programme.
- 5.3 Each sub-committee will look at both the implications within their Terms of Reference for reincorporation and non-reincorporation assisted by the Democratic Party proposal.
- 5.5 It was suggested that all sub-committees would agree on their own programmes of work

6. **Land Moratoriums**

This is to be referred to the next meeting of WG 4 on Tuesday 18 February 1992.

7. **Nomination of two WGSC members to attend meeting with Codesa Secretariat**

Ms SN Sigcau and Dr FT Mdlalose were nominated to attend the above meeting on Monday 17 February 1992 at 08h00.

8. **Agenda**

8.1 An agenda for the first meetings of the sub-committees on Monday 17 February 1992 was drafted.

8.2 The agenda for WG 4 meeting on Tuesday 18 February 1992 was drafted.

9. **Future WGSC 4 meeting**

The WGSC 4 will meet on Tuesday 18 February 1992 after the WG 4 meeting.

10. **Closure**

The chairperson closed the meeting at 12h30.

Addendum A

The following persons attended:

Organisation	Delegate
African National Congress	M Phosa
Bophuthatswana Government	DW Schoeman
Ciskei Government	N Nogcantsi
Inkatha Freedom Party	FT Mdlalose
Inyandza National Movement	JM Matsana
Labour Party	T Abrahams
SA Government	RF Botha
Transkei Government	SW Sigcau
Venda Government	SE Moeti