



WRKGROUP\IMPLTIME\SG2M9MAR.WI (2)

WORKING GROUP 5\SUB-GROUP 2\MINUTES\9 MARCH

THESE MINUTES ARE CONFIDENTIAL, AND RESTRICTED TO WORKING GROUP 5, ITS STEERING COMMITTEE, THE DAILY MANAGEMENT COMMITTEE AND THE MANAGEMENT COMMITTEE.

MINUTES OF THE MEETING OF SUB-GROUP 2 OF WORKING GROUP 5, HELD AT THE WORLD TRADE CENTRE ON MONDAY 9 MARCH AT 15H00

(Adopted at the full plenary session of Working Group 5 dated 23 March 1992, as amended)

PRESENT: (Addendum A)

APOLOGIES:	TM Setiloane	Bophuthatswana Government
	DZL Mtebule	Ximoko Progressive Party
	VP Rattan	National People's Party
	D Mafu	South African Communist Party

1. Welcome

- 1.1 The meeting was chaired by Mr R Burrows.
- 1.2 In the absence of representation from the Ciskei Government, the IFP and Dikwankwetla Party, it was agreed that, a quorum nevertheless having been formed, the meeting should proceed. The meeting was later joined by delegates from the IFP and the Ciskei Government.
- 1.3 Alternatives for delegates listed under "Apologies" above were noted, as they appear in Addendum A.
- 1.4 The draft agenda prepared by Mr R Burrows was adopted.

2. Report from Sub-Group, 2 March 1992

The report tabled was adopted as an accurate record of the meeting concerned.

3. Matters arising from the meeting of 2 March 1992

3.1 Completion of discussion on the reports of the task groups

- 3.1.1 No further discussion ensued concerning the report tabled by Task Group 1.
- 3.1.2 Concerning the report tabled by Task Group 2, it was agreed that:
 - 3.1.2.1 An official request should be made to Working Group 2 to deal with the matter of constitutional processes as a matter of urgency.
 - 3.1.2.2 Participants in Working Group 5 should identify other areas, pertaining to the Terms of Reference of Working Group 2, which they believe need immediate attention with a view to tabling these at the next full plenary session of the Working Group. It was noted that, thereafter, Task Group 2 should remain open to further suggestions in this regard.

3.1.3 Concerning the report tabled by Task Group 3, the following was noted:

3.1.3.1 That the first sub-item under Item 12 should read:

Page 314/315 Item 7.3

3.1.3.2 That the contents of Item 2 of the report have been brought to the attention of the DMC, via the Secretariat, and that a meeting is to be arranged between Messrs D Curry and R Burrows with members of the Secretariat with a view to seeking clarity on the matter.

3.1.4 No further discussion ensued concerning the report tabled by Task Group 4.

3.2 Mechanism for drafting electoral legislation

3.2.1 It was agreed that:

3.2.1.1 Task group members may interchange according to the issues under discussion at the time.

3.2.1.2 Any task group member may concentrate his/her efforts within a particular task group upon those meetings of the task group dealing with issues pertaining to his/her field of expertise/experience/interest.

3.2.1.3 Task Group 2 should assume responsibility for handling electoral legislation.

4. Terms of Reference and Declaration of Intent

It was agreed that the Terms of Reference of Sub-Group 2 should be amplified to include Item 4 as follows:

"To prepare, in draft form, the documentation which is required for effect to be given to such agreements."

The amended Terms of Reference are appended as Addendum B.

5. Working procedures of task groups

It was agreed that:

5.1 The four convenors of the task groups should meet immediately following the meeting in order to arrive at consensus on a working procedure, which should be reported to the sub-group when it reconvened.

5.2 The meeting on working procedure should be convened by Mr P Gastrow.

6. Constituting of expert legal drafting committees

It was agreed that:

- 6.1 Each task group should submit a brief on this matter to the next meeting of the sub-group.
- 6.2 Items 11.1 - 11.3 of the report from Task Group 3 dated 2 March 1992 should be used as guidelines in drafting each brief, noting that there should preferably not be nineteen representatives on each legal drafting committee.
- 6.3 The question of payment of legal drafting experts should be addressed by the Steering Committee, in consultation with the DMC.

7. **Handling of submissions on draft legislation**

It was agreed that this matter should be addressed by the four convenors of the task groups at their meeting on working procedure.

8. **General**

- 8.1 It was agreed that, noting the decision referred to under Item 3.2.1.3 above, and further noting concerns expressed under Item 3.1.2.1 above, the question concerning the *raison d'être* of Task Group 2 has, for the time being, been addressed.
- 8.2 It was agreed that Item 8 of the report of Task Group 1 (concerning clarity as to whether or not delegations are entitled to substitute one of their existing delegates or advisers with a legal expert as and when required) should be addressed by the Steering Committee.

9. **Next meeting/s of the sub-group and its task groups**

9.1 It was agreed that:

- 9.1.1 The convenors of the task groups should meet at 11h30 to discuss working procedure.
- 9.1.2 The task groups should meet at 12h30 to address matters arising from the minutes of the other Working Groups.
- 9.1.3 The sub-group should reconvene at 15h00 for a report-back from the task groups.

- 9.2 It was noted that task groups 1 - 3 should meet in the party offices detailed, and that Task Group 4 should meet in the room used by the full sub-group.
- 9.3 It was agreed:
- 9.3.1 That there will be no meetings of the sub-group and its task groups during the week commencing Monday 16 March 1992.
- 9.3.2 The Steering Committee should compile a schedule of meetings for Working Group 5, its sub-groups and their task groups for the week commencing Monday 23 March 1992.
10. The meeting adjourned until 15h00.
11. The meeting reconvened at 15h00.
12. **Report on working procedures**
- 12.1 The recommendations contained in the report appended as Addendum C were approved.
- 12.2 It was noted that Item 5.2 of the report refers, inter alia, to the question of electoral law and the task group dealing with it.
- 12.3 Concerns regarding the possible time delay implicit in Item 9 of the report were noted.
13. **Report-back from task groups**
- 13.1 It was noted that Task Group 1:
- 13.1.1 Requires the minutes of all meetings of the sub-groups of Working Group 1.
- 13.1.2 Awaits reports from the SA Law Commission and the Department of Justice.
- 13.2 It was noted that, there being no matters arising from the minutes of Working Group 2, Task Group 2 will address the issue of electoral law at its next meeting.
- 13.3 Concerning the work of Task Group 3, the draft resolution on interim arrangements was noted.
- 13.4 Task Group 4 advised that it had nothing to report.

The reports of task groups 1 - 3 are appended as Addenda D, E and F respectively.

14. **Handling of submissions on draft legislation**

It was noted that this matter, as referred to the meeting of task group convenors, has still to be addressed.

15. **The meeting closed.**

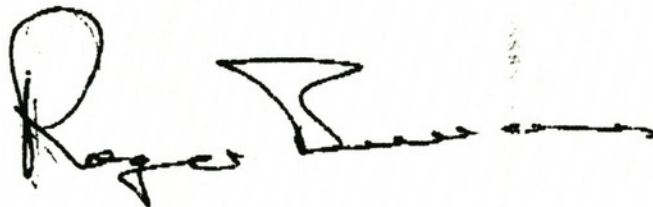
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WORKING GROUP B\SUB-GROUP 2\MINUTES\9 MARCH

14. **Handling of submissions on draft legislation**

It was noted that this matter, as referred to the meeting of task group conveners, has still to be addressed.

15. **The meeting closed.**


as Chairperson

Addendum A

The following people signed the attendance register:

African National Congress	G Bizos Z Skweyiya
Bophuthatswana Government	AM Boikanyo LI Morule
Ciskei Government	PP Jacobs
Democratic Party	R Burrows P Gastrow
Dikwankwetla Party	
Inkatha Freedom Party	LPHM Mtshali P Smith
Intando Yesizwe Party	N Mbonani VS Mahlangu
Inyandza National Movement	BD Madonsela GG Zama
Labour Party	D Curry K Lategan
Natal/Transvaal Indian Congress	Y Vawda N Balton
National Party	C Fisser PA Mathee
National People's Party	DK Padiachey B Jayraj
Solidarity Party	M Naranjee I Osman
South African Communist Party	D Mvelase
South African Government	L Wessels GC von Bratt
Transkei Government	GE Zilwa M Mabude

WRKGROUP\IMPLTIME\SG2M9MAR.WI (2)

WORKING GROUP 5\SUB-GROUP 2\MINUTES\9 MARCH

United People's Front

R Ramontja
IKE Moloko

Venda Government

LS Ramavhoya
M Mphaphuli

Ximoko Progressive Party

ML Nkuna

Minutes:

Pam Saxby



WRKGROUP\IMPLTIME\SGA24FEB.WI (2)

WORKING GROUP 5\SUB-GROUPS\AGENDA\24 FEBRUARY

Addendum B

TERMS OF REFERENCE OF SUB-GROUP 2 (LEGISLATION)

(Amended according to a decision taken at the meeting of 9 March 1992)

1. To identify the key issues and problems that need to be addressed (Working Group Terms of Reference Item 1.1.2).
2. To identify areas of commonality and aspects where agreement already exists between participating delegations (Working Group 5 Terms of Reference Item 1.1.3).
3. Specifically, but without vitiating the generality of Items 1.1.1 to 1.1.3 of the Working Group 5 Terms of Reference, to consider whether and how to address:
 - 3.1 The identification of legislation that needs to be enacted or amended (Working Group 5 Terms of Reference Item 1.1.4 'f').
 - 3.2 Assisting in formulating the terms of the legislation or amendments (Working Group 5 Terms of Reference Item 1.1.4 'g').
 - 3.3 The legality of the process in relation to time-frames to be negotiated within the context of constitutional continuity (Working Group 5 Terms of Reference Item 1.1.4 'j').
4. To prepare, in draft form, the documentation which is required for effect to be given to such agreements.



WRKGROUP\IMPLTIME\SG2CONR.WI (2)

WORKING GROUP 5\SUB-GROUP 2\TASK GROUPS\CONVENORS' REPORT ON WORKING PROCEDURE\9 MARCH

Addendum C

REPORT BY THE CONVENORS OF TASK GROUPS 1 - 4 OF SUB-GROUP 2 OF WORKING GROUP 5 ON WORKING PROCEDURE

Proposed working procedure for task groups:

1. Task groups should take the initiative in identifying issues requiring legislation.
2. When a Working Group has reached agreement on an issue which requires legislation for implementation, such an agreement, together with a memorandum explaining the agreement, should be forwarded to the relevant task group via the Steering Committee of Working Group 5.
3. As its first step, a task group should draw up a draft brief for the experts who are to draft the legislation.
4. When a task group has reached agreement on a draft brief, such brief should be submitted to Sub-group 2 of Working Group 5 for its approval.
5.
 - 5.1 Once Sub-group 2 has approved the brief, such brief should be forwarded to the relevant Working Group, via its Steering Committee, to enable the Working Group to assess whether the brief is consistent with its principled agreement.
 - 5.2 If there is doubt as to which Working Group should be considering the brief, then the brief should be sent to the Management Committee for direction.
6. When the relevant Working Group has approved of the brief, such brief should be returned to the relevant Task Group via the Steering Committee of Working Group 5.
7. The task group should then forward the brief to the group of experts to enable them to prepare draft legislation.
8. Draft legislation prepared by the expert draftspersons should then be submitted, via the task group, to Sub-group 2 for approval.
9. Draft legislation, as approved by sub-group 2, should then be approved by Working Group 5 before being forwarded to the relevant Working Group, via its Steering Committee, for its approval.
10. Draft legislation which has been approved by a Working Group should then be returned to Sub-group 2 for its final approval, before being submitted to CODESA by Working Group 5 (after its ratification).



WRKGROUP\IMPLTIME\SG2TG1R2.WI (2)

WORKING GROUP 5\SUB-GROUP 2\TASK GROUP 1\REPORT\9 MARCH

Addendum D

**DRAFT REPORT FROM TASK GROUP 1 OF SUB-GROUP 2 OF WORKING GROUP 5, 9
MARCH 1992**

Rapporteur: Mr P Gastrow, Convenor of Task Group 1

1. Minutes of Working Group 1

The minutes of the Steering Committee of Working Group 1, held on 2 March 1992, were considered. It was agreed that the minutes contained nothing of relevance to Task Group 1.

2. Proposed working procedure for task groups

The report by convenors of task groups 1 - 4 was considered. It was agreed that no discussion was required and that, if need be, the matter could be discussed further at the meeting of Sub-group 2.

3. General

The convenor reported that:

- 3.1 He has been in touch with the SA Law Commission and with the Director General of the Department of Justice to enquire about information relating to outdated legislation. Both agreed to assist and to supply information as soon as possible.
- 3.2 He had not yet communicated with the convenors of the three sub-groups of Working Group 1, but that he would do so before the next meeting.



WRKGROUP\IMPLTIME\SG2TG2R2.WI (2)

WORKING GROUP 5\SUB-GROUP 2\TASK GROUP 2\REPORT\9 MARCH

Addendum E

**DRAFT REPORT FROM TASK GROUP 2 OF SUB-GROUP 2 OF WORKING GROUP 5, 9
MARCH 1992**

Rapporteur: Mr C Fisser, Convenor of Task Group 2

1. It was agreed that the task group should meet on Monday 23 March and Tuesday 24 March 1992 in order to discuss a draft brief for an Electoral Act.
2. Members of the task group were requested to propose any ideas to be included in the draft brief, should they wish to do so.
3. It was agreed that members of the sub-group who are not members of the task group are welcome to attend the meetings referred to in Item 1 above, and to make proposals to be included in the draft brief if they so wish.



WRKGROUP\IMPLTIME\SG2TG3R2.WI (2)

WORKING GROUP 5\SUB-GROUP 2\TASK GROUP 3\REPORT\9 MARCH

Addendum F

**DRAFT REPORT FROM TASK GROUP 3 OF SUB-GROUP 2 OF WORKING GROUP 5, 9
MARCH 1992**

Rapporteur: Mr RM Burrows

1. The report of the convenors' meeting on working procedure was discussed. A number of minor amendments were agreed upon, to be put to Sub-group 2.
2. Minutes of Working Group 3 and its Steering Committee, dated 2 March 1992, were scrutinised (and labelled pages 338 - 348).
 - 2.1 Note was taken:
 - 2.1.1 That Item 6.3 (page 339) is still under discussion.
 - 2.1.2 That, referring to page 343, the SA Constitution Act should be obtained for Task Group 3.
 - 2.1.3 Of Item 5.1.6 (page 343), concerning the position of the TBVC states during the period leading up to an election. It was agreed that Sub-group 2 should clarify the division of this matter between Task Groups 3 and 4.