



TO : MEMBERS OF WORKING GROUP 4: SUBGROUP 4
 CO-ORDINATORS OF WORKING GROUP 4

FROM : CODESA ADMINISTRATION

QUERIES : LOVEDALIA / GERDA

RE : WORKING GROUP DOCUMENTATION

ANC
 Negotiations Comm (011) 333-9090
 B Mabandla (021) 959-2411

BOPHUTHATSWANA GOVERNMENT
 D Schoeman (0140) 84-2943
 J J Tlholoem (0140) 29-3666

CISKEI GOVERNMENT
 H J S Kayser^m (0401) 91189
 G F Godden (0401) 91375

DEMOCRATIC PARTY
 N Olivier (021) 461-0092

DIKWANKWETLA PARTY
 S Manyane (01438) 31721

INKATHA FREEDOM PARTY
 S Felgate (0358) 20-2167
 B Anderson (011) 886-5450
 V Zulu (0358) 20-2439

INTANDO YESIZWE PARTY
 M J Mahlangu c/o
 J S Mabona (01215) 2548

INYANDZA NATIONAL MOVEMENT
 T J Ndaba (013140) 879
 H Motaung

LABOUR PARTY
 T Abrahams (021) 403-3402

NIC/TIC
 P G Gordhan (031) 309-2278
 N Pillay (012) 374-4792
 P David (0322) 33-0654

NATIONAL PARTY
 A Julies (021) 461-7617

NATIONAL PEOPLE'S PARTY

M Mohanlall (021) 403-2971
D Govender (021) 403-2971

SOLIDARITY PARTY
G N Naidoo ^m (0391) 4423

SA COMMUNIST PARTY
G Fraser-Moleketi (011) 836-8366 or 838-2816
S Mufumadi (011) 333-9091

TRANSKEI GOVERNMENT
Z Titus (0471) 23876
W G Makanda

UNITED PEOPLE'S FRONT
c/o Chief PR Minister ^m (0156) 35244
J M Nonyane (0156) 24588

VENDA GOVERNMENT
C Neluvhalani :
Chief Gov Liaison Off (0159) 23172
N Nefale/M P Nthabalala ^m (0159) 32355

XIMOKO PROGRESSIVE PARTY
J C Ackron (01526) 23140
T B Shibambu See Above

WORKING GROUP 4 SECRETARY
S Albertyn (011) 838-5088

RAPPORTEUR
Bulelani Ngcukwa ^m (021) 959-2411



F A X M E S S A G E

TO : MEMBERS OF WORKING GROUP 4,
SUB GROUP 4

FROM : CODESA ADMIN

DATE : 25 MARCH 1992

RE : DRAFT MINUTES - 23/24 MARCH
REPORT BY WG4, SG4
SCHEDULE OF MEETINGS
REPORT ON JOINT MEETING - WG4, SG1 & 2
DRAFT MINUTES WG4, SG3 - 23 MARCH

Attached please find the following :

1. Draft minutes of the meeting of WG4, SG4 on 23 March.
2. Report by WG4, SG4.
3. Schedule of meetings.
4. Report on joint meeting between WG4, SG's 1 & 2.
5. Draft minutes of WG4, SG3 - 23 March.

Should you have any queries, please do not hesitate to contact us.

Regards.

.....

MEMORANDUM

TO: Delegates of Working Group 4, Sugroup 4.

FROM: Wendy Antoine (Minute taker)

Kindly note the changes in the scheduled meetings of 30 and 31
March (see item 9 of the Minutes)

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

DRAFT MINUTES OF THE TWO-DAY MEETING OF WORKING GROUP 4 SUBGROUP 4 HELD AT WTC ON MONDAY 23 MARCH 1992 AT 10H00 AND ON TUESDAY 24 MARCH 1992 AT 10H30

PRESENT: Delegates (see Addendum A and B)

D Govender (Chairperson)

W Antoine (Minute taker)

1. Chairperson's opening remarks

- 1.1 Delegates were welcomed by the chairperson and the meeting was opened with a minute of silent prayer.
- 1.2 An apology by the administration office for their failure to fax the submission by the Ciskei Government to the delegates was registered.
- 1.3 An appeal was made for a concerted effort to get as much done as possible.

2. Confirmation of Minutes

The minutes for the previous meeting were ratified.

3. Agenda

The agenda was adopted.

4. Presentation of submissions by TBVC states

The delegates from the Transkei Government, Venda Government and Ciskei Government tabled documents that identified the problems that would be encountered and the actions that would be required if reincorporation was to take place.

The delegate from the Bophuthatswana Government tabled a position statement relating to paragraph 6.4 of minutes of the meeting of Working Group 4 Subgroup 4 held on 09 March 1992. The information that had been requested of the delegate from Bophuthatswana was also tabled.

5. Discussion

- 5.1 It was noted that if the TBVC states still exist as sovereign entities by the time an interim government is set up in South Africa, they would not be able to participate in the interim

arrangements. Delegates debated ways and means of overcoming this hurdle so that the TBVC states could participate in the transitional arrangements of an interim government.

- 5.2 Delegates discussed the issue of citizenship. It was noted that if people in the TBVC states had their South African citizenship restored they would be able to take part in the move to a new democratic South Africa. The adoption of dual citizenship by people in the TBVC states was considered as an alternative option. It was noted that in South Africa, in terms of Act 73 of 1986, dual citizenship is not allowed, while in the TBVC states dual citizenship is allowed.
- 5.3 It was noted that if the TBVC states scaled down their sovereign and independent status to that of a self governing state they would be able to participate in the interim arrangements in South Africa and the question of citizenship would be resolved.
- 5.4 It was noted that, to ensure that the TBVC states do not suffer if they scale down their sovereign status to that of a self governing state, the South African Government would be asked to maintain all the bilateral and financial agreements currently in place with the TBVC states.
- 5.5 Delegates debated the succession of necessary events in the TBVC states. It was agreed that testing the will of the people would have to take place first. It was noted that testing the will of the people on the principle of reincorporation was not necessary and should be during the course of election of the constituent assembly.
- 5.6 It was recommended that work on harmonisation of legislation should begin immediately in preparation for the eventuality of reincorporation. It was noted that laws relating to gambling, property rights and marriage would need to be standardised.

Discussion ranged over the two days. At the end of the first day, it was agreed that in the absence of the Rapporteur, who was yet to join the Subgroup, three delegates, namely T Abrahams, P David and G.F. Godden, would draw up a synthesis of the day's proceedings in order to take stock of all that had emerged.

The meeting was adjourned at 16h00 and resumed at 10h30 the following day, when the Rapporteur, Mr B Ngcuka, was welcomed.

6. Presentation of synthesis

- 6.1 A synthesis of attitudes to reincorporation by TBVC states was presented and its accuracy was confirmed after two amendments were noted. A copy of this report, as agreed, is herewith attached (see Addendum C).

7. Mapping a blueprint

- 7.1 It was agreed that in order to devise a blueprint that would order the succession of events leading to reincorporation the following points would need to be considered.
 - 7.1.1 Harmonisation of legislation of the five different Governments.
 - 7.1.2 The matter of transitional arrangements for an interim government with respect to the TBVC states and connected with this is the matter of

sovereignty.

- 7.1.3 The matter of the constitutional-making body with respect to the TBVC states.
- 7.1.4 The point at which the testing of the will of the people should occur.
- 7.2 It was agreed that at the next meeting of the Subgroup all delegates should submit a suggested blueprint which considers these points.
- 7.3 It was agreed that the delegate from the South African Government would give their response to the various scenarios discussed, and that he would present a paper on their idea of what stages could be followed in the process of reincorporation.
- 7.4 It was recommended that cognisance be taken of the decisions of Subgroups 1, 2 and 3 of Working Group 4, and that those taken by Work Groups 2 and 3 will also impact on how the task of drawing up the blueprint can be approached. It was agreed that a request for feedback on progress in Working Group 2 should be requested at the next plenary session of Working Group 4.

8. Documents

8.1 The following documents were tabled.

- 8.1.1 Transkei. "Implications of reincorporation on the various state departments: additional data."
- 8.1.2 Bophuthatswana. "The future of TBVC states. Position statement by Bophuthatswana: paragraph 6.4 of minutes of meeting of Working Group 4 of Subgroup 4 held on 09 March" 1992.
- 8.1.3 Bophuthatswana. "Urbanisation Trends in Bophuthatswana (1980-1989)"
- 8.1.4 Venda. "The problems and solutions to be encountered in case of reincorporation or non-reincorporation into the R.S.A."
- 8.1.5 Ciskei. "A memorandum prepared by the Ciskei delegation to CODESA on the identification of problems and actions required if reincorporation of the Republic of Ciskei into the Republic of South Africa is required and possible solutions to some of the problems"
- 8.1.6 United People's Front. "Submission to Subgroup 4 of Working Group 4 on 23/03/1992. The future of the TBVC states - reincorporation."
- 8.1.7 Report by Subgroup 4 of Working Group 4. "Synthesis of attitudes to reincorporation by TBVC states."

8.2 The following documents were circulated.

- 8.2.1 South African Government. CODESA Working Group 3. 23 March 1992.

"Proposals for transitional arrangements."

- 8.2.2 CODESA Secretariat. Memorandum dated 23 March 1992 re timeous ratification of minutes.

9. **Future meetings**

- 9.1 The next Subgroup meeting will be held on Monday 30 March, 1992 at 14h00 or depending on when the plenary session ends.
- 9.2 There will also be a meeting on Tuesday 31 March, 1992 at 09h30 to 13h00.

Note: At its meeting held on 24 March 1992 at 13h00, the WGSC 4 decided that the plenary session of Working Group 4 should meet until 16h00. Therefore, Subgroup 4 will not meet on Monday 30 March. Instead the meeting scheduled for Tuesday 31 March will continue until 16h00.

10. **Closure**

The Chairperson closed the meeting at 13h10.

DELEGATES PRESENT AT THE MEETING HELD ON MONDAY 23 MARCH 1992

ANC	B Mabandla
Bophuthatswana Govt	JJ Tlholoe
Ciskei Govt	GF Godden
Democratic Party	NJ Olivier
Dikwnakwetla Party	S Manyane
Inkatha Freedom Party	VT Zulu
Intando Yesizwe Party	JS Mabena
Inyandza National Movement	H Motaung
Labour Party	T Abrahams
National Party	PC McKenzie
NPP	B Jayraj
NIC/TIC	P David
SA Govt	NP Van Heerden
Solidarity Party	GN Naidoo
Transkei Govt	NG Makanda
UPF	JM Nonyane
Venda Govt	AN Mphaphuli
Ximoko Progressive Party	TB Shimbambu

DELEGATES PRESENT AT THE MEETING HELD ON TUESDAY 24 MARCH 1992

Bophuthatswana Govt	JJ Tlholoe
Ciskei Govt	GF Godden
Democratic Party	NJ Olivier
Dikwnakwetla Party	S Manyane
Inkatha Freedom Party	VT Zulu
Intando Yesizwe Party	JS Mabena
Inyandza National Movement	H Motaung
Labour Party	T Abrahams
National Party	PC McKenzie
NPP	B Jayraj
NIC/TIC	P David
SA Govt	CJ Streeter
Transkei Govt	NG Makanda
UPF	JM Nonyane
Venda Govt	AL Mphaphuli
Ximoko Progressive Party	TB Shimbambu

Addendum C**SYNTHESIS OF ATTITUDES TO REINCORPORATION BY TBVC STATES. A REPORT BY SUBGROUP 4 OF WORKING GROUP 4.****1. The TBVC states.****1.1 Transkei**

The Transkei Government has declared itself ready and willing for immediate reincorporation into South Africa. No constraints or qualifications have been applied to this process except that existing bilateral agreements between South Africa and Transkei should continue in force during the transition period.

The Transkei Government has also agreed that the will of the people be tested on the issue of reincorporation notwithstanding its firm declaration for reincorporation.

The Transkei Government is willing to scale down sovereignty to a position of self-governing.

The main reason advanced by Transkei for immediate reincorporation has been stated as its desire that all Transkei citizens participate in all electoral processes associated with constitutional reform.

Transkei has not expressed its views on the state of government or constitution that it would wish to see and join with in the "new" South Africa.

Transkei has declared emphatically that it wishes to participate in all transitional arrangements.

The Transkei Government has also made mention of a commitment to Regional Development but without implying any prerequisite in terms of a constitutional framework.

1.2 Venda

The Venda Government has also called for immediate reincorporation into South Africa without qualification. The Venda Government has declared itself for a unitary state in South Africa with one central government. They do not favour a federal-type government for the stated reason that the wealthy will continue to be wealthy and the poor will remain poor.

The Venda Government has reservations about testing the will of the people on the issue of reincorporation because it would be superfluous.

The Venda Government has also expressed a view on its desire to participate in all transitional arrangements.

Venda Government is willing to scale its sovereignty during the interim arrangements to self-government status.

1.3 Bophuthatswana

The Government of Bophuthatswana has stated unequivocally that at the present, weighed up

against the backdrop of strife-torn present-day South Africa, it has no intention of seeking reincorporation into R.S.A. However, in making this statement the Bophuthatswana Government has reserved its position to participate in CODESA, on the basis of the open invitation extended and within the parameters set out in their position paper submitted to Subgroup 4 on 23 March, 1992, entitled "The future of TBVC States" (pp. 1-2) and which are as follows.

- 3.1 There are presently neither political, legal and constitutional problems experienced between Bophuthatswana and the present South Africa, nor do we want to anticipate any under the yet unknown "New South Africa Constitution".
- 3.2 The present Bilateral as well as Multilateral Agreements between the South African Government and the other members of the Economic Community of Southern Africa (ECOSA) respectively, have fostered such cordial political, legal, constitutional and economic relationships that we in Bophuthatswana wish to have such relationships strengthened rather than weakened or severed with the advent of the unknown "New South Africa"
- 3.3 As a Sovereign Independent State politically, legally and constitutionally, our position has been stated consistently and repeatedly since CODESA 1. It might be worth re-emphasizing the premises or conditions under which we participate in the negotiations as were submitted during February at one of the meetings of Working Group 4:
 - 3.3.1 Our right to be allowed to choose freely, without external pressure or threat, the best possible solution for the future;
 - 3.3.2 Our right to be fully informed on the contents of various options for consideration and an objective evaluation of the likely implications resulting from these options (Political, Legal, Constitutional etc);
 - 3.3.3 The opportunity to assess freely and objectively the merits and demerits of each proposal for our specific situation as a Sovereign Independent State;
 - 3.3.4 The application of democratic principles and approaches in allowing the people of Bophuthatswana themselves a final say in determining the desired outcome.

1.4 Ciskei

The Ciskei Government is anxiously seeking a suitable and acceptable regional framework as a prerequisite to reincorporation. Ciskei's view is that the present independent state is non-viable and needs to be greatly enlarged to constitute existing Region "D" industrial area with possible minor boundary amendments. This larger regional unit coincides within reasonable terms of agreement with the ANC view and various other bodies. We see this area ads being identified as the Greater Kei region. The Ciskei Government would wish to participate in and be part of a unified federal state of South Africa in which strong autonomous regional government would prevail and be well represented in the central federal government. Ciskei perceives that such an arrangement wold immeasurably contribute to a stable, peaceful and prosperous Untied States of South Africa.

Regional government would provide the most practical solution to the diversity of South Africa's people and enable communities who have lived and worked together for centuries to govern, to a large extent, their own future destinies and social structures within a federal framework.

The Ciskei Government is concerned about the interim government concept and while not opposed to the idea, would wish to secure an ongoing commitment to existing South Africa/Ciskei bilateral and ECOSA multilateral agreements. This would ensure that Ciskei does not suffer in the transitional period as it has in the past. The Ciskei Government would wish to retain its sovereignty during the transitional period until such time as proper arrangements have been made for

- (a) a structured regional government,
- (b) an approved constitutional proposals for a united federal state, and
- (c) The establishment of an interim government in which Ciskei can participate and help shape the future new South Africa.

The Ciskei Government would also wish to ensure that its membership of the South African Commerce Customs Union will continue, and that Ciskei will continue to receive its financial share of the customs pool of revenue; as well as its share of all other financial transfers in terms of the comprehensive fuel levy, the rand monetary area and tax returns (that is, VAT clearing house) until effective reincorporation has taken place.

Ciskei has also proposed that harmonisation of legislation and taxation may well take place on a regional basis as well as the rationalisation and restructuring of the civil service.

The Ciskei Government has also agreed that the will of the people should be tested on reincorporation. While agreeing to this process, Ciskei has already canvassed the reincorporation issue with the rural communities via meetings with the body of traditional chiefs (some 43 chiefs have been consulted). Opinion of urban communities has not been tested.

1.5 Summary

The situation on the issue of reincorporation as at 23 March, 1992 is as follows.

- 1.5.1 The Republics of Transkei and Venda are seeking immediate reincorporation with the Republic of South Africa, and wish that all necessary actions be instituted to accomplish this goal. Existing bilateral agreements to remain in force during the transitional period.
- 1.5.2 The Transkei Government has, however, qualified the above position by agreeing to a referendum to test the will of the people.
- 1.5.3 The Bophuthatswana Government has eloquently expressed its desire to positive participation in the CODESA arrangement and to keep its options open.
- 1.5.4 The Ciskei Government has consistently pursued its position within a greater viable regional unit to be part of the South African commonwealth within a United Federal State of South Africa.
- 1.5.5 Ciskei has reserved its position on reincorporation with qualification and constraints being applied to the two issues of (a) the establishment of strong regional government and (b) the adoption of a constitution for a United Federal State of South Africa.

1.5.6 The Government of Ciskei has advanced views on other issues too relating to harmonisation of legislation, taxation and rationalisation of the civil service.

2. The South African Government.

The Governments's representative said that he was opposed to the notion of the TBVC states taking part in the interim government process. He later clarified this position. The States were welcome to "design the house", that is, take part in all the initial processes to set up the interim arrangement, but could not be part of structures or sub-structures in the actual arrangement once it is in place. Only South African citizens could take part. He was against the concept of *dual citizenship*.

3. Other views.

3.1 The Labour Party stated its viewpoint on the matter of the participation of the TBVC states in transitional arrangements. In essence, the Labour Party position is that the TBVC states should be included in transitional arrangements despite their currently enjoying sovereign status, but only if a commitment to reincorporation is obtained from such states. Under no circumstances should any one of the TBVC states be permitted participation in such arrangements without such a commitment to reincorporation.

If the matter of sovereignty should become a legal/constitutional problem, the states themselves would have to consider scaling down their status to the of self-governing status (as suggested by the delegate from Inyandza National Movement) with commitment given to prevent any economic hardship during the transitional period.

3.2 Anxieties have been expressed on different occasions about the inadvisability of testing the will of the people on the desirability or otherwise of a constitutional arrangement for a new South Africa before the writing of such a constitution has even commenced.

In this regard, it is important to note that such a testing of the will of the people is based on a principle rather than on specific detail. Once the principle of the reincorporation of the TBVC states into a new South African constitutional arrangement is accepted, the qualifying participants are enabled to participate and make their contributions towards the beating out of a constitution which would accommodate as far as possible their fears and aspirations.

4. Assessment of the situation on the issue of reincorporation.

4.1 The NIC/TIC representative attempted to record the points on which there was approaching consensus.

4.1.1 South African citizenship should be accorded formally or informally to all citizens of the TBVC states to enable them to take a meaningful part in all aspects of the interim arrangement. Dual citizenship was an internationally recognised phenomenon and was practised by the South African Government in the recent whites-only referendum.

4.1.2 Thus, the testing of the will of the people of South Africa (including the TBVC states) could be achieved in the election for the Constituent Assembly

or similar structure charged with the task of drawing up the constitution.

4.1.3 The TBVC states could continue to operate during the Interim arrangements to ensure smooth administration in these areas.

4.1.4 The practical, financial, land transfer matters, constitutional and legal problems can be sorted out by the Interim Government in consultation with the TBVC states.

4.2 From submissions made up to this point, it is clear that lists of legislation exist which have been enacted by the legislatures of the TBVC states on the one hand and the South African Government on the other. Some of the laws which exist are in conflict. The need for the five legislatures to start immediately with efforts towards harmonising legislation has become very evident. To this end, Subgroup 4 wishes to recommend that a consultative mechanism be created expressly with this aim in mind in preparation for and interim government.

SCHEDULE OF MEETINGS FOR WORKING GROUP 4

Monday 30 March 1992 - Working Group 4 meeting : 10:00 to 16:00

Monday 30 March 1992 - Working Group 4 Steering Committee to take place after the conclusion of the working group 4 meeting

Tuesday 31 March 1992 - Working Group 4 Sub Group 1 : 10:00 to 16:00

Tuesday 31 March 1992 - Working Group 4 Sub Group 2 : 10:00 to 16:00

Tuesday 31 March 1992 - Working Group 4 Sub Group 3 : 10:00 to 16:00

Tuesday 31 March 1992 - Working Group 4 Sub Group 4 : 10:00 to 16:00

REPORT ON THE JOINT MEETING BETWEEN SUB-GROUP ONE AND SUB-GROUP TWO OF WORKING GROUP FOUR: 24 MARCH 1992

- 1 On 24 March 1992 sub-groups 1 and 2 of WG 4 held a joint meeting. The meeting was chaired by Mr S Verveen (Acting Chairman, Sub-Group 2) and Mr E Moorcroft (Chairman, Sub-Group 1).
- 2 The purpose of the meeting was to enable the sub-groups to inform one other of the results of their deliberations, and to establish whether the results of each sub-group's deliberations could assist the other in fulfilling its mandate.
- 3 It emerged that there was in fact little direct connection between the work done by the two sub-groups:
 - 3.1 Sub-group 2 ('Citizenship') had discussed the question of restoration of South African citizenship. Some members of the group felt that the restoration of citizenship should depend on the outcome of a prior testing of the will.
 - 3.2 However, sub-group 1 ('Testing of the will of the people') had discussed testing of the will with regard to re-incorporation, and not with regard to restoration of citizenship.
- 4 The reason for this lack of direct connection between the work of the two sub-groups is that there is not consensus within either sub-group whether restoration of citizenship should be dependent on re-incorporation:
 - 4.1 One view is that restoration of citizenship is simply returning to South Africans what they were deprived of when the four Status Acts were passed. In other words, it is simply a question of restoring the status quo, in the same manner as that by which citizenship was removed. On this view, there is no necessary connection with re-incorporation: it is not uncommon for citizens of one state to live in another state.
 - 4.2 Another view is that there is an absolute and unbreakable logical link between restoration of citizenship and re-incorporation. On this view, the logical and necessary first step is to test the will of the people on the question of re-incorporation. If the result is in favour of re-incorporation, then the restoration of citizenship will follow. This could take place before other aspects of re-incorporation have been completed.
- 5 This conclusion emerged from the reports presented by the two sub-groups on the results of their deliberations to date, and from the discussion of those reports.

Report: WG 4 SG 1 & 2

24 March 1992

The report of Sub-group 2

- 6 The Acting Chairman of sub-group 2 reported that the sub-group has reached sufficient consensus that South African citizenship be restored. In this regard there are two views:
- 6.1 Citizenship should be restored immediately;
- 6.2 Citizenship should be restored after the testing of the will of the people and if such expression of the will is in favour thereof.
- 7 The Bophuthatswana Government recorded its position that
- 7.1 Citizenship should not be imposed upon people
- 7.2 The will of the people at all time be tested in terms of the procedures that might be agreed upon.
- 8 Sub-group 1 further reported that, with regard to the mechanics of the restoration of citizenship
- 8.1 It was agreed that the question of subjecting the restoration of citizenship to the will of the people be referred to sub-group 1 of WG 4.
- 8.2 It was further agreed that the question of the mechanics, time span and implementation of the restoration of citizenship be referred to WG 5.
- 9 At the joint meeting, some participants asked whether this reflected any consensus at all, in the light of the two differing views set out in paragraph 6 above. Members of the sub-group explained that the sub-group had indeed reached consensus amongst themselves that citizenship should be restored: but that some members felt that they should not be the final judges on this question, and that the people should express a final view on this through a testing of their will.

The report of sub-group 2

- 10 The Chairman of the sub-group presented a 'Final Summary' of the proceedings of this sub-group, recording that sufficient consensus had been reached on various of its terms of reference, with the exception of Bophuthatswana which had expressed certain reservations. (This 'Final Summary' is Addendum C to the minutes of the sub-group's meeting of 9 March 1992.)
- 11 The sub-group had agreed inter alia that the will of the people in the TBVC states be tested concurrently with the rest of South Africa, and that this be by way of referendum.

-
- 12 One of the matters recorded in the 'Final Summary' was that sufficient consensus had been reached that the will of the people in the TBVC states be tested. In a longer document headed 'Preliminary Summary of Proceedings' (Addendum B to the minutes of the sub-group's meeting of 9 March 1992), which gave a fuller account of the discussions of the sub-group, it was stated that it was agreed that 'if [it was suggested that this should read 'when'] the will of the people in the TBVC states is to be tested, then it will be necessary to count the votes of the people in those states separately from those of people in the rest of South Africa'. Certain parties had specifically recorded that they would not accept a referendum in which separate counting was done on the basis of race or ethnicity.
- 13 At the joint meeting, it emerged that contrary to the prior discussions of the sub-group, there was in fact not consensus on the question of separate counting of the votes of the people in the TBVC states. Certain parties opposed a separate counting. They stated that if a general testing of the will was to take place, in their view the people in the TBVC states should be able to participate in this testing. However, the votes of people in the TBVC states should not be separately counted.
- 14 It was pointed out that the terms of reference of sub-group 1 specifically require the sub-group 'to consider testing the will of the people concerned regarding re-incorporation or otherwise, of the TBVC states, by acceptable democratic means'. This, and other parts of the terms of reference, necessarily implied a separate counting. As in fact there was not consensus on the question of a separate counting, the sub-group could not give effect to its terms of reference. It was agreed that this should be reported to the Steering Committee of WG 4 and, if the Steering Committee thought it appropriate, to the plenary meeting of WG 4.
- 15 As a result of the deadlock on this issue, the joint meeting did not reach the question of who constitute 'the people concerned' in relation to the TBVC states. If a separately counted testing of the will of 'the people concerned' is to be undertaken, a decision would have to be taken as to which of the following groups would be included:
- 15.1 Citizens of a TBVC state resident in that state;
 - 15.2 Non-citizen residents of a TBVC state;
 - 15.3 Citizens of a TBVC state not resident in that state;
 - 15.4 Citizens of a TBVC state who are dual citizens, having acquired SA citizenship through the Restoration of SA Citizenship Act.

The sub-group had deferred discussion on the eligibility of voters until it had heard the recommendations of sub-group 2 of WG 4, and WG 2 and 3. As mentioned above, sub-group 2 did not deal with this question as it dealt only with restoration of citizenship.

Report: WG 4 SG 1 & 2

24 March 1992

General

- 16 It also emerged from the joint meeting that the matters being discussed by certain other Working Groups are directly relevant to the issues discussed by sub-groups 1 and 2. For example, the underlying assumption of the discussions of sub-group 1 was that an all-encompassing referendum will be held. The question was raised whether the rest of the Codesa process, as it is currently developing, actually contemplates this.

G M Budlender
Rapporteur

THESE ARE DRAFT MINUTES, AS APPROVED BY THE CHAIRPERSON. THEY ARE CONFIDENTIAL AND RESTRICTED TO THE MEMBERS OF SUBGROUP 3, THE WORKING GROUP STEERING COMMITTEE, THE DAILY MANAGEMENT COMMITTEE AND THE MANAGEMENT COMMITTEE. THEY ARE STILL SUBJECT TO RATIFICATION BY THE SUBGROUP AT ITS NEXT MEETING.

MINUTES OF THE FIFTH MEETING OF SUBGROUP 3 (THE ADMINISTRATIVE, FINANCIAL AND PRACTICAL EFFECTS OF REINCORPORATION OF THE TBVC STATES) HELD AT THE WORLD TRADE CENTRE ON MONDAY, MARCH 23, 1992.

PRESENT **Delegates** **(See Addendum A)**

JL Mahlangu **(Chairperson)**

WJ Viljoen **(Minutes)**

1. Chairperson's opening remarks and adoption of draft agenda.

The Chairperson welcomed the delegates and a special word of welcome was extended to Mr GM Memela (Rapporteur) and Mr N Singh of Solidarity, who has replaced Dr Bagwandeem.

Mr Memela was wished well on his role as Rapporteur.

The draft agenda was adopted.

2. Ratification of minutes of the meeting of Subgroup 3 held on March 9, 1992.

The minutes of the fourth meeting of Subgroup 3 were ratified subject to the following amendments that were agreed upon:

- 2.1. 6.2. Add: "A list of all outstanding information will be supplied to the Subgroup by the minute taker."
- 2.2. 5. Add: "Since the National Party decided to withdraw their nomination of a Rapporteur in the interest of progress, it was agreed..."
- 2.3. Names in Addendum A were corrected.
- 2.4. 3.2.4. substitute "delay" for "attitude"

3. Progress on assembling material identified in the minutes of Subgroup 3 meeting held on February 18, 1992.

- 3.1. SA Government

 1 Document was tabled.

 See: 9: Information received.
- 3.2. TBVC Governments

3.2.1. Transkei Government

3 Documents were tabled

See: 9: Information received.

3.2.2. Bophuthatswana Government

No additional information was tabled.

3.2.3. Venda Government

2 Documents were tabled.

See: 9: Information received.

3.2.4. Ciskei Government

A comprehensive document was tabled structured according to the minutes of the meeting of 18 February 1992.

See: 9: Information received

The delegate from the Ciskei Government apologized for not being present at the previous meeting and for the time delay in providing information.

The meeting accepted the explanation and thanked the delegate for the information provided.

3.3. The Development Bank of Southern Africa

It was noted that the DBSA will be providing comprehensive information which will be available at the next meeting.

3.4. Other information

3.4.1. Three SECOSAF documents were tabled.

See 9: Information received.

3.4.2. The delegate from the Venda Government noted that information on the retention of business confidence was still to be submitted by the Venda Government.

4. Identification of further information needed.

It was agreed that this will be investigated as the work of the Rapporteur proceeds.

5. Submissions

Position papers/discussion papers were submitted by:

5.1. The ANC (Addendum C)

- 5.2. The SACP (Addendum D)
- 5.3. The Democratic Party (Addendum E)
- 5.4. The Labour Party (Addendum F)
- 5.5. The Bophuthatswana Government (Addendum G)

It was agreed that all parties/organizations will submit position papers to the minute taker by no later than 14:00 on Thursday, 26 March 1992, for distribution to the Rapporteur.

The SA Government and Inkatha delegates indicated that they will not be able to submit their position papers by the deadline agreed to.

Objections were raised and noted to the Bophuthatswana delegate leaving the meeting prior to closure.

The SACP delegate noted their dissatisfaction at not being able to raise and discuss certain issues at this meeting.

6. Production of report for Subgroup 3.

It was agreed that this will be left till the next meeting.

7. Any other business

7.1. Land Moratorium

It was agreed that the Rapporteur will submit a draft agreement on the Land Moratorium to the next meeting of Subgroup 3, so that this issue can be finalised at the next meeting of Subgroup 3.

7.2. Participation of Advisors in Working Group 4 Plenary sessions.

It was reported that advisors can interchange their positions to allow advisors to participate in Plenary Session debates. In this situation the previous delegate would assume the seat of the advisor. Heads of delegations should guide the procedure.

8. Date of next meeting

The next meeting will be on Tuesday, March 31, 1992 at 10:00 to 16:00.

9. Information received

Information received from the SA Government

- 9.1. Government Pension Funds Paragraph 11.6. of the minutes of the meeting held on 18 February and State Debt - Paragraph B.6. of the same minutes.

Information received from the Transkei Government

- 9.2. Transkei Status Report
- 9.3. Transkei Electricity Supply Corporation: Financial Statements 31 March 1991.

- 9.4. Transkei Airways Corporation: Statements: 31/12/91.

Information received from the Venda Government

- 9.5. Status of the Republic of Venda Pension Fund.
9.6. Venda Comparative Indicators.

Information received from the Ciskei Government

- 9.7. Comprehensive document as supplied to all delegates.

Information received from SECOSAF

- 9.8. Multilateral agreement between the Governments of TBVCSA for the avoidance of double taxation, the prevention of fiscal evasion, the rendering of mutual assistance and co-operation, and the establishment of a transfer system, with respect to VAT.
9.9. Manual on the implementation of the Regional Industrial Development Incentives introduced on 1 April 1982.
9.10. RSA Regional Industrial Development Programme Incentive Package applicable from 1 May 1991.

10. Closure

The meeting was adjourned at 16:00.