

WORKING GROUP 5

TIME FRAMES AND IMPLEMENTATION OF CODESA'S DECISIONS

TRANSKEI'S DRAFT POSITION PAPER

1. INTRODUCTION

The universal discrediting and condemnation of apartheid underlines the illegitimacy of the present apartheid government. The declared intentions of the regime to move away from apartheid, however, do not mean that the present government and its constitution is legitimate. Its illegitimacy remains hence the need for a transfer of power from the minority to a democratic and legitimate government of the majority.

As participants in Codesa have committed themselves in terms set out in the Declaration of Intent it is incumbent on each to ensure that proposals that are presented to the working groups are consistent with democracy and do not militate against the spirit and letter of the Declaration of Intent.

History has proved that transition from oppressive systems to democracy raises the expectations of the people to higher levels. This is particularly so to the deprived section of the population whose demands for change are accentuated by the contrast between the privileged few and the deprived majority. It must be under-

stood that this process of transition takes place at a time when our country is ravaged by a crisis of unprecedented proportions.

It is therefore very important for us to direct our efforts and resources in managing this process to meet these legitimate expectations whilst at the same time allowing the democratisation process to assert itself without artificial and unnecessary delays which are meant to bolster one's sectional interests which may be imposed on us.

What should be our guiding principle is the overall objective that we have set ourselves in the Declaration of Intent, to which we have committed ourselves, thus acknowledging that this objective represents the interest of the majority of the people of South Africa.

We, the Transkeian delegation, would therefore like to propose the following time frames and target completion dates for the whole of this process:-

2. TIME FRAMES

STRUCTURE	TASKS	TIME FRAMES
CODESA	Working Groups negotiate agreements on the basis of their terms of reference.	February 1992
	- Agreements adopted by full sitting of Codesa.	3-4 months

- Agreements drafted into Bills by Codesa sub-structures
- passed by tricameral parliament April-May 1992
- Codesa completes its work May 1992

**INTERIM
 GOVERNMENT**

- Interim Government takes off May 1992
- continues to govern as a sovereign government until a democratic government is installed. Sept. 1993
- Detailed negotiations on the question of re-incorporation and implementation as agreement is reached June-July 1992
- Campaign for elections
- Registration of Voters
- Elections for Constituent Assembly 30 Dec. 92

CONSTITUENT ASSEMBLY

- elects chair and establishes rules of procedure Dec. 1992/ Jan. 1993
- negotiates new constitution on the basis of constitutional principles agreed upon at Codesa. 3-4 months
- adopts a new constitution May 1993

**FORMATION OF PARLIAMENT AND
 GOVERNMENT**

- Constituent Assembly dissolves May 1993
 - Election of new parliament 3-4 months
 - Formation of democratic government
 - Interim Government dissolves Sept. 1993
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DEMOCRATIC - formal end of apartheid rule
GOVT.

3. IMPLEMENTATION OF DECISIONS

It is our firm belief that we have committed ourselves to the implementation of agreements reached at Codesa. Furthermore we believe that the agreements of Codesa should be binding on all including the non-participants.

This can be given effect to, if the present parliament in its current sitting enacts legislation which formally establishes Codesa as an institution of authority in order to accord its decisions legal force so that they are valid in the eyes of everybody including the present legislature. Agreements adopted by the full sittings of Codesa which need legislation, shall be drafted into Bills by Codesa sub-structures and legislated upon by the tricameral parliament. Where they clash with any Act of parliament, they should enjoy precedence over the said Act, and such Act should be repealed or amended accordingly.

We are proposing this process because it is our understanding that Codesa is at this stage the body which is part of the process of transformation, which means that any or all decisions related to the transformation will have to be taken only at Codesa until such time that the stage of Interim Government will have been reached.

A drafting sub-committee will have to be established to work on the following:-

- An Enabling Act

- In the main the Act would formally establish Codesa as an institution of authority so that its decisions are valid in the eyes of everybody including the RSA legislature. The Act would also define the mechanism through which decisions, in respect of which legislation is required, shall be legislated upon.

An alternative to the above would be the promulgation of a General Act to undermine all existing Acts that are in conflict with democracy.

- Status Acts

- The sub-committee would make an honest, objective and disinterested evaluation of the purpose, content, essence, and scope of the act with a view to recommending their repeal as a prelude to the re-incorporation of the TBVC States. It is expected that Working Group 4 will work on the details hereof.

The drafting sub-committee should also be given the task of

keeping a regularly updated comprehensive list of all the decisions and agreements of Codesa.

The Working Group Steering Committee will, in consultation with the Daily Management Committee, attend to all administrative (including co-ordination) tasks arising from the terms of reference.

After Codesa II the Management Committee and its sub-structures should co-ordinate the activities of Codesa and its subsidiary bodies to ensure the greatest possible efficiency of the process towards a democratic South Africa, and should ensure that up-to-date information in respect of progress made is disseminated to all Codesa participants, interested parties and authorities.

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