

DRAFT AGENDA FOR THE NINTH MEETING OF WORKING GROUP 2 (CONSTITUTIONAL PRINCIPLES) ON 7 APRIL 1992 AT THE WORLD TRADE CENTRE

- 1. **Apologies**
- 2. **Ratification of Agenda**
- 3. **Ratification of Minutes**
- 4. **Discussion on Assignment 2**
 - 4.1 Further Questions to ANC and Further Submissions
 - 4.2 General Discussion of Key Issues with Reference to the Constitution Making Body (Steering Committee suggestions)
- 5. **Key Issues to be Addressed:**
 - 5.1 Economic freedom, governmental intervention and economic systems
 - 5.2 Accommodation of the diversity of languages, cultures and religions
 - 5.3 Role of Traditional Leaders
 - 5.4 The Bill/Charter of Fundamental Rights including:
 - 5.4.1 Its nature and scope
 - 5.4.2 Affirmative action
 - 5.4.3 Second generation rights
 - 5.5 Self-determination
- 6. **AOB**
 - 6.1 Progress with Public Submissions
 - 6.2 Item 4.4 of the Minutes of the Meeting of 2 March 1992
- 7. **Next Meeting**

WORKING GROUP 2
7 APRIL 1992

**SUGGESTED DISCUSSION ON CONSTITUTION MAKING BODY PREPARED BY WORKING
GROUP 2 STEERING COMMITTEE**

1. Should the Constitution Making Body (hereafter CMB) be elected?
If yes, should restraints on decision making by simple majoritarianism be applied:
 - 1.1 By a specially constructed second chamber, or
 - 1.2 By special majorities or other mechanisms built into the CMB itself?
2. How far should Codesa go in "fleshing out" the constitutional principles?
3. Should TBVC voters participate in the election of a CMB?
4. Should the CMB also act as the interim legislature?
5. Is there a role for a referendum? If yes, at what point in the constitution-making process?

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

MINUTES OF THE NINTH MEETING OF WORKING GROUP 2 (CONSTITUTIONAL PRINCIPLES) HELD AT THE WORLD TRADE CENTRE ON MONDAY, 30 MARCH 1992 AND TUESDAY 31 MARCH 1992

PRESENT:

Delegates and advisors (See Addendum A)
Adv Holomisa (Chair)
MJ Mahlangu (Chair)
M Phillips (Secretary)
R Hartley (Minutes)

DOCUMENTS DISTRIBUTED:

1. Draft agenda
2. Ratified minutes of the seventh meeting of Working Group 2 held on 9.2.92
3. Draft minutes of the eighth meeting of Working Group 2 held on 23.3.92 and 24.3.92
4. Working Group 2: Constitution-making body/process (Venda Government 30.3.92)
5. Dikwankwetla Party: Standpoint on constitution making body
6. Statement by the Government on proposed transitional arrangements
7. Working Group 2 - ANC proposals - 31.3.92: Body and procedures for drafting a new constitution
8. Views on a constitution-making body tabled by the SA Government at Codesa Working Group 2
9. Statement by the Government on proposed transitional arrangements
10. Document 1: Submissions to Working Group 2 from non-Codesa organisations and individuals
11. Document 2: Summary of substantive submissions to Working Group 2 from non-Codesa organisations and individuals
12. TIC/NIC submissions to Codesa: Constitutionalism, minorities and power sharing

1. Apologies 30.3.92

C Ramaphosa	African National Congress (Alternate: A Sachs)
HM Neerahoo	National People's Party (Alternate: B Jayraj)
J Rabie	National Party (Alternate: S Camerer)
MJ Mahlangu	United People's Front
C Albertyn	Inyandza National Movement
Adv Mushasha	Venda Government
Z Yacoob	NIC/TIC (Alternate: T Pillay)
PZ Ndamase	Transkei Government (Alternate: M Nonkonyana)
S Cloete	Ximoko Progressive Party (Alternate: SLE Mгимeti)
B Ndzimande	SA Communist Party (Alternate: E Daniels)

Apologies 31.3.92

J Rabie	National Party (Alternate: S Camerer)
SG Mothibe	Bophutatswana Government
R Cronje	(Alternate: TE Scheepers)
I Findlay	
P Ndamase	Transkei Government (Alternate: M Nonkonyana)
I Omar	Solidarity Party
K Reddy	(Alternates: N Singh, K Reddy)
C Ramaphosa	African National Congress (Alternate: A Sachs)
BS Ngubane	IFP
Z Yacoob	NIC/TIC (Alternate: T Pillay)
I Omar	Solidarity
B Ndzimande	SA Communist Party (Alternate: E Daniels)
Adv Mushasha	Venda Government

2. Ratification of Agenda

2.1 The agenda was ratified with the following change:

- 2.1.1 Item 6.1 "Progress with Public Submissions" was moved forward on the agenda to Item 3B.

3. Ratification of Minutes

- 3.1 The minutes of the meeting of 9.3.92 were ratified with the following changes:
- 3.1.1 The spelling of M Nonkonyana was corrected under Item 1.
 - 3.1.2 Item 2.1.3 was amended to read: "The ANC proposed that the issue of the reported impending execution of death row prisoners be placed on the agenda. Discussion was suspended pending a possible agreement on the issue in Working Group 1."
 - 3.1.3 Mr Mabuza pointed out that he had attended the meeting of 23.3.92.
 - 3.1.4 Mr Nokonyana pointed out that he had attended the meeting on 23.3.92 and 24.3.92.
 - 3.1.5 The spelling of GM Ligege was corrected in Addendum A.

3B. Progress with Public Submissions

- 3B.1 Dr Delpont spoke to two documents relating to public submissions to the Working Group. The documents are listed as documents 7 and 8 in the list of documents. Dr Delpont pointed out that the documents constituted interim summaries of those submissions received by 2.3.92. a final summary of issues raised by public submissions will be prepared by the Steering Committee and tabled at a future meeting.

4. Discussion on Assignment 2: Constitution Making Body and Process

- 4.1 Delegates continued questioning the SA Government on their submission of 23.3.92 and 24.3.92.
- 4.2 The following parties made submissions on the issue:
- 4.2.1 SA Government (repeat of submission on 23.3.92 and 24.3.92)
 - 4.2.2 Venda Government
 - 4.2.3 Dikwankwetla Party
 - 4.2.4 Labour Party
 - 4.1.5 African National Congress
 - 4.1.6 The meeting ended before questions to the African National Congress had been completed. It was agreed that questions would be continued at the next meeting.

6. Next Meeting

- 6.1 The next meeting will take place on 7.4.92 from 10h00 to 16h00 at the World Trade Centre.

ADDENDUM A

The following delegates and advisors signed the Attendance Register of Working Group 2 meeting held on 30 March 1992:

Organisation	Delegate/Advisor
African National Congress	MV Moosa F Ginwala A Sachs
Bophutatswana Government	SG Mothibe TE Scheepers R Cronje
Ciskei Government	MC Kashe IJ Smuts J Laubuschagne VR Zietsman
Democratic Party	CW Eglin AJ Leon D Welsh D Worrall
Dikwankwetla Party	SOM Moji S Mopeli M Mopeli
Inkatha Freedom Party	N Brits SH Gumede BS Ngubane M Alachouzoz
Intando Yesizwe Party	SJ Mgidi AP Laka MP Mahlangu IT Mahlangu
Inyandza National Movement	EN Ginindza I Lephoko BE Mabuza
Labour Party	D Lockey IM Richards G Devenish C Nasson J Scholtz

Natal/Transvaal Indian Congresses	T Pillay IC Meer F Haysom F Cachalia
National Party	F van Heerden S Camerer I Rautenbach
National People's Party	M Mohanlall S Ismail B Singh B Jayraj
Solidarity Party	DS Rajah I Omar K Reddy R Arenstein
SA Communist Party	J Slovo N Hoosain E Daniels
SA Government	G Viljoen JT Delport F Venter JHE Basson
Transkei Government	SP Holomisa R Nogumla DS Koyana M Nonkonyana
United People's Front	MC Ramusi KR Malatji RJ Dombo MP Pladi
Venda Government	GM Ligege MP Nthabalala A Budeli
Ximoko Progressive Party	EE Ngobeni KR Myakayaka SLE Mгимети J Ackron

The following delegates and advisors signed the Attendance Register of Working Group 2 meeting held on 31 March 1992:

Organisation	Delegate/Advisor
African National Congress	MV Moosa A Sachs F Ginwala
Bophutatswana Government	TE Scheepers
Ciskei Government	MC Kashe IJ Smuts J Laubuschagne VR Zietsman
Democratic Party	CW Eglin A Leon D Welsh
Dikwankwetla Party	SOM Moji S Mopeli M Mopeli
Inkatha Freedom Party	N Brits SH Gumede M Alachouzos
Intando Yesizwe Party	SJ Mgidi AP Laka MP Mahlangu IT Mahlangu
Inyandza National Movement	C Albertyn EN Ginindza I Lephoko BE Mabuza
Labour Party	D Lockey IM Richards G Devenish C Nasson
Natal/Transvaal Indian Congresses	T Pillay IC Meer F Haysom F Cachalia
National Party	F van Heerden S Camerer I Rautenbach

National People's Party	M Mohanlall S Ismail B Singh B Jayraj
Solidarity Party	DS Rajah K Reddy R Arenstein N Singh
SA Communist Party	J Slovo N Hoosain E Daniels
SA Government	G Viljoen JT Delport F Venter JHE Basson
Transkei Government	SP Holomisa R Nogumla DS Koyana M Nonkonyana
United People's Front	MC Ramusi KR Malatji RJ Dombo MJ Mahlangu
Venda Government	GM Ligege MP Nthabalala A Budeli
Ximoko Progressive Party	EE Ngobeni KR Myakayaka SLE Mgimeti J Ackron



MINUTES OF THE EIGHTH MEETING OF WORKING GROUP 2 (CONSTITUTIONAL PRINCIPLES) HELD AT THE WORLD TRADE CENTRE ON MONDAY, 23 MARCH 1992 AND TUESDAY 24 MARCH 1992

(ADOPTED AT THE WORKING GROUP 2 MEETING HELD ON 30/31 MARCH 1992)

PRESENT:

Delegates and advisors (See Addendum A)
Adv Holomisa (Chair)
M Phillips (Secretary)
R Hartley (Minutes)

DOCUMENTS DISTRIBUTED:

1. Draft agenda
2. Ratified minutes of the sixth meeting of Working Group 2 held on 2.3.92
3. Draft minutes of the seventh meeting of Working Group 2 held on 9.3.92
4. 23.3.92 Draft principle on a bill/charter of fundamental rights prepared by the Steering Committee of Working Group 2
5. 23.3.92 Draft principle on the role of traditional leaders prepared by the Steering Committee of Working Group 2
6. 23.3.92 Draft principle on economic freedom, governmental intervention and economic systems prepared by the Steering Committee of Working Group 2
7. 23.3.92 Draft principle on the accommodation of the diversity of languages, cultures and religions prepared by the Steering Committee of Working Group 2
8. Revised submissions: National People's Party: Group and minority rights
9. Democratic Party: Policy proposals for the management of transition
10. Proposals of the Inyandza National Movement concerning the key issues to be addressed in the 2nd Assignment
11. Intando Yesizwe Party submission on constitution making body: Codesa Working Group 2
12. Preliminary proposals of the Inyandza National Movement concerning constitution making body and the constitution making process
13. 24.3.92 United People's Front submission to Codesa on constitution making body: Working Group 2
14. Ciskei Government: Submission to Codesa on constitution making body and process
15. 23.3.92 Ximoko Progressive Party: Position paper on the constitution making process
16. 23.3.92 Codesa Working Group 3: SA Government proposals for transitional arrangements

CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

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1. Apologies 23.3.92

R Cronje	Bophutatswana Government
P Ndamase	Transkei Government (Alternate: M Nonkonyana)
F Cachalia	Natal/Transvaal Indian Congresses (Alternate: F Haysom)
D Worrall	Democratic Party (Alternate: A Leon)
BS Ngubane	Inkatha Freedom Party (Alternate: M Alachouzos)

Apologies 24.3.92

J Rabie	National Party (Alternate: S Camerer)
SG Mothibe	Bophutatswana Government (Alternate: TE Scheepers)
R Cronje	
I Findlay	
S Ismail	National People's Party (Alternate: AS Pillay)
P Ndamase	Transkei Government (Alternate: M Nonkonyana)
I Omar	Solidarity Party (Alternate: R Arenstein)
C Ramaphosa	African National Congress (Alternate: A Sachs)

2. Ratification of Agenda

- 2.1 The Working Group agreed to include the following items under Any Other Business:
- 2.1.1 Steering Committee report on submissions to Working Group 2 from the public.
 - 2.1.2 Further discussion of item 4.4 of the minutes of 2.3.92
 - 2.1.3 The ANC proposed that the issue of the reported impending execution of death row prisoners be placed on the agenda. Sufficient consensus was not achieved on the ANC proposal and discussion was suspended pending a possible agreement on the issue in Working Group 1.

3. Ratification of Minutes

- 3.1 The minutes of the meeting of 9.3.92 were ratified with the following change:
- 3.1.1 R Cronje was added to the list of those who tendered their apologies.

4. Discussion on Assignment 2: Constitution Making Body and Process

- 4.1 The following parties made submissions on the issue:
- 4.1.1 Inyandza National Movement
 - 4.1.2 Intando Yesizwe Party
 - 4.1.3 Democratic Party
 - 4.1.4 Solidarity Party
 - 4.1.5 United People's Front
 - 4.1.6 Transkei Government
 - 4.1.7 Ciskei Government
 - 4.1.8 Ximoko Progressive Party
 - 4.1.9 SA Government
 - 4.1.10 The meeting ended before questions to the SA Government had been completed. It was agreed that questions would be continued at the next meeting.
- 4.2 The following parties will make submissions to the next meeting of the Working Group:
- 4.2.1 Labour Party
 - 4.2.2 African National Congress
- 4.3 Parties which made verbal submissions were requested to supply written versions to delegates at the next meeting.

5. Any Other Business

- 5.1 Public Submissions to Working Group 2
- 5.1.1 The Steering Committee reported that it was working through public submissions and that summaries of those submissions which had been worked through would be presented to the next meeting.

6. Next Meeting

- 6.1 The next meeting will take place on 30.3.92 from 10h00 to 16h00 and 31.3.92 from 9h00 to 15h00.

ADDENDUM A

The following delegates and advisors signed the Attendance Register of Working Group 2 meeting held on 23 March 1992:

Organisation	Delegate/Advisor
African National Congress	MV Moosa F Ginwala A Sachs C Ramaphosa
Bophutatswana Government	SG Mothibe TE Scheepers
Ciskei Government	MC Kashe IJ Smuts J Laubuschagne VR Zietsman
Democratic Party	CW Eglin AJ Leon D Welsh
Dikwankwetla Party	SOM Moji S Mopeli M Mopeli
Inkatha Freedom Party	N Brits SH Gumede BS Ngubane M Alachouzozos
Intando Yesizwe Party	SJ Mgidi AP Laka MP Mahlangu IT Mahlangu
Inyandza National Movement	EN Ginindza C Albertyn
Labour Party	D Lockey IM Richards G Devenish C Nasson
Natal/Transvaal Indian Congresses	Z Yacoob IC Meer F Haysom

National Party	F van Heerden S Camerer I Rautenbach J Rabie
National People's Party	M Mohanlall S Ismail B Singh H Neerahoo
Solidarity Party	DS Rajah I Omar K Reddy R Arenstein
SA Communist Party	J Slovo B Nzimande N Hoosain E Daniels
SA Government	G Viljoen JT Delpport F Venter JHE Basson
Transkei Government	SP Holomisa R Nogumla DS Koyana
United People's Front	MC Ramusi KR Malatji RJ Dombo MJ Mahlangu
Venda Government	GM Ligege MP Nthabalala A Budeli Adv Mushasha
Ximoko Progressive Party	EE Ngobeni KR Myakayaka EPP Mhinga J Ackron

The following delegates and advisors signed the Attendance Register of Working Group 2 meeting held on 24 March 1992:

Organisation	Delegate/Advisor
African National Congress	MV Moosa A Sachs F Ginwala
Bophutatswana Government	TE Scheepers
Ciskei Government	MC Kashe IJ Smuts J Laubuschagne VR Zietsman
Democratic Party	CW Eglin D Worrall D Welsh
Dikwankwetla Party	SOM Moji S Mopeli M Mopeli
Inkatha Freedom Party	N Brits SH Gumede BS Ngubane M Alachouzos
Intando Yesizwe Party	SJ Mgidi AP Laka MP Mahlangu IT Mahlangu
Inyandza National Movement	C Albertyn EN Ginindza I Lephoko BE Mabuza
Labour Party	D Lockey IM Richards G Devenish C Nasson
Natal/Transvaal Indian Congresses	Z Yacoob IC Meer F Haysom

National Party	F van Heerden S Camerer I Rautenbach
National People's Party	M Mohanlall S Ismail B Singh H Neerahoo
Solidarity Party	DS Rajah K Reddy R Arenstein
SA Communist Party	J Slovo B Nzimande N Hoosain E Daniels
SA Government	G Viljoen JT Delpport F Venter JHE Basson
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United People's Front	MC Ramusi KR Malatji RJ Dombo MJ Mahlangu
Venda Government	GM Legege MP Nthabalala A Budeli Adv Mushasha
Ximoko Progressive Party	EE Ngobeni KR Myakayaka EPP Mhinga J Ackron