

THESE MINUTES ARE CONFIDENTIAL AND RESTRICTED TO THE MEMBERS OF THE WORKING GROUP, THE DAILY MANAGEMENT COMMITTEE AND THE MANAGEMENT COMMITTEE.

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.
- 4.4 The SA Government and the Bophuthatswana Government noted their objection to this view of consensus for WG 4. They stated that there could only be consensus in WG 4 if the TBVC Governments and the SA Governments were in agreement.
5. **Reincorporation/Opening Statements : Debate**
- 5.1 Various political formations stated their positions on this matter. Several of the groupings expressed themselves favourably disposed in principle to reincorporation.
- 5.2 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. The SA Government proposed that Ms Sigcau act as chairperson of WG 4 until Codesa 2. WG 4 referred this proposal to the Working Group 4 Steering Committee (WGSC 4).

12. **Closure**

The Chairperson closed the meeting at 16h00.

Sit Sigcau
18. 2. 92.

ADDENDUM A

The following persons attended:

| Organisation | Delegate | Adviser |
|-------------------------|------------------------------|----------------------------------|
| ANC | Alfred Nzo Matthew Phosa | Brigitte Mabandla Dullar Omar |
| Bophuthatswana Govt | SS Seane JJ Tholoe | 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 | WG Makanda |

| | | |
|--------------------------|---------------------------|----------------|
| | M Titus | 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.