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1. Introduction

8. Establishment of Regional Negotiations Commission and its
relationship to both the National Negotiations
Commissions through the National Negotiations

'. Consultative Forum and to Branch Negotiations Forums.

- Functioning of Regional Negotiations Forum

How successful? Problems and difficulties in effective
functioning in the future

Suggestions for more effective functioning in the future

3. Review of developments from the Ail Party Conference -
November 1991 to the Bilateral Summit - ANC and

Government and record of understanding - September 1992

4. Regional Negotiations Commission - the way forward

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A year ago, when our Regional Congress was held, the movement was still engaged in talks-about-talks which aimed to clear existing obstacles and open the way to negotiations. The Programme of Action drawn up by the National Campaigns Committee centred around demands for the: release of political prisoners; the return of exiles; the repeal of security legislation and the creation of a climate for freedom of political activity. Central to this latter demand was the control of violence unleashed and orchestrated by the regime and its surrogate forces in a bid to undermine and weaken the ANC prior to the onset of negotiations.

The liberation movement was forced with the choice of either insisting that all obstacles be removed prior to agreeing to enter into negotiations or moving rapidly and seizing the initiative by forcing the government to enter into negotiations even though major obstacles to negotiations continued to exist.

The NEC decided to push for negotiations to counter the regime's stalling tactics. The ANC's primary strategic goal is, and continues to be the transfer of power to the people. This is to be achieved through a negotiations settlement. It became clear that only with the institution of an Interim government could the remaining obstacles be eradicated and democratic elections held for the establishment of a Constituent Assembly which would draft a constitution for a democratic, non-racial, non-sexist united South Africa. This decision clarified the confusion and gave direction to the registration process. An attempt was made to engage and mobilise the masses around this decision by launching the "million signature campaign for a Constituent Assembly." This campaign was launched prior to the confusion of the negotiation process having been effectively strategised and explained to the rank and file membership. The enthusiasm in its launch soon waned. The call for an Interim Government and an elected Constituent Assembly remained key beacons guiding us in our work and programmes formulated by the National and Regional Executives, but for the most part remained abstract calls far removed from the everyday struggles for survival experienced by the majority of the oppressed.

Like this campaign, much of the work of the Negotiations Forum after the fan-fare of the CODESA launch remained hidden behind closed doors and removed from the day-to-day activities of Branch work. A careful assessment of the commercial and alternative press reflects this apathy. The

major event reported by the media between CODESA I and CODESA II was the all-white referendum held in March 1992 when the white minority was asked for a mandate to continue with negotiations. This contrasted starkly with the process entered into by the ANC and its allies with the adoption of the Harare Declaration and its endorsement by the DAU and United Nations in 1989.

The ANC NEC therefore had been given a mandate to proceed with the peaceful transfer of power to the people through a process of negotiations prior to its unbanning in February 1990. The Consultative Conference in December 1990 and the National Congress in July 1991 had endorsed the negotiation strategy alongside the liberation movement's other strategic priorities of continued international pressure and mass action to achieve our goal.

Although it was made abundantly clear that negotiations were to be a site of struggle alongside our other declared strategies and tactics, the strategy of negotiations impacted on the masses by demobilising and demoralising them. Political education officers at Branch level, branch executives and even regional executives of the ANC and its allies perceived the issues around negotiations in both their form and content as abstract and unrelated to local struggles and issues in which they were engaged. The general call for an Interim Government and Constituent Assembly were heeded. But the detailed and often convoluted arguments, discussions and developments around the nature, powers, functions, principles and decision-making status of these bodies; voter registration and eligibility; regionalism; federalism of a unitary state and a myriad of other questions debated by CODESA and its working groups were complex. Even the ANC's own positions, modifications and compromises reached in the five different working groups were difficult to keep track of during the months which the working groups battled to reach consensus. Far more difficult to convey clearly and adequately were the points of difference and conflict which exist between the two dominant players, the ANC and the National Party, let alone the ANC and other seventeen participants.

This report does not attempt to summarise the debates and conflicts. These are set out very clearly in the National Negotiations bulletins which all branches should have and which are appended to this report.

This report attempts instead to assess:

1. some of the difficulties we faced as a Regional Commission,
2. how we attempted to overcome these difficulties, and
3. to determine how successful we were in our work, and
4. finally to suggest ways in which the Negotiations Commission can be more effective in the future.

F N G I TIONS

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In discussions preparatory to the calling of the All Party Conference in October 1991, the National Negotiations Commission decided to establish a National Negotiations Consultative Forum (NNCF) which would ensure that the regions were kept informed and were able to strategise and be consulted on issues and developments around negotiations. Cde Mike Xego was allocated the RNC portfolio and in accordance with a decision taken by the NNCF he would act as a permanent delegate to this forum together with a second delegate who was to attend national meetings. Cde Marian Lacey was nominated as a second co-ordinator.

Our task was to establish a regional Task Force consisting of a member from the Youth League, Women's League and the Tripartite Alliance who would ensure that League members, our allies and all branches were kept fully informed of developments in CODESA. National meetings were held on average every five weeks, and reportback meetings and/or regional strategy meetings were to be held following or prior to national meetings.

Prior to the formation of the task force we held meetings at the beginning of the year with those sub-regions which had been launched, viz Albany, Grahamstown, Middel drift, PE and Karroo. Delegates from all branches were present at the sub-regional launches and they were urged to ensure that portfolios for branch Negotiation Commissions were established and people elected or nominated to fill these portfolios. The apathy of members around negotiations already dealt with the organisational problems and failure . ' to understand, communicate or educate the rank and file members about the nature of power and its transfer to people; our lack of resources and funds for travelling throughout the region or establishing a newsletter; the existing level of illiteracy of the majority of our members and the fact that communications bulletins and media reports stills failed to cater for our members who are not fluent in English, made the task of our commission challenging and difficult. Nonetheless, the reportback meetings held were lively and informative and we were very aware of the importance of obtaining a mandate prior to attending NNCF meetings.

We urge the incoming Branch Executives and the next Regional Negotiations Commission to W

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possible; For consultation, information and education to be effective, lines of communication around negotiations must be kept open. Regional positions on negotiation issues can be tabled nationally if the regional and branch negotiations

commissions meet regularly and are kept abreast of developments.

The policy decision to adopt continuous Lnlling_mass_agiinn in the future and not simply turn the tap on and off when deadlocks occur make it incumbent on us to ensure that popular and worker struggles around the negotiation process is both supportive and proactive so as to counter attempts by the regime to stall or reverse the process of change. The Branch and Zonal Negotiations Commissions through their elected delegates to the Sub-regional Negotiations Commissions should also ensure that they work closely with other commissions whose work overlaps or is interrelated with the work of the Negotiations Commission, viz Constitutional and Electoral Commissions and the departments dealing with Political Education and National Campaigns. We cannot stress too often the importance of showing how ALL local campaigns and struggles are ultimately bound with the overriding and primary strategic objective of transferring power to the people as quickly as possible. Calling for more textbooks, houses, better health care or employment under the present oppressive system at best merely makes the apartheid system work better and at worst diverts the energies and the anger of the people away from their primary demands - freedom from national oppression and economic exploitation.

To ensure more effective functioning in the future the organisational aspects of branch, zonal and sub-regional commissions will have to be discussed, given our limited resources.

Training of cadreship at all levels will have to be seen as a priority. It is not possible to hold monthly reportback and strategy meetings in all six sub-regions. It is possible to call delegates from each of the sub-regions to workshop and strategise on a monthly basis. These delegates could in turn report back on events at mass rallies and branch meetings. They could prepare short reports highlighting the contentious issues or issues around which agreement has been reached.

Where we are unable to organise workshops we believe that the next Regional Negotiations Commission should urge the Regional Executive to publish a monthly newsletter to all branches in which developments around negotiations can be included. This, Mayibuye and the dissemination of key articles in New Nation and the Weekly Mail should be photocopied and sent to those branches which only have access to the commercial press.

A last idea which we urgently wished to introduce but failed to implement ourselves concerned the making of cassette recordings of key developments and issues for debate. A tape in Xhosa could be sent to each branch and study groups could use these in their education programmes.

Finally, it must be stressed that the mass action campaigns of the past few months have successfully put negotiations back on the agenda. The success of mass action in tackling the major obstacles towards negotiations and our demands for an Interim Government and Constituent Assembly must be seen as a victory of the people. The leadership will continue to rely on the support of mass campaigns in the face of the regime's intransigence and their determination to stall the process of change for as long as possible. To ensure the success of any future mass action campaign we will have to keep our rank and file members and the masses generally fully informed and determined to move towards elections. We cannot afford another campaign failure like the signature campaign for a Constituent Assembly a year ago.

We would like to thank all those comrades who assisted in easing the work of the Negotiations Commission. As this report testifies we found the work challenging and hope that our work during the past year, our successes and failures, will assist the next Negotiations Commission in making this portfolio more effective at all levels.

MIKE XEGO (HEAD OF REGIONAL NEGOTIATIONS COMMISSION AND DELEGATE TO NNCF)

MARIAN LACEY (REGIONAL NEGOTIATIONS COMMISSION DELEGATE TO NNCF)

Annexed

Bulletins 7 and 9

Declaration of Intent CODESA I

Record of Understanding De Klerk/Mandela Summit

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Negotiations Iulle
Number? 12 March 1992

INTRODUCTION

ff'it of progress has been made at the negotiating table. Amongst the most important is t
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Government's acceptance of the ANC's demand for an interim Government and the principle t
hat

w South Africa would be non-racial, democratic and non-sexist. '

1 ' WORKING GROUP1

1.1. CREATING A CLIMATE FOR FREE POLITICAL ACTIVITY

MEDIA

The Government has accepted the principle that the electronic media and all
broadcasting services be placed under Independent supervision. However, the
government is still clinging to its unilateral restructuring of the media. The ANC will
therefore continue to challenge this.

SECURITY

-N . Discussions at a bilateral level with the Government with regard to the release of
" political prisoners, the return of exiles and security legislation are continuing. The
. outcome of these discussions would produce agreements which are to be tabled
at Codesa.

1.2 CONTROL OF SECURITY FORCES

Notwithstanding the statements made by NP Ministers Roelf Meyer and Kriel, our
position remains that the future of MK shall be determined at the Interim
Government Council. MK shall not be disbanded before then.

The ANC is presently carrying out detailed research on the control of the
security forces and proposals in this regard will shortly be tabled at Codesa.

2 WORKING GROUP 2

2.1 Agreements on General Constitutional Principles. Working Group 2 has agreed to
the framework of a constituent assembly. It is as follows:

2.1.1 South Africa will be a democratic, non-racial, non-sexist sovereign state.

2.1.2 The constitution shall be the supreme law.

2.1.3 The diversity of languages, cultures and religions will be acknowledged.

2.1.4 All will enjoy universally accepted human rights, civil liberties, including the
freedom of religion, speech and assembly.

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2.1 .6

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2.1.9

There will be a separation of powers between the legislature, the executive and the judiciary with appropriate checks and balances. The legislative branch of government will embrace multi-party democracy, regular elections, universal adult suffrage, a common voters roll and in general proportional representation.

The judicial branch of government will include:

A judiciary that Will be independent, non-racial and impartial.

An entrenched and justiciable bill of rights.

A legal system that guarantees the equality of all before the law.

Government shall be structured at national, regional and local levels.

At each level there shall be democratic representation.

Each level of government shall have appropriate and adequate legislative and executive powers, duties and functions that will enable each level to function effectively; such powers duties and functions to be entrenched in the constitution.

In addition to the powers, duties and functions entrenched in the constitution, each level of government may delegate powers, duties and functions to the lower level of government.

The general principles of the constitution, including the terms of the Bill/ Charter of Fundamental Rights shall apply to each level of government.

A new constitution should provide for effective participation of minority political parties consistent with democracy. "

(It has been agreed in the Working Group that this principle does not imply or reject:

0 constitutional prescription for the participation of minority political parties in any executive structure of government;

.0

simply majoritarianism;

veto powers by minority political parties on any issue.1

2.2 CONSTITUENT ASSEMBLY

Discussions on the nature and character of the Constituent Assembly are due to begin on the 23rd March, 1992.

WORKING GROUP 3

INTERIM GOVERNMENT

3.1. The following has been agreed:

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3.1.2

3.1 .3

3.1 .4

3.1.5

That there is need for interim/ transitional arrangements in order to facilitate the transition towards a new democratic constitution to which Codesa is committed. .

An important aspect of such arrangements will be the creation of a transitional executive structure.

The transitional executive structure shall initially be by appointment in accordance with procedures agreed upon by Codesa.

Agreements reached at Codesa in this regard will have to be given effect to by Parliament through amendments to the existing constitution and relevant legislation, in order to give them constitUtional and legal form. Other aspects of the interim/ transitional arrangements still need to be discussed.

3.2 - In this regard, it is important to note that the Working Group denied reports that ,; the agreement implied the formation of a "super cabinet" or co-option of other formations to the present government. The position of the ANC remains that as reported in the March, 92 edition of Mayibuye.

WORKING GROUP 4

REINCORPORATION OF THE TVBC STATES

With the exception of Bophutatswana, which has proven to be intransigent on a number of matters, there is general agreement that the TVBC states be immediately reincorporated. The ANC position, in this regard, is guided by the principle that there must be an immediate restoration of citizenship of all of South Africa's people and that an Interim Government must exist over all of South Africa including each of the TVBC states.

WORKING GROUP 5

This working group is presently considering the agreements reached in other working groups and will draft legislation accordingly. Also being considered is the drafting of a n electoral law. These agreements are also being considered with a view to making recommendations with regard to appropriate time frames and target dates for its implementation.

PARTICIPATION OF TRADITIONAL LEADERS IN CODESA

A special sub-committee of Codesa has been set up to discuss this matter. The matter has to date not been resolved.

The position of the ANC is that all traditional leaders should be accorded observer status.

DATE OF CODESA II

It has already been agreed that Codesa II should be held towards the end of April, 1992. There is now a common understanding that Codesa II must deliver substantial and meaningful progress. The ANC is determined to ensure that Codesa II takes place only after it's immediate demands for an Interim Government and Constituent Assembly have been fully discussed and agreements reached. i

PATRIOTIC FRONT MEMBERS WITHIN CODESA

Patriotic Front forces participating at Codesa have continued to meet on a regular basis to

strategise and discuss progress being made at Codesa. This relationship has ensured that many matters are speedily resolved.

At a meeting which took place on the 21 st February, 1992, it was agreed at this meeting that the reconvening of the next Patriotic Front meeting be the responsibility of all. It was further agreed that Intando Ye Sizwe, the Labour party, Inyandza, Cosatu, the UPF and the ANC establish an interim committee to convene the next meeting after which permanent structures would be set up.

ISSUES FOR DISCUSSION

Contributions on any of the matters pertaining to the process of negotiations would be appreciated. In particular, discussion documents by branches and regions on the following i

matters would be most welcome:

9.1 ELECTORAL LAW

There is widespread feeling against the present identity documents. It is important for have a common understanding on voter identity and a new electoral law. In

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this regard, we would appreciate views on how to approach the matter of voter identification. Here, issues which are to be taken into consideration are; ensuring that only South Africans vote and that no person may vote more than once. Some of the proposals made thus far are the use of identity books and indelible ink. Your ideas on this matter are important.

REINCORPORATION OF THE TVBC STATES

The process of reincorporation of the TVBC states is another matter of immediate importance. Some parties may find it convenient to exploit the fears and uncertainties of those in the civil service of these states. It is for us important to ensure that such reincorporation does not cause any of the people resident and working in such areas any hardship or adversely affect the basic civil service and the provision of amenities.

INDEPENDENT ELECTORAL COMMISSION

An electoral commission should be made up of South Africans of integrity to organise and supervise elections. It will have sole and exclusive control of the electoral process with powers to validate or invalidate election results. An independent electoral commission is critical if we are to ensure free and fair elections. 2 _'

What are your views with regard to an independent electoral commission. Can you suggest what kind of people should be appointed to such a commission. Should you have names of such people, kindly let us have them together with the necessary motivation for your choice.

PLEASE LET US HAVE YOUR CONTRIBUTIONS ON THE ABOVE BY NO LATER THAN THE 25TH MARCH, 1992.

FOR INTERNAL USE - NOT FOR PUBLICATION

Bulletin

8 May 1992

INTRODUCTION

The process of negotiations as it is unfolding at Codesa has captured the imagination of the large majority of our people. To most, it is hoped that Codesa II would be able to de-

liver agreements which would see an end to the present scourge of violence and the installation of a democratic government based on the will of all our people.

There now remain but a few days before Codesa II takes place on the 15th and 16th May, 1992. There are however many issues that remain unresolved. The ANC's primary objective for Codesa II is to achieve agreement on a two-phased interim Government and Constituent Assembly. The regime, on the other hand, remains intransigent and obstinate on various issues.

Notwithstanding these problems, and without compromising basic principles, the African National Congress seeks to achieve its objectives. All effort is being made to ensure that we do not see the process of negotiations being prolonged to a Codesa III.

PREPARATIONS

Codesa II is due to be held at the World Trade Centre. The proceedings are to be broadcast live on SAW's spare channel and on radio. All the participants at Codesa I are expected to be present.

OPENING PRAYERS AT CODESA II

Codesa I held in December last year, was opened by prayers. Prayers were conducted by religious leaders from various religious denominations and faiths.

The National Party and the South African Government are now opposed to Codesa II being opened in the same manner. Instead they want the meeting to be opened with a minutes silence. The National Party is opposed to a multi-faith prayer because of their intolerance towards other faiths and denominations.

During the whites-only referendum campaign, De Klerk admitted in one of his public speeches that he felt uncomfortable when leaders of other faiths delivered prayers at Codesa I.

This is a case of blatant religious intolerance. The ANC has demanded that religious leaders from all faiths be allowed to deliver prayers at the opening of Codesa II. The ANC

calls on all organisations to support this position, a position which has always been supported by democrats.

PARTICIPATION OF

TRADITIONAL

LEADERS

The Management Committee of Codesa established a Sub-Committee to consider the participation of traditional leaders in Codesa. The Sub-Committee in its final report to the

Management Committee on the 27th April, 1992 recommended the following:-

1 Traditional leaders should participate at Codesa not as a full participant equal to the

others, but in a special way. It was also agreed that, in principle, there should be no difference between the Zulu King and other traditional leaders.

2 Such participation should take the form of one delegation from each of the four provinces consisting of 12 delegates and 5 advisers. In this regard, the various administrations have no right to prescribe who should form part of the delegations.

3 For the province of Transvaal, it was agreed that there should be equal representation from each of the 6 regions within the province.

On the form of participation, it was agreed as follows:-

They have the right to participate in the working groups as well as the plenary sessions of Codesa. .

' They would have the right to make interventions or inputs at the working group level on all matters affecting them. '

They would not form part of the decision making process; i.e. they would have a "non-voting" status.

In spite of these recommendations. Inkatha has refused to accept this position compromise - as a result no-decision has been taken on the issue.

LEVELLING THE PLAYING FIELD

All Codesa participants agree that the process of democracy requires that all participants in the political process should be free to participate peacefully in that process without fear

and on an equal footing and on the basis of equality with other participants.

POLITICAL PRISONERS

The issue of political prisoners has still not been resolved. The position and call of the

ANC is as follows:-

' There should be an unconditional amnesty for all remaining political prisoners;

The bilateral agreements existing with the regime should be considered within the context of Codesa:

Codesa should create a mechanism to control and monitor the release of political prisoners;

The temporary indemnity granted should be made permanent.

LEGISLATION

There is preliminary consensus that a State of Emergency should only be declared on the advice of a multi-party interim Government. The reasons for a State of Emergency should be clearly defined and contestable in a Court of law on the grounds that the factual situation existing justify such a declaration. It has been agreed that all legislation threatening

political activity, which has already been identified. should be reformed. A special task force has been appointed to do this.

PREVENTION OF VIOLENCE AND POLITICAL INTIMIDATION

There is agreement that all political disputes between parties be resolved peacefully. in this regard, political intimidation has been defined as follows:-

"Any action or set of actions committed by any individual, organisation. political party. government represented at Codesa. as well as the self governing territories or any agency of such government or self governing territory. that is designed by the use or the threat

of use of force or violence to disrupt or interfere with the legal rights of an individual. to infringe

the right to freedom of expression, opinion. freedom of association and movement."

There is further agreement on the need for the government security forces to bring those responsible for the smuggling of AK 47's and other illegal weapons into the country to book as a matter of urgency. Also, there is a need for the improvement of socio-economic conditions to curb the high crime rate.

CONTROL OF SECURITY FORCES

It has been agreed that all security forces would be placed under the control of the interim government structures.

MEDIA

Agreement has been reached with regard to the following:-

' That an independent and neutral body be established by legislation to lay down standards to be complied with and regulate the telecommunication sector.

The principle function of such a body would be to regulate the utilisation of all broadcasting services and the allocation of licenses according to an agreed set of standards.

That the members of such an independent body shall be South African citizens who will act in the public interest and who shall not be an office bearer of any political organisation or have a vested interest in the film and broadcasting industry.

' Organs of civil society would be invited through the press and advertisements to make nominations at persons to serve on the independent body.

Such an independent body would be accountable to the Interim Government or a democratic parliament.

REFUGEES -

A joint proposal by the Venda Government Ximoko, UPF and Inyandza with regard to the issue of Mozambican refugees was made as follows: -

all refugees in South Africa be treated in accordance with internationally accepted standards;

' an independent body registers and identifies such refugees;

' the regime refrains from granting premature citizenship to immigrants and mercenary refugees immediately;

' all refugees be treated equally irrespective of race or colour;

' condemning the deportation or repatriation of refugees whilst the civil war continues;

' condemn any form of exploitation or sale of refugees by farmers and business people.

INTERIM

GOVERNMENT

On the 7th April, 1992, a Technical Committee consisting of a small group of people from Working Group 3 was established with the task of taking toward the exploratory discussion, addressing both details of consensus areas emerging and other areas that needed to be discussed. The Committee submitted its report which agreed to Interim Government in two stages. It states inter alia as follows:-

THE TWO STAGES OF INTERIM GOVERNMENT

The first stage of Interim Government is the formation of a Transitional Executive Council (TEC). The TEC will make preparations for the holding of free and fair elections for a constitution making body (the Constituent Assembly). The second stage of Interim

Government is the comprehensive Interim Government of national unity established after the elections.

TRANSITIONAL EXECUTIVE COUNCIL

The Transitional Executive Council (TEC) will be multiparty in form and will function alongside the existing legislative and executive structures. The primary purpose of the TEC will be to ensure that free and fair elections are held for a constitution making body.

The TEC would establish sub-councils which would take control of key government functions.

POWERS OF THE TRANSITIONAL EXECUTIVE COUNCIL (TEC)

The TEC will be vested by legislation approved by Codesa with powers necessary to enable it to carry out its functions.

' The TEC will have access to all information (including records of governments/ administrations and other participants in the TEC) which may be required by it for the purpose of exercising its functions.

' The sub-councils will report to the TEC and their decisions will be subject to confirmation or amendment by the TEC.

' The TEC will be able to initiate or participate in negotiations in relation to issues which arise outside the defined areas of responsibilities of its sub-councils. If it is of the opinion that such issues could have an impact on the levelling of the playing fields or the creation and maintenance of a climate in which free and fair elections can be conducted.

' In defined areas of responsibility of sub-councils of the TEC, ministerial powers and discretion will be exercised jointly in consultation with the TEC. This function may be delegated by the TEC to a sub-council, in which event, the ministerial power and discretion will be exercised jointly in consultation with the sub-council concerned.

' The TEC will be kept informed of and will be able to ask for and receive information in regard to proposed legislation including bills, proclamations and regulations of all participating governments/ administrations. Any bill or proposed legislation which is deemed by at least one third of the members of the TEC to be detrimental or could negatively impact on the levelling of the playing field shall not be proceeded with unless and until it has been considered and accepted by the TEC. In the same way the TEC could object to any action taken by any government or administration.

' The decisions of the TEC will be binding and will be implemented by all participants including governments and administration.

, INTERIM ' If any decision at the TEC or a sub-council is disputed by any participant in the TEC,

' GOVERNMENT . such dispute shall be referred to the independent Election Commission whose decision shall be final and binding on all participants.

(CONTINUED) sion shall be final and binding on all participants.

INDEPENDENT COMMISSIONS

There shall be an Independent Election Commission to be given the responsibility for the organising and supervising of free and fair elections. The Commission will be independent of the TEC and will consist of respected persons drawn from a broad cross-section of the population, who will be appointed by the State President on the recommendation of Codesa. The composition, powers and functions of the Commission shall be enacted in legislation to be agreed to by Codesa.

SUB-COUNCILS AND THEIR AREAS OF RESPONSIBILITY

The ANC has proposed that the TEC assumes control of the following areas of government (a sub-council would have to be established in each of the following areas): Defence, Police (Law and Order), Government finance, Elections, Regional and local government and Foreign Affairs.

COMPOSITION OF THE TEC AND SUB-COUNCILS

The TEC will be kept as small as is reasonably possible. Codesa will decide on the composition of the TEC. It will consist of at least one member from each Codesa participant. Should parties not presently in Codesa wish to participate in the TEC, the TEC will have the power to recommend at its discretion that the TEC be enlarged to accommodate them, provided that they commit themselves to comply with and implement the decisions of the TEC.

CONSTITUTION On the 27th April, 1992 the Steering Committee of Working Group II made the following

MAKING BODY proposal arising out of discussions for consideration by the Working Group (NB: these are

(CONSTITUENT members proposals and have not been agreed to as yet):-

ASSEMBLY) "1. Codesa shall agree to legislative instruments that would make provision for a constitution making body operating within the framework of an interim constitution.

2. Codesa shall consult governments of the self-governing states and other interested

parties in the drafting of the legislative instrument/ interim constitution. Codesa shall agree on a set of general constitutional principles.

The interim constitution shall make provision for:

An elected parliament with the power to:

In terms of agreed procedures, draft a new constitution which not be in conflict with

the general constitutional principles:

Act as an interim legislature in terms of such special majorities and general constitutional principles which may be agreed to. ' The composition, functions and procedures of an interim executive.

Justiciable civil and political rights during the transition.

The balance between the executive, legislature and judiciary according to the principles underlying a constitutional state.

Regional boundaries for the purposes of elections.

Elections for the national assembly on the basis of proportional representation, shall

the seats being allocated through national lists and half being allocated through regional lists.

Decision making on all matters relating to the constitution to be taken in general by a special majority.

Decision on matters relating to regional structures and the distribution of power between central, regional and local levels of government to require a special majority of the regional representatives in the National Assembly in addition to a special majority at all the delegates in the National Assembly.

Codesa shall agree upon special mechanisms to ensure that the National Assembly completes the work of drafting and adopting the new constitution within a specified period of time."

CONSTITUTIONAL In addition to the agreements already reported in the Negotiations Bulletin No.7 on

PRINCIPLES General Constitutional Principles, the Steering Committee of Working Group 2 has prepared the following draft principles for discussion and agreement by the working group:-

REINCORPORATION
OF TVBC STATES

1. Draft Principle on economic freedom. governmental intervention and economic systems:

'The constitution should provide for the promotion of the improvement in the quality of life of all South Africans by enabling economic growth, human development, social justice and equal opportunities for all.'

. Draft Principle on the Bill/Charter of Fundamental Rights:-

"There shall be a justiciable bill/charter of fundamental rights which shall ensure inter alia:

universally accepted human rights and freedoms:

civil liberties including freedom of religion. speech and assembly;

the equality of all before the law;

property rights, provided that legislation may in the public interest authorise expropriation against payment of reasonable compensation which shall in the event of a dispute be determined by a court of law.

The constitution shall enable the implementation of measures to help address the racial and gender inequities caused by past discrimination."

. Draft Principle on the accommodation of the diversity of languages. cultures and religions:-

The constitution at all levels of government shall accommodate and protect the right of citizens to practice their religion. enjoy their culture and use their own language both

as individuals and in association with others. This shall include the right of citizens where practicable to have their children educated in their mother tongue and the right of citizens to establish educational institutions reflecting their language. culture and religion. provided that racial discrimination may not be practised."

. Draft Principle on the role of traditional leaders:-

"The constitution should define a suitable role for traditional leaders consistent with the

objective of a united. non-racial, non-sexist. democratic South Africa."

The task group appointed by Working Group 4 on the 4th May, 1992 recommended the following statement to the Working Group as a possible basis for Consensus:

REINCORPORATION

All delegations have no objection in principle to the reincorporation of the TVBC states.

TRANSITIONAL ARRANGEMENTS

The TVBC states will participate in transitional arrangements as proposed by Working Group 3. on the understanding that these arrangements shall mutatis mutandis impact on the TVBC governments and territories in the same way as they impact on the South African Government and the RSA.

TESTING THE WILL OF THE PEOPLE

The people of the TVBC states shall take part fully in the processes of constitution-making and transitional arrangements, including elections. as may be proposed by Working Groups 2 and 3. Their participation will be arranged in such a way that their votes in a national election shall signify support for or rejection of reincorporation. The results of such

an election shall constitute a sufficient test of the will of the people.

RESTORATION OF CITIZENSHIP

South African citizenship will be restored to the citizens of all the TVBC states who would

have been South African citizens but for the constitutional independence of the TVBC states, immediately after the testing of the will as envisaged in paragraph 3 above.

RESERVATIONS

It should however be noted that the Bophutatswana government has. with the exception of the question of reincorporation. reserved its position in relation to the above.

RETENTION OF BUSINESS CONFIDENCE AND TAXATION

It was unanimously agreed that the process of reincorporation should be conducted in a way that it ensures the retention of business confidence. In this regard, it was agreed that

there was a need for the harmonisation of legislation dealing with labour, taxation and company laws.

ELECTORAL LAW

ISSUES FOR
DISCUSSION

LAND TRANSFERS

-There was sufficient consensus that no further attempts be made to identify new land for transfer to the TVBC states.

FUTURE OF CIVIL SERVICE

Civil servants should retain their existing salaries, benefits, conditions of service, etc,

There shall be no retrenchments of workers as a result of reincorporation prior to an extensive rationalisation programme in the new South African civil service.

PROPOSED APPOINTMENT OF COMMISSIONS

Two nine member multiparty commissions have been proposed to investigate and make recommendations on the retention of business confidence and good administration during the transitional period.

An electoral law is presently being discussed. The electoral laws of Namibia, Zimbabwe and Salvador are being looked at for guidance on issues such as identification and registration of voters where a large number of the people, as in the case of South Africa, are either illiterate and or have never been registered as voters before.

As requested in our previous Bulletins, the Negotiations Commission looks forward to receiving the recommendations of Regions, Branches, organisations and individuals as to the possible candidates who would be suitable for serving on an Independent Electoral Commission and an Independent Media Board. Please let us have these together with the necessary motivations.

Please address all your correspondences to:-

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Negotiations Commission

African National Congress

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2107