

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 RATIFICATION BY THE WORKING GROUP.

DRAFT MINUTES OF THE MEETING OF WORKING GROUP 4 SUBGROUP 4 HELD AT WTC ON TUESDAY 05 MAY 1992 AT 13H45

PRESENT: Delegates (see Addendum A)

D Govender (Chairperson)

W Antoine (Minute taker)

B Ngcuka (Rapporteur)

1. Agenda

The agenda for the meeting that was to have been held on Tuesday 21 April, 1992 was adopted after it was agreed not to deal with matters arising from ratification of the minutes of the two previous meetings.

2. Confirmation of Minutes

2.1 The minutes of the meeting held on 30 March 1992 were ratified.

2.2 The minutes of the meeting held on 23 and 24 March 1992 were ratified.

3. Report by Rapporteur

The rapporteur tabled his report entitled *Preliminary Summary of Proceedings of Subgroup 4 of Working Group 4* (see Addendum B), which clearly summarised the positions as at 21 April 1992.

4. Discussion

4.1 It was agreed that the report of the Task Group to Working Group 4, 05 May 1992, which was adopted at the plenary session, outlined sufficiently well the steps that have to be taken to effect reincorporation of the TBVC states.

4.2 In addition, it was agreed that the report of Subgroup 3, 05 May 1992, dealt with some of the issues which had been under consideration by Subgroup 4 of Working Group 4.

4.3 It was agreed that a technical commission should be appointed to consider the outstanding issues, which included resolving the following legal and constitutional implications

4.3.1 The relationship between South Africa and the TBVC states during the transitional phase.

4.3.2 The required legislation to effect reincorporation.

4.3.3 The necessity for legislation/measures that would level the political playing field.

4.4 It was decided that the Rapporteur would draft a report of these agreements to submit as recommendations to the plenary session of Working Group 4 (see copy attached, Addendum C).

5. **Closure**

The Chairperson closed the meeting at 14h40.

Addendum A

DELEGATES PRESENT AT THE MEETING HELD ON MONDAY 23 MARCH 1992

ANC	B Mabandla
Ciskei Govt	MJ Sondiyz
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 Singh
NIC/TIC	P David
SACP	P. Dantjie
SA Govt	CJ Streeter
Transkei Govt	NG Makanda
UPF	JM Nonyane
Venda Govt	SE Moeti
Ximoko Progressive Party	TB Shimbambu

Preliminary Summary of Proceedings of
Subgroup 4 of Working Group 4

1. It was agreed:

- i) that the principle of reincorporation or non-reincorporation would not be discussed in the sub-group;
- ii) that all proposals concerning the relationship between South Africa and the TBVC States would be investigated.

2. The TBVC states were called upon to submit information papers on their structures of government, relevant legislation and bilateral as well as multilateral agreements. This would be used as reference material by the sub-group.

3. The TBVC States were further requested to make submissions to the subgroup outlining problems that would be encountered and steps that would have to be taken in case of reincorporation.

4. From these submissions the following positions emerged:

a) All delegates with the exception of the Bophuthatswana government support the principle of reincorporation. The Bophuthatswana government is satisfied with the present constitutional arrangements. In spite of that, it would nonetheless prefer to have a sovereign and internationally recognised Bophuthatswana with extended boundaries that satisfies its historic claims.

b) Both the Transkei and Venda governments are in favour of immediate reincorporation. In this regard they are prepared to scale down their sovereignty during the interim phase to a position of self-government in order to enable their citizens to participate in all transitional arrangements.

c) The Ciskei government wants a United Federal State of South Africa with strong autonomous regional government as a prerequisite to reincorporation. It seeks to retain sovereignty during the transitional period until such time that an acceptable constitutional framework has been approved.

5. The issue that has still to be resolved is whether the TBVC states should participate in the transitional arrangements or not. In this regard there are two views:

(i.) One view is that the TBVC states should not take part in the interim government. Only South African

citizens should participate. The concept of dual citizenship was unacceptable as it was not allowed in South African law.

(ii.) The other view is that the TBVC states should be included in the transitional arrangements, but only if they make a commitment to reincorporation. South African citizenship should be accorded formally or informally to citizens of the TBVC states. Dual citizenship is an internationally recognised phenomenon which has also been used in South Africa.

6. It was agreed that all delegates would present a blueprint on the process of reincorporation which would cover the following aspects:

- (i.) Harmonization of legislation
- (ii.) The participation of the TBVC states in the transitional arrangements and the constitution-making process.
- (iii.) The point at which the testing of the will of the people should occur.

7. From a perusal of the minutes, the background documents and the terms of reference it seems that the following issues still need to be considered:

- a) the matter of scaling down sovereignty and the independent status of the TBVC states to that of self-governing states;
- b) the relationship between the non-sovereign TBVC governments and the interim government;
- c) the maintenance of existing bilateral and financial agreements.

REPORT BY SUBGROUP 4 TO PLENARY SESSION OF WORKING GROUP 4

05 MAY 1992

After an impasse had been reached by Subgroups 1 and 2, Subgroup 4 was unable to continue discussion within its terms of reference. It was decided to await the outcome of the deliberations of the plenary session of Working Group 4. With the adoption today of the Task Group Report to Working Group 4, steps that have to be taken to effect reincorporation have been identified. Moreover the report of Subgroup 3 dated 05 May, 1992 has dealt with some of the issues which Subgroup 4 of Working Group 4 had to consider.

Under these circumstances, Subgroup 4 recommends that a technical commission be appointed which would have power to investigate, research and receive reports from the affected parties. The tasks of the commission would be within the terms of reference of Subgroup 4 of Working Group 4, and should include the following

1. Legal and constitutional implications.
 - 1.1 Relationship between SA and the TBVC states during the transitional phase.
 - 1.2 Consider legislation that would be required to effect reincorporation.
 - 1.3 Consider legislation/measures that would level the political playing field.

It is strongly recommended that the commission should consult with the Gender Advisory Committee.