

THE CONVENTION FOR A DEMOCRATIC SOUTH AFRICA - CODESA 1 and CODESA 2 (1991-1992)

1. It took nearly two years of talks, almost exclusively between the African National Congress (ANC) and the ruling National Party (NP), to address obstacles preventing multi-party negotiations.
2. On 13 November 1991, Nelson Mandela announced that the first constitutional talks would take place on 29 and 30 November at the World Trade Centre in Kempton Park. A steering committee and full-time secretariat prepared for the talks which were then convened by Chief Justice Michael Corbett, Johan Heyns of the Dutch Reformed Church and the Reverend Stanley Mogoba of the Methodist Church. The first multi-party meeting was named The Convention for a Democratic South Africa (CODESA).
3. The talks were re-scheduled to December.
4. By the end of November, three working groups were formed by the steering committee to deal with: CODESA's declaration of intent, the organisation of CODESA, and the process of negotiations. The principle of "sufficient consensus" as a decision-making mechanism was agreed to.
5. On 19 December, Buthelezi withdrew participation because the Zulu King had not been invited to participate. However, the Inkatha Freedom Party (IFP) attended the talks. The Pan Africanist Congress (PAC) was also absent from the first CODESA (CODESA 1) due to concerns that all decisions made at the

negotiations would be subject to bilateral agreements between the NP and ANC. The Conservative Party (CP) and various others also boycotted the talks.

6. On 20 December, the first plenary session of CODESA was chaired by Chief Justice Corbett and Justices Ismail Mohamed and Petrus (Piet) Schabot. Nineteen parties and organisations attended the historic gathering: the NP; ANC; South African government; South African Communist Party (SACP); IFP; Labour Party, the Inyandza National Movement; the Transvaal and Natal Indian Congresses; the Venda government; the Bophuthatswana government; the Transkei government; United People's Front; Solidarity Party; Democratic Party (DP); National People's Party; Ciskei government; Dikwankwetla Party; Intando Yesizwe Party; and Ximoko Progressive Party.
7. On 21 December, a Declaration of Intent was signed by all parties except the IFP and the Bophuthatswana Government. Among other issues, the declaration solemnly committed all the parties:
 - to bring about an undivided South Africa with one nation sharing a common citizenship
 - to work to heal the division of the past
 - to strive to improve the quality of life of the people
 - to create a climate conducive to peaceful constitutional change by eliminating violence and promoting free political participation, discussion and debate.

8. A Management Committee, chaired by Pravin Gordhan, oversaw the process, assisted by a Daily Management Committee and a Secretariat. The Daily Management Committee's members were: Zach De Beer (DP), Pravin Gordhan, Peter Hendrickse (Labour Party), Frank Mdladlose (IFP); Selby Rapanga (Inyandza), Roelf Meyer (NP), Zamindlela Titus (Transkei) and Jacob Zuma (ANC).
9. Mac Maharaj and Fanie van der Merwe, the director general of Constitutional Development Services, headed the Secretariat. Van der Merwe was later replaced by Niel Barnard.
10. The CODESA Administration was headed by Murphy Morobe who was assisted by Dr Theuns Elof and staff consisting of civil servants from the department of constitutional development and the Consultative Business Movement.
11. The main outcome of CODESA 1 was the formation of five working groups.
 - 11.1. Working Group 1 focussed on the creation of a climate for free political participation and the role of the international community. It was further divided into three sub-groups.
 - 11.1.1. Sub-group 1 looked at the reconciliation process including political prisoners, exiles and discriminatory laws.
 - 11.1.2. Sub-group 2 focussed on political intimidation, the National Peace Accord, crime and the security forces.
 - 11.1.3. Sub-group 3 focussed on free political participation.

11.2. Working Group 2 was tasked with constitutional principles and the constitution-making body.

11.3. Working Group 3 looked at interim government;

11.4. Working Group 4, chaired by Stella Sigcau, focussed on the future of the homelands. A steering committee and four sub-groups were formed.

11.4.1. Sub-group 1, headed by Errol Moorcroft, had to get the views of citizens of the TBVC states;

11.4.2. Sub-group 2, which focussed on citizenship, was chaired by C.D. Marivate. Geoff Budlender acted as rapporteur;

11.4.3. Sub-group 3 was chaired by Charles Simkins and James Mahlangu and looked at the administrative, financial and practical implications of reincorporating the TBVC states into South Africa. Bulelani Ngcuka acted as rapporteur;

11.4.4. Sub-group 4 focussed on the political, legal and constitutional implications. It was chaired by Devagie Govender. G.M. Memela acted as rapporteur.

11.5. Working Group 5 was tasked with time frames to implement the decisions taken at CODESA.

12. The Working Groups began their work on 20 January 1992 and met twice a week. Each group consisted of almost eighty people, making a negotiated compromise on the various issues unworkable. Only Working Group 3 produced a compromise that was used in the later negotiating processes. It was also the only group that made use of a technical committee of experts which included Fanie van der Merwe, Arthur Chaskalson, Halton Cheadle, Andries Cilliers and Francois Junod.
13. In addition to the Working Groups, a Gender Advisory Committee was established in April 1992 to advise the Management Committee on gender issues. Its members included Sandra Botha, Gill Noero, Janine Quince, Zo Kota-Mthimunye, Fiona Wallace and Mavivi Manzini.
14. While the Working Groups met weekly in the first half of 1992, an all-white referendum held in March gave De Klerk the mandate to continue with negotiations.
15. Despite this, CODESA 2 was deemed a failure when the plenary convened on 15 and 16 May 1992. No agreements were ratified. The ANC and the NP were not able to agree on the percentage of votes required to adopt the constitution.
16. Political tensions escalated after the Boipatong massacre on 17 June in which forty-three people were killed. On 22 June, Mandela announced the formal suspension of talks with the government. The following day, the ANC executive presented the government with fourteen demands that had to be met before negotiations could resume.

17. In the meantime, the government had adopted a document compiled by Prof. Francois Venter which outlined a two-stage constitution-making process and made provision for an interim government and fundamental rights.
18. Toward the end of August, the ANC National Working Committee decided to establish a line of communication with the government, headed by Cyril Ramaphosa and Roelf Meyer. The two sides held meetings dealing with issues such as dangerous weapons and mass action, political prisoners and hostels.
19. On 3 September, the ANC released a “Transition to Democracy Bill”. Four days later, twenty-eight protesters were shot dead by Ciskei Defence Force soldiers in Bisho.
20. Tensions eased with the signing of the Record of Understanding by Mandela and De Klerk on 26 September which paved the way for the resumption of multiparty negotiations.
21. In the same month, Joe Slovo suggested a “sunset clause” to allow for compulsory power-sharing for a fixed number of years after the adoption of a new constitution.
22. Political parties who felt outmanoeuvred by the ANC and NP “bi-laterals”, formed the Concerned South Africans Group (COSAG) on 8 October. COSAG was made up of the IFP, Conservative Party and the governments of Ciskei Bophuthatswana, and KwaZulu.

23. In November, the ANC's National Executive Committee formally adopted the policy of compulsory power-sharing.
24. On 5 March 1993, a multiparty planning conference was held to set a date for the resumption of negotiations. The talks were to resume on 1 April. A Facilitating Committee was formed, made up of one delegate from each of the twenty-six parties attending.
25. In the meantime, the ANC and the government had been secretly negotiating on the future of the military. They met in March and held four further meetings in July of 1993.