

# MEMORANDUM

TO: The Convenor  
Technical Committee on  
Fundamental Rights During  
the Transition

FROM: Planning Committee

9th September 1993

c.c. Constitutional Issues

**DRAFT CHAPTER 8 : OMBUD AND THE HUMAN RIGHTS COMMISSION :  
NINTH PROGRESS REPORT : 7 SEPTEMBER 1993**

With reference to your memorandum dated 7th September 1993, the Sub-Committee agrees to refer the abovementioned draft to the Technical Committee on Constitutional Issues for further attention and inclusion in the draft Constitution.

*Melody*  
**MELODY EMMETT**  
Secretary



## MEMORANDUM

TO: SYLVIA: cc: Melanie, Kim, Miriam, Susan  
FROM: Melody  
DATE: Thursday 9 September, 1993  
RE: GENERAL DETAILS ABOUT FILES, TASKS, ETC.

### 1. SUBMISSIONS

MIRIAM will collect all submissions from my tray on Sandy's desk and will take responsibility for processing them, i.e. arrange for copies to be made for Technical Committee members and then list them. Any queries to do with submissions should be directed to Miriam.

### 2. TECHNICAL COMMITTEE REPORTS

SYLVIA will take responsibility for ALL REPORTS. Original copies must go straight to Sylvia.

SYLVIA: Please follow the following system with reports IN THIS ORDER:

1. Check the original copy for details such as embargo date, numbering of pages, etc.
2. Make copies for all the members of the relevant Technical Committee and give them to them.
3. Make one loose "original" copy for Sandy.
4. Make an envelope for the original copy (see in filing cabinet) and file.

N.B. NEVER, FOR ANYONE, GIVE OUR ORIGINAL COPY TO MAKE COPIES - MAKE THE COPY YOURSELF IF NECESSARY.

### 3. NEGOTIATING COUNCIL AND PLANNING COMMITTEE MINUTES

SYLVIA: You need to keep all copies of Council and Planning Committee Minutes and all Planning Committee documents in the lever arch files in the cupboard. This is VERY IMPORTANT so that you can look up things for the Sub-Committee when they need them. DON'T LET ANYONE TAKE COPIES OUT OF THE FILE.

### 4. PLANNING COMMITTEE MEETINGS

Check with Mac about whether he wants you to attend meetings.

The process is:

1. Attend the Planning Committee meetings. Make notes of any tasks given to the Sub-Committee.
2. Go immediately to Elsabe and give her any details so she can update the list she gives to Mac and Fanie. Keep a copy of their tasks in the SUB-COMMITTEE TASKS LEVER ARCH FILES plus extra copies for Mac in case he loses his copy (AND HE DOES ALL THE TIME)
3. Keep copies of all Planning Committee documentation in the Planning Committee lever arch file and keep EXTRA COPIES OF EVERYTHING FOR MAC - he loses everything.

5. AD HOC COMMITTEE MEETINGS

1. There is an Ad Hoc Committee file (lever arch file) where you need to keep all documentation relating to Ad Hoc Committees. This includes minutes, reports, correspondence and any other relevant documentation. Make copies of documents for Mac and Fanie and (KEEP EXTRA COPIES, AS USUAL, IN CASE THEY LOSE THEM).

6. RESOLUTIONS

There is a resolutions file. This needs to be updated IMMEDIATELY resolutions are passed. (On left hand side computer under resolutions index)

7. ALL NEW COMMISSIONS, TASK GROUPS, ETC

All available information needs to be kept in files for Mac and Fanie since they are involved in everything and will ask for copies of things at the drop of a hat.



# MEMORANDUM

TO: The Planning Committee

FROM: Technical Committee

7th September 1993

## **FUNDAMENTAL RIGHTS DURING THE TRANSITION : PROPOSED RESOLUTION**

That the draft Chapter 8 on the Ombud and the Human Rights Commission as formulated by the Technical Committee on Fundamental Rights and included in its Ninth Progress Report, be referred to the Technical Committee on Constitutional Issues for further attention and inclusion in the draft Constitution.

**L M DU PLESSIS**  
Convenor



# MEMORANDUM

**TO:** The Chairperson  
Technical Committee  
Constitutional Issues

**FROM:** Lourens du Plessis  
Technical Committee  
Fundamental Rights  
During the Transition

Dear Francois:

19 August 1993

**RE: CHAPTER 8 OF THE PROPOSED CONSTITUTION : OMBUD AND HUMAN RIGHTS COMMISSION**

As you might know, our Committee is presently drafting the above Chapter. We have noticed that no provision is made in the Constitutional Principles already agreed to by the Council, for the establishment of a Human Rights Commission in the final constitutional dispensation. As such a Commission will be an indispensable mechanism in the implementation and legitimisation of a bill of rights regime in South Africa, our Committee would strongly advise that such provision be made.

Our Committee has further decided to recommend to the Council in our next report that it would be more appropriate for your Committee to finalise the provisions relating to the Ombud and the Human Rights Commission as drafted by us, the reason being that these institutions form part of the enforcement mechanisms which are attended to by your Committee.

Sincerely,

*Lourens du Plessis*

*ML*  
**LOURENS DU PLESSIS**

c.c. Planning Committee

**MEMORANDUM**

**TO: The Planning Committee**

**FROM: Miriam Cleary**

16 August 1993

The Technical Committee on Fundamental Rights During the Transition attaches hereto a Draft Chapter dealing with the Judiciary pursuant to a Resolution of the Planning Committee which has been drawn to our attention.

The Committee recommends the inclusion of this Chapter but points out that the Chapter was drafted without any submissions having been received from any parties, except for one.

You will note that two Options are suggested. Option One preferred by the Committee, contemplates a separate Constitutional Court which is under the control of the Chief Justice only to some extent. Option Two proposes a Constitutional Court as a chamber of the Appellate Division.

*Miriam Cleary*



SENT BY MULTIP NEG PROCESS 5-8-93 16:21 MULTIP NEG PROCESS- 27 21 6503776:# 1/ 8

**MEMORANDUM**

**TO: TECHNICAL COMMITTEE ON FUNDAMENTAL RIGHTS  
DURING THE TRANSITION**

**Prof. L M du Plessis;  
Mr G Grove;  
Adv. Z Yacoob**

**Prof. H Corder;  
Ms. S Nene;**

**FROM: MELODY EMMETT**

**DATE: THURSDAY 5 AUGUST 1993**

**RE: MEETING WITH THE SUB-COMMITTEE OF THE PLANNING  
COMMITTEE**

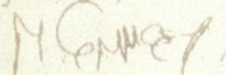
Herewith a copy of a report prepared by Professor Erasmus following a meeting held last Monday which was attended by members of the Sub-Committee, Dr F. Venter (Convenor of the Technical Committee on Constitutional Affairs); Professor L. du Plessis (Convenor of the Technical Committee on Fundamental Rights during the Transition) and Professors Erasmus and Dugard.

The Sub-Committee has requested a follow up meeting for next Tuesday 10 August at 11H30. The meeting will be held in Room No. 1 (First Floor)

All members of the Technical Committees on the Independent Electoral Commission, Repeal of Discriminatory Legislation, Constitutional Issues and your Committee are requested to attend.

Please advise me as soon as possible whether you will be available for this meeting so that I can arrange flight bookings, etc.

Many thanks,



Melody Emmett  
for the Sub-Committee

P.S. This is the same meeting which was originally scheduled for Monday 9 August at 14.15.



SENT BY MULTIP NEG-PROCESS 5-8-93 16:21 MLETH NEG-PROCESS 27-21 6503776.# 2/8

# REPORT BY THE TECHNICAL COMMITTEE ON THE REPEAL OF DISCRIMINATORY LEGISLATION TO THE SUB-COMMITTEE : 2 AUGUST 1993

## THE EFFECT OF DISCRIMINATORY LEGISLATION ON DEMOCRATIC, FREE AND FAIR ELECTIONS

### 1. ASSIGNMENT

How to reconcile the proposals of the Technical Committees on Fundamental Rights, the Independent Electoral Commission, Repeal of Discriminatory Legislation and Constitutional Issues with respect to the structures to be established for the period of the election campaign preceding the April 1994 elections.

The following outline is submitted by the convenors of the Committee on the Repeal of Discriminatory Legislation. It is done in response to a request by the Planning Committee after a meeting on Monday, 2 August 1993.

### 2. ASSUMPTIONS

- 2.1 Elections are essential for a peaceful transition to a new dispensation.
- 2.2 Everything possible should be done to ensure acceptance of the election results. (Angola's spectre to be avoided).
- 2.3 A large number of laws empower executive and other action which can hamper free and fair participation in the electoral process. (Private action could have the same effect).
- 2.4 These laws cannot all be identified and repealed in time for the electoral process to take place.
- 2.5 A comprehensive electoral structure is needed to ensure democratic, free and fair elections. This will be provided through the IEC.
- 2.6 Rules and enforcement machinery are necessary. This will address different needs such as:
  - 2.6.1 The problem of violence.



2.6.2 A code for political parties. (Being drafted by the IEC)

2.6.3 An Electoral Act. (Being drafted by IEC).

2.6.4 Rules ensuring democratic, free and fair political activity for individuals and parties. This is the concern of the present submission.

2.7 Effective, legitimate and visible sanctions and protection are required.

3. PROPOSAL

Five possible approaches on how to deal with the need identified in 2.6.4 are hereinafter discussed. If a final choice can be made in the immediate future, legislation can be adopted and the chosen mechanism be implemented in time.

4. FIVE POSSIBILITIES

4.1 Do nothing. Keep the present position.

4.2 A comprehensive bill of rights to be implemented soon (September 1993?).

4.3 An independent election commission with political structures.

4.4 A "mini Bill of Rights" that protects election rights only - enforced by a new special tribunal.

4.5 A "mini Bill of Rights" that protects election rights only enforced by the existing courts and enforcement agencies with necessary modifications.

5. OPTION ONE

Not to be considered. Existing law is inadequate and the structures illegitimate. Will not produce free and fair elections. Risks too high.



## 6. OPTION TWO

A comprehensive Bill of Rights.

### 6.1 Advantages

- \* It could be useful to have an interim Bill of Rights that protects all fundamental rights operating during the election period.
- \* South Africans will be introduced to the concept earlier. (September 1993 versus April 1994).

### 6.2 Disadvantages

- \* It will be difficult to obtain political agreement before September on the rights not relating to the elections. The controversial aspects preventing agreement on a bill of rights now relate to matters not affecting election rights. These rights included in a comprehensive Bill of Rights that would not be included in a "mini Bill of Rights" (options 4 and 5) and that have or will give rise to prolonged debate in the programming council are:

- Affirmative action : Article 2(3)
- Right to life (does this abolish the death penalty?) : Article 3
- Economic activity : Article 21
- Labour relations : Article 22
- Property : Article 23
- Environment : Article 24
- Children : Article 25
- Education : Article 27

(ten other controversial clauses that would not be included in a mini Bill of Rights are Articles 4, 5, 6, 7, 8, 13).

It will be much easier to obtain speedy political approval for a Bill of Rights that excludes such rights and which limits itself to election rights.



- \* A comprehensive Bill of Rights in place during the election period will give rise to immediate challenges to law and administrative practices unrelated to the elections. Consequently at the very time that the judicial system should be available to hear election complaints it will be occupied with complaints brought by individuals and groups on matters unrelated to the elections.
  
- \* Similar complaints have been raised against the Bill of Rights proposed by the Technical Committee. The proposed Bill of Rights will also be considered by the judiciary, professional law groups, etc, if it is to enjoy credibility. This will take considerable time. It is unrealistic to expect a comprehensive Bill of Rights to be prepared in a short time.

## 7. OPTION THREE

Political Protection through an Independent Election Commission.

### 7.1 Advantages

- \* Can be linked to the new political umbrella provided by the IEC and TEC.
- \* High profile
- \* International participation.

### 7.2 Disadvantages

- \* Are political remedies really sufficient?
- \* Political remedies in the present atmosphere will be based on compromises reflecting wide ranging views. Will be watered down.
- \* Could take long to work out.
- \* What sanctions to be adopted if compliance and acceptance do not follow?
- \* Typical judicial remedies are the proven, final remedies when infringements of human rights (including those pertaining to elections) occur.



## 8. OPTION FOUR AND OPTION FIVE

### Mini Bill of Rights that protects election rights only.

Options four and five both envisage a limited Bill of Rights that protects only those rights relating to the elections. It will therefore protect equality and the freedom of speech, expression, assembly, association, demonstration, movement, political rights and access to information but only insofar as they relate to the elections. A mini Bill will:

- (a) Declare the basic rights referred to above.
- (b) Contain a clause to the effect that the courts supervising this Bill will only have jurisdiction to adjudicate on such rights if they affect the election.

### For example:

- (1) A court would consider a complaint to enforce freedom of speech if someone was prevented from addressing an election rally. But it would not entertain a complaint that the banning of a magazine portraying explicit oral sex violated the right to freedom of speech.
- (2) A court would consider a complaint under the equality clause that a woman had been denied the right to address a political meeting on the ground that only men might address such a meeting. But it would not entertain a complaint that a woman had been discriminated against in her employment on grounds unrelated to the elections.

A mini Bill will operate both vertically and horizontally. It will be possible to enforce it against all state agencies and against private individuals or groups that seek to deny election rights. It will therefore, for example, be enforceable against -

- the Johannesburg City Council if it denies party A the right to demonstrate in the streets, but permits party B to exercise such a right;
- a farmer who prohibits his farm workers from attending a political meeting;
- a man who prohibits his wife and daughters from voting.

### 8.1 OPTION FOUR envisages that a mini Bill will be enforced by -

- \* special courts presided over by "Judges" who are not currently serving as judges or magistrates;



- \* specially appointed law enforcement officers not attached to the present court structures or security forces.

#### 8.1.1 Advantage

The problem of legitimacy will be overcome.

#### 8.1.2 Disadvantage

It will be very difficult to establish special structures of this kind to serve the whole of South Africa (including the TBVC States).

### 8.2 OPTION FIVE envisages that the mini Bill will be enforced by the existing courts, as modified.

It is proposed that the Chief Justice be empowered to establish a special panel of judges for each region drawn from the existing judiciary. Such a panel would serve on a special election court. A single judge assisted by two assessors would hear complaints. The list of potential assessors would be compiled by the Negotiating Council. Such assessors could be, but need not be, lawyers. Decisions of such a court would be enforced by the existing structures (deputy sheriff, police) assisted by representatives of the Peace Secretariat.

#### Example:

A trader in Pietersburg tells his staff that if they vote in the elections he will dismiss them. A staff member may appeal to a special election court attached to the Transvaal Provincial Division. The court will be presided over by Judge X, appointed by the Chief Justice to serve on a panel of judges to hear such complaints. Judge X will be assisted by two assessors drawn by lot from a panel of assessors appointed by the Negotiating Council. The three person court decides by majority vote (that is, the judge may be overruled by the two assessors). If the court rules against the trader he will be advised to withdraw his threat. If he refuses he may be arrested for contempt of court.

#### 8.2.1 Advantages

- \* More practical than option four.



- \* The modification to the existing structures go some way towards overcoming problem of illegitimacy.
- \* The involvement by the MPNP in the appointment of the assessors will create some degree of legitimacy.
- \* No new enforcement machinery necessary.

### 8.2.2

#### Disadvantage

Some use is made of the existing structures seen to be illegitimate in some quarters.



## MEMORANDUM

TO: Mrs Glenda Muller

FROM: Miriam Cleary

c.c. Dr T Eloff  
Ms M Emmett

30 July 1993

### **TECHNICAL COMMITTEE FOR FUNDAMENTAL RIGHTS**

As part of our office we have an empty room as an "ante chamber". It would be greatly appreciated if say three chairs and a table could be placed there - they need not necessarily be easy chairs, the usual type will do.

The reason for my request is that our one member, Adv. Zac Yacoob has to have a reader read out all the work to him and for him to discuss what the reader is to write as a draft etc. and this at times disturbs the work of the rest of the Committee. At present, Adv Yacoob and his reader just stand outside and lean against the wall whilst reams of documents have to be juggled as they stand. This is inconvenient for them as well and they do not wish to search for an empty office, as they need to be within earshot of the rest of the Committee.

This little ante-chamber is ideal to have the extra chairs and a table set in it and would assist this Committee a great deal.

Thanking you,



MEMORANDUM

TO: Dr. Francois Venter, Convenor, Technical Committee on Constitutional Affairs

Professor John Dugard, Convenor, Technical Committee on the Repeal of Discriminatory Legislation

Professor Lourens du Plessis, Convenor, Technical Committee on Fundamental Rights during the Transition

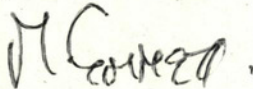
FROM: Melody Emmett for the Sub-Committee of the Planning Committee

DATE: Friday 30 July 1993

The Sub-Committee has asked me to arrange a meeting with you for Monday 2 August at 15H00. The meeting will be held in the Meeting Room of the Technical Committee on the Repeal of Discriminatory Legislation.

Please confirm receipt of this memorandum and that you will be available to attend the meeting as soon as possible.

Many thanks,



Melody Emmett  
for the Sub-Committee

cc: Mac Maharaj, Fanie van der Merwe, Ben Ngubane, Theuns Eloff, Kim Morgan,  
Miriam Cleary.



## TECHNICAL COMMITTEE CLAIMS

FOR ATTENTION: SYLVIA, MIRIAM, KIM, SUSAN, OLIVE, MELANIE  
FROM: MELODY EMMETT  
DATE: FRIDAY 23 JULY 1993  
RE: NEW SYSTEM FOR CLAIMS

Following a visit by a government inspector during which the problems with processing claims were discussed, a new system has been introduced as follows:

1. When passing through claims you need to make two copies - one for your files and one for my files and give the originals to Mr Christiansen or Thandi in the finance department.
2. Every time you hand in a claim for processing you need to list it in the large book in our office and after making sure that Mr Christiansen signs for receipt of the claim you need to return the book to our office.
3. For each claim submitted a registration form needs to be completed. Copies of these are available from Mr Christiansen.



MEMORANDUM

**URGENT**

- To:
1. Technical Committee on Violence  
Professor A. Seegers  
Professor H. Vilikazi
  2. Technical Committee on the Transitional Executive Council  
Prof F. Haysom  
Ms Z. du Toit
  3. Technical Committee on the Repeal of Discriminatory Legislation  
Prof. G. Erasmus
  4. Technical Committee on the Independent Media Commission and the Independent Telecommunications Authority  
Mr D. Dison  
Prof C. Noffke  
Ms A. Armstrong  
Mr M. Markowitz
  5. Technical Committee on Fundamental Rights in the Transition  
Prof L. du Plessis  
Adv. Z. Yacoob

From: Melody Emmett

Date: 19 July 1993

The following queries have been passed on by the Finance Department AND CHEQUES CANNOT BE PROCESSED UNTIL THEY ARE RESOLVED. Please will you arrange for the relevant members of your Committees to fill in the forms, get signatures, etc. Where there is no Convenor then another member can sign with a counter-signature by the secretary of that committee.

Please direct any queries to Johan Christiansen.

Thanks.



MEMORANDUM

TO: ALL SECRETARIES : TECHNICAL COMMITTEES  
cc: Theuns Eloff

FROM: MELODY EMMETT

DATE: 13 JULY 1993

RE: ATTENDANCE REGISTERS

Theuns has asked for one concise list per Technical Committee giving details of attendance of committee members from 10 May to date. The list should contain the following information:

1. Date of meeting
2. Names of Committee members attending
3. Names of Committee members who were absent
4. Time meeting began
5. Time meeting ended
6. If possible, times that individual members arrived and left (to calculate hourly rate of pay)



**MEMORANDUM**

**TO: MEMBERS OF THE TECHNICAL COMMITTEE: REPEAL OF  
DISCRIMINATORY LEGISLATION**

cc: Mac Maharaj  
Fanie van der Merwe  
Ben Ngubane  
Theuns Eloff  
Miriam Cleary for Fundamental Rights  
Melanie Cilliers for IEC  
Sue Keene for TEC

**FROM: MELODY EMMETT**

**DATE: TUESDAY 13 JULY 1993**

**RE: MEETINGS WITH OTHER TECHNICAL COMMITTEES**

I have arranged meetings for you on Wed 14 July as follows:

**12H00 TRANSITIONAL EXECUTIVE COUNCIL (TEC)**  
Professor Fink Haysom  
Professor Dawid van Wyk

**13H00 INDEPENDENT ELECTORAL COMMISSION (IEC)**  
Mr Richard Rosenthal  
Mr King Ndlovo  
Dr F. Ginwala  
Adv. L. Laubscher  
Prof Denis Davis

\* Lunch will be served

**14H00 FUNDAMENTAL RIGHTS IN THE TRANSITION**  
Professor Hugh Corder  
Professor Lourens du Plessis  
Advocate G. Grove  
Ms S. Nene  
Advocate Zac Yacoob

**VENUE: The Committee meeting room of the Technical Committee on Violence.**



## TO ALL NEGOTIATING PARTIES

The Technical Committee on Fundamental Rights has been moved by a proposal that such rights and freedoms should be enforceable during the transition against the State only. It is considered, however, that it may be prudent to make this general rule subject to certain exceptions.

The Committee accordingly requires input from negotiating parties in regard to whether there should be circumstances in which fundamental rights and freedoms ought to be available against non-state bodies and persons and, if so, what these circumstances should be. The avoidance of privatised apartheid and preventing interference with citizens' political rights could be two such areas. One of the parties submitted that, as a general rule, the rights and freedoms entrenched during the transition ought to apply to state action only and contended that exceptions to the rule should be considered with circumspection.

Negotiating Parties are kindly requested to comment before 12th July 1993 so that their comments can be properly considered for purposes of the next Report.

2nd July 1993



NOTE TO ALL SECRETARIES

The Sub-Committee needs the following details to compile reports for the Forum. Somebody is coming in to help with this but if you or any of the members of your Committee can help with this it will save a lot of time. The following information needs to be extracted:

1. Those aspects of Technical Committee Reports agreed upon in the Negotiating Council.
2. Those aspects of Technical Committee Reports not agreed upon in the Negotiating Council.
3. Those issues referred back for debate. Of the issues referred back for debate by Technical Committees:
  - 3.1 Those which have been addressed by the Negotiating Council.
  - 3.2 Those which have not been addressed by the Negotiating Council.
4. Those aspects of Technical Committee Reports which relate to substantive issues in the Reports of other Technical Committees.
5. Those aspects of Technical Committee Reports which do relate to substantive issues covered by other Technical Committees but have not been noticed by the Negotiating Council.

Thanks.

Melody

09H30

Wednesday 30 June 1993



**RESOLUTION ON STEPS TO BE TAKEN FOR THE  
PURPOSES OF ESTABLISHING A NEW CONSTITUTIONAL ORDER**

1. The Negotiating Council agrees on the following steps to be taken for the purposes of establishing a new constitutional order:
  - 1.1 The MPNP shall adopt the constitutional principles including principles of Regional Government providing for both strong Regional Government and strong National Government;
  - 1.2 The Constitutional Principles shall be binding on the Constitution-Making Body and shall be justiciable by a constitutional court/tribunal;
  - 1.3 The Commission on Delimitation/Demarcation appointed by the MPNP will make recommendations to the MPNP on regional boundaries for the purposes of elections and Regional Government for the transitional phase;
  - 1.4 The MPNP shall agree on legislation to make provision for the following structures for the purpose of levelling the playing field and promoting conditions conducive to the holding of free and fair elections:
    - 1.4.1 A Transitional Executive Council;
    - 1.4.2 An Independent Electoral Commission;
    - 1.4.3 An Independent Media Commission and an Independent Broadcasting Authority;
  - 1.5 The MPNP shall agree on details of discriminatory legislation to be repealed;
  - 1.6 The MPNP shall agree on a constitution for the transitional period;
  
2. The Negotiating Council accordingly requests the Technical Committee on Constitutional Issues to draft a Constitution for the transition which shall make provision for:
  - 2.1 The election according to a system of proportional representation of a Constitution-Making Body, legislature and national government for the transitional phase which will include a National and Regional component. With regard to constitution making, this constitution shall provide for dead-lock breaking and special majorities by which decisions will be taken;
  - 2.2 The election of regional legislatures and the establishment of regional governments in the transition;
  - 2.3 The powers, functions and structures of regions for the transitional period;



- 2.4 Fundamental human rights on a justiciable basis during the transitional period;
  - 2.5 A Constitutional Court/Tribunal to ensure the justiciability of the constitutional principles, of the fundamental rights and of the constitution itself;
3. Participants are given until the 12th of July 1993, to make further inputs to the Technical Committee with regard to the above draft constitution for the transition.
  4. This is agreed against the background of paragraph 6 of the Explanatory Memorandum adopted by the Negotiating Council on 30 April 1993.



NOTE TO ALL SECRETARIES

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Thanks.

Melody

09H30

Wednesday 30 June 1993



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4. This is agreed against the background of paragraph 6 of the Explanatory Memorandum adopted by the Negotiating Council on 30 April 1993.



## EMERGENCY EVACUATION PLAN

### IN THE EVENT OF AN EMERGENCY AND WE ALL HAVE TO LEAVE THE CONFERENCE CENTRE

- 1 Don't panic. Try to be calm. We have planned for such an eventuality.
- 2 Wait for instructions from security personnel and the health team. Follow instructions strictly.
- 3 If not injured, or slightly injured but able to walk, leave the conference centre via all exits EXCEPT EXIT D. (See annexure A)
- 4 Those on Upper Floor make use of exits 1 - 8. (See annexure B)
- 5 Those on Lower Floor make use of exits A, B, D, E and F.
- 6 Please do so in an orderly fashion.
- 7 Then make your way to the helicopter pad, adjacent to the main parking area. Ensure one way flow of traffic only.
- 8 If you are injured, try to remain calm. Trained staff will attend to you immediately.
- 9 Obey instructions from security personnel and the health team implicitly. They are working in your interests.
- 10 No vehicles may be moved except those instructed to do so by security personnel. This is necessary in order not to disrupt evacuation procedures.

CONFIDENTIAL

EMERGENCY EVACUATION PROCEDURES.

1. COMMUNICATION AND CONTROL

- 1.1 Single control Centre  
Position OPS Room or helipad area or open area adjacent to SABC VANS
- 1.2 LINKS:  
Multi-Party Security  
Kempton Park fire brigade  
Health  
Johannesburg General Hospital and Hydromed  
Transvaal Provincial Ambulance Services

2. ACCESS AND AGRESS ROUTES

- 2.1 Emergency vehicles to conference centre via R21 (Boksburg route).
- 2.2 Entry and Exit to conference centre via both the main gate and service gate according to deployment.

3. CENTRAL HOLDING AREA

- 3.1 adjacent to helipad or open area adjacent to SABC vans

4. EVACUATION PROCEDURE

- 4.1 All exits except D to the Central Holding Area.
  - 4.1.1 Emergency Personnel Access:



a) Through service gate via point D conference hall.  
Exit via point D

b) Through foyer entrance once crowd cleared

4.2 For uninjured and mobile injured patients.

- Security to direct flow one way to the central holding area next to the helipad/ open AREA adjacent to SABC vans
- Further evaluation and disposal as per medical staff instruction.

4.3 For injured/immobile patients

4.3.1 Trained personnel to access those within hall via exit D.  
- ambulance exit via exhibitors entrance. (Exit D)

4.4 On site emergency vehicle location

#### 4.5 CONTROL PROCEDURE

Overall co-ordination by chief health co-ordinator and chief security co-ordinator

#### 4.6 BACKUP SERVICES ORGANISED

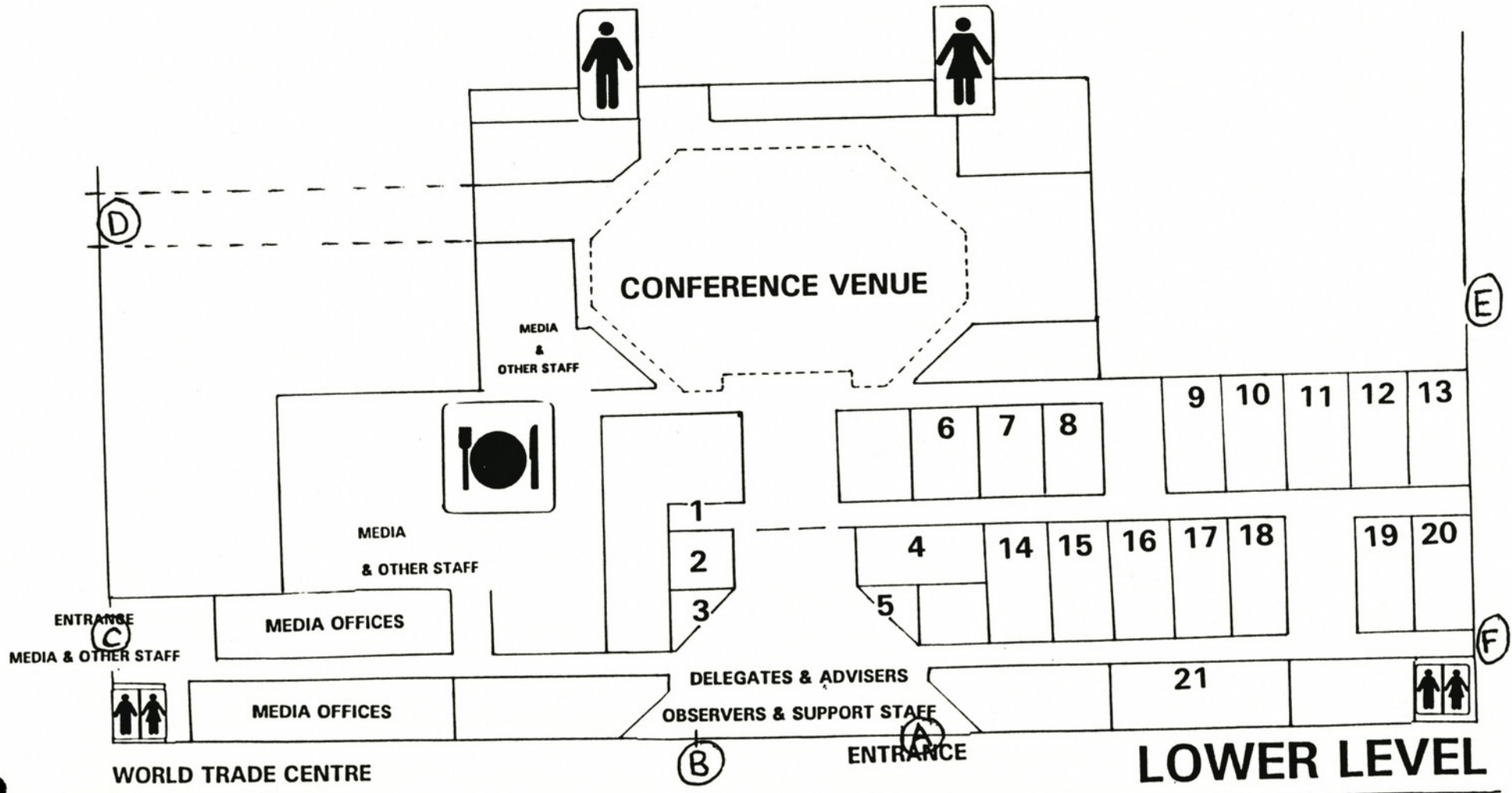
- Kempton Park fire brigade (with whom we are in constant radio contact)
- Transvaal Provincial Ambulance Services.

#### 4.7 PERSONNEL ON STANDBY AT WTC

- 2 Paramedics TVL Ambulance Services
- 2 Members from Kempton Park Fire Department

# ANNEXURE A

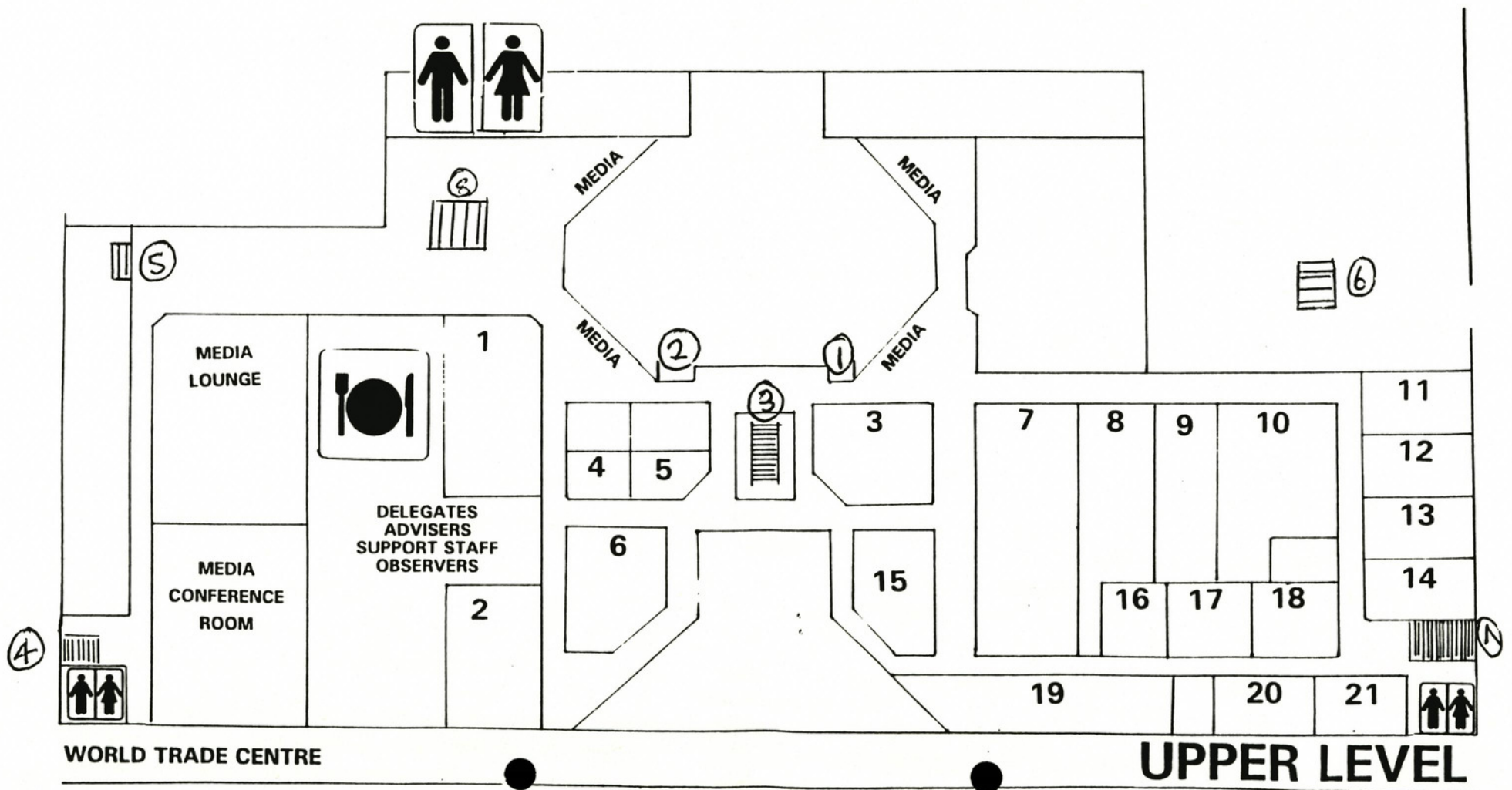
## MULTI-PARTY NEGOTIATIONS PLANNING CONFERENCE





# ANNEXURE B

# MULTI-PARTY NEGOTIATING FORUM



# MEMO

TO: Melody Emmett

FROM: Miriam Cleary

11 June 1993

## TECHNICAL COMMITTEE ON FUNDAMENTAL RIGHTS : FIFTH PROGRESS REPORT : 11 JUNE 1993

1. The abovementioned Report has been check in final, by every member of this Technical Committee.
2. The Committee has advised that they do not want the following to be altered in this Report:
  - 2.1 All numbers, a's, b's etc. in brackets are to remain as these are quoted from Statutes.
  - 2.2 Certain numbers do not have stops after them - again these have been quoted from Statutes and must remain as is.
  - 2.3 The dashes, where they occur, are not to be taken out and substituted by anything else.

Thanking you,

*Miriam*  
~



URGENT MEMORANDUM

TO: Melanie, Kim, Miriam, Susan/Olive  
FROM: Melody  
DATE: 10 June, 1993  
RE: EMBARGO ON REPORTS

Theuns wants you to type (in usual very large print and in bold) at the head of every page of your reports:

**EMBARGOED UNTIL DELIVERY/TABLING IN NEGOTIATING  
COUNCIL MEETING**

lk

## **NOTICE TO ALL PARTICIPANTS IN THE NEGOTIATING COUNCIL**

The Technical Committee on Fundamental Rights during the Transition requests all participants in the Negotiating Council as a matter of urgency:

- (a) to consider the means and mechanisms suitable for the enforcement of fundamental rights and freedoms during the transition, and
- (b) the formulations of fundamental rights and freedoms contained in the Committee's Fourth Report (tabled today),

and to submit substantial comment on these two matters by the prescribed deadline i.e. 12h00 on Tuesday, 8 June 1993.

3 June 1993



MIRIAM

M E M O R A N D U M

TO: SECRETARIES OF ALL TECHNICAL COMMITTEES

cc: Theuns  
Saul  
Sandy  
Mac  
Ben  
Fanie

FROM: Melody Emmett

DATE: Friday 4 June 1993

RE: 1. Technical Committee deadlines  
2. Time Sheets  
3. Schedule of meetings  
4. Resolutions passed at the Negotiating Council Meeting of Thursday 3 June

1. **Technical Committee deadlines**

✓ Attached is a list of deadlines for comments and for reports.

2. **Time Sheets**

✓ We need to start filling in time sheets on a weekly basis starting with the week beginning Monday 1 June. These should be handed in every Monday morning.

Please fill in the attached time sheet and hand it in to either Busi or myself on Monday morning 7 June.

3. **Schedule of Meetings**

✓ Attached is a schedule of Technical Committee meetings for the week of Monday 7 - Friday 11 June. Please check that it is correct and advise me of any changes.

4. **Resolution on an election date and on Constitutional Issue**

✓ Attached are copies of resolutions passed at the Negotiating Council meeting of Thursday 3 June. Please make copies for every member of your Committee.

Thanks.

M E M O R A N D U M

TO: All Secretaries of Technical Committee  
FROM: Melody Emmett  
DATE: Wednesday 19 May 1993  
RE: DEADLINES

Please note the following deadlines:

1. Final date for submissions

12.00 Wednesday 19 May

2. Second Technical Committee Reports plus  
Executive Summary\*

14.00 Friday 21 May

\*(excluding the Technical Committee on the Repeal of  
Discriminatory Legislation - Second Report due on Tuesday  
1 June)

3. Third Technical Committee Reports

14.00 Wednesday 26 May



**MULTIPARTY NEGOTIATIONS - SCHEDULE OF MEETINGS**

**UPDATE: 19 MAY 1992**

**CONFIRMED MEETINGS FOR MAY 1993**

T = tea; L = lunch; D = dinner; OC = Own account;  
TBA = to be advised; NR = new room

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**WEEK 3**

DATE	GROUP	NO	START/END	MEALS	ROOM
WED 19	TECH COMM VIOLENCE	8	08:00-13:00	T & L	NR 3
WED 19	TECH COMM RIGHTS	6	8:00-18:00	T & L D-TBA	NR 1
WED 19	TECH COMM INDEP MEDIA	7	09:00-15:00	L & L	U 110
WED 19	TECH COMM CONSTIT	9	11:00-20:00	T & L D	NR 2
WED 19	TECH COMM TEC	7	10:00-17:00	T & L	NR 4
WED 19	TECH COMM INDEP ELEC	6	10:00-17:00	T & L	U 106
WED 19	TECH COMM DISRIM	7	10:00-17:00	T & L	U 107
THUR 20	TECH COMM RIGHTS	6	8:00-17:00	T & L	NR 1

**WEEK 4**

DATE	GROUP	NO	START/END	MEALS	ROOM
MON 24	PLANNING COM	15	10H00-18H00	T & L	PLAN COM
MON 24	TECH COMM TEC	7	10:00-17:00	T & L	??
TUES 25	NEG COUNCIL & PRESS	104	09H15-18H00	T & L	NEG COUN
TUES 25	PLANNING COM	15	18H00-20H00	T	PLAN COM
FRI 28	NEG COUNCIL & PRESS	104	09H15-18H00	T & L	NEG COUN

**MEETINGS FOR JUNE 1993**

DATE	GROUP	NO	START/END	MEALS	ROOM
TUES 1	PLANNING COM	15	10H00-13:00	T & L	PLAN COM
TUES 1	COMMCOMM	30	14:00-17:00	T	ROOM 1
TUES 1	NEG COUNCIL & PRESS	104	14:00-20:00	L & D	NEG COUN
THUR 3	<b>FORUM</b>	500	10H00-18H00	T & L	CENTRE



M E M O R A N D U M

To: Secretaries of all Technical Committees  
cc: Theuns, Mac, Ben, Fanie

From: Melody Emmett

Date: 17 May 1993

Re: Progress Report

The system of advising us of your needs and of times and dates of next meetings is not working.

In an attempt to rectify this, will you please fill in one of the attached forms after each meeting and hand it to us within half an hour of the completion of your meeting. This is important so that Theuns and the Sub-Committee can be advised of which meetings are taking place in advance and without having to wait for minutes or for Glenda's room booking form to be distributed.

Many thanks,

  
~~Melody~~

Melody

M E M O R A N D U M

To: All Secretaries of Technical Committees:  
Syliva, Melanie, Kim, Danie, Olive, Miriam, Sue

cc: Theuns  
Mac  
Fanie  
Ben

From: Melody Emmett

Date: Friday 14 May 1993

Re: Submissions

Attached is a list of submissions. Please check that every member of your committee has a copy of each submission relevant to your committee and that you have a copy for yourself on file.

If you are missing any of them it is crucial that you advise us as soon as possible.

Thanks,

*Melody*  
Melody

*Not recd.*

*No 5 & No. 9.*

*MA McLaughlan.*

*9. IFP Kwa Zulu*



M E M O R A N D U M

TO: SECRETARIES OF TECHNICAL COMMITTEES:

Kim Morgan  
Melanie Cilliers  
Susan Keane  
Miriam Cleary  
Danie Brand  
Olive Khoza  
Sylvia Briggs

cc: Theuns Eloff  
Sub-Committee members (for information)

FROM: Melody Emmett

DATE: Wednesday 12 March 1993

1. MINUTES

~~MC~~ 1/3/3/2/...

- \* Make sure you all have a tape-recorder and tapes with you for each meeting. Don't leave collecting these to the last minute. If your committee objects to you using tape-recorders ask if you can record resolutions only. If this is a problem then you will have to accommodate your committee members.
- \* Tapes should be clearly labelled with the name of the Committee, date and time of meeting and handed in to me with copies of minutes.
- \* Minutes should be completed between 15-20 hours after each meeting.
- \* Ideally your committee members should have received copies of minutes by fax before they arrive for the next meeting. Obviously this is not possible if meetings are held on a daily basis.
- \* Immediately you have completed your minutes you should give a copy to me to clear with Theuns and after making corrections, if there are any, make copies for your committee members and one for me. I will photocopy and distribute to Theuns and Sub-Committee members.
- \* Minutes need only be very brief, noting decisions taken. However, you should try and stick to the standard format in terms of numbering, references, etc. as far as possible.

2. SCHEDULE OF MEETINGS

- \* At the end of your meeting you need to immediately fill in the form advising Glenda of the date and time of your next meeting with one copy to me.

3. STATIONERY REQUIREMENTS

Please give me a written list of stationery requirements as soon as possible.

4. FILING

Filing will be centralized in the Sub-Committee office (upstairs). I will do all the filing. There is a box marked: "in-tray" in the upstairs office.

5. SUBMISSIONS AND REPORTS

Copies of all submissions and reports must be handed in immediately:

- \* one copy to me (for distribution to the Sub-Committee and Theuns)
- \* one copy to Sandy.

6. DOCUMENTS FOR THE DIFFERENT TECHNICAL COMMITTEES

In the Sub-Committee office there is a box for each of the Technical Committees. You need to check these boxes regularly. All faxes, memoranda and documents for your committee or for you personally will be kept in them.

7. ACCESS TO THE SUB-COMMITTEE OFFICE

The office will be locked if nobody is around. Sandy will have a spare key and I will have a key. You should be able to get one of us at all times.

8. CONFIDENTIALITY

All the material you are dealing with is confidential. We are all responsible for seeing that nothing is left lying around.

9. GENERAL

If you are overloaded and need some assistance please let me know.

10. FAXES

Make two copies of fax cover sheets:

- \* one for me
- \* one for Sandy

Many thanks,

Melody



**MULTIPARTY NEGOTIATIONS - SCHEDULE OF MEETINGS**

**UPDATE: 10 MAY 1992**

**CONFIRMED MEETINGS FOR MAY 1993**

T = tea; L = lunch; D = dinner; OC = Own account;  
TBA = to be advised; NR = new room

**WEEK 2**

DATE	GROUP	NO	START/END	MEALS	ROOM
WED 12	TECH COMM DISCRIM.	7	14:00-???	T & D-TBA	U 117
WED 12	TECH COMM VIOLENCE	9	14:00-???	T & D-TBA	NR 1
WED 12	TECH COMM INDEP MEDIA	7	11:30-???	T & L-TBA	U 110
WED 12	TECH COMM TEC	7	10:00-17:00	T & L	NR 4
WED 12	TECH COMM CONSTIT	9	11:00-17:00	T & L	NR 2
WED 12	TECH COMM ELECTORAL	5	09:00-17:00	T & L	U 116
WED 12 THUR 13 FRI 14	SABC INTERVIEWS	90	09:00-17:00	T	SUITE 9
THUR 13	TECH COMM RIGHTS	7	17:00-23:00	D	<b>CAPE TOWN</b>
THUR 13	TECH COMM VIOLENCE	8	8:00-17:00	T & L	NR 1
THUR 13	TECH COM TEC	7	10:00-17:00	T & L	NR 4
FRI 14	PLANNING COM	15	08H30-13H30	T & L	PLAN COM

**PLANNING COMMITTEE REPORT TO THE NEGOTIATION COUNCIL  
ON 7 MAY 1993  
FUNCTION, MANAGEMENT & AND TIMEFRAMES OF TECHNICAL  
SUBCOMMITTEES**

1. It was agreed by the Negotiating Council that the following Technical Committees should deal with the following aspects:
  - \* Constitutional Issues (Form of State and Constitutional Principles, Constitution Making Body/Constituent Assembly, Transitional/Interim Constitution, Transitional Regional/Local Government, Future of the TBVC States, Self Determination)
  - \* Fundamental Human Rights During the Transition
  - \* Violence
  - \* Independent Election Commission
  - \* Independent Media Commission
  - \* Amendment or Repeal of Legislation Impeding Free Political Activity and Discriminatory Legislation
  - \* TEC and its Sub-Councils
  
2. The following is recommended in this regard:
  - 2.1 The names for the Panel should be submitted before 12h00, Wednesday 4 May 1993.
  - 2.2 The Sub-Committee will fax proposals on the composition of the Technical Committees as well as proposed task description of each, and suggestions on the management of the Technical Committees, to members of the Planning Committee on Thursday 6 May 1993.
  - 2.3 The Planning Committee will meet on Friday morning (7 May 1993) to formulate proposals to the Negotiating Council on the composition and task description of the Technical Committees.
  - 2.4 The Negotiating Council will appoint the Technical Committees on Friday 7 May 1993. This item should be given priority on the agenda to enable members of the subcommittees to be notified timeously about the meeting on Monday 10 May 1993.
  - 2.5 All members of the Technical Committees are to meet the Planning Committee during the afternoon of Monday 10 May 1993, to be briefed on their mandates, time scales, nomination of convenors, functioning, etc.
  - 2.6 The Technical Committees will report to the Negotiating Council. The Planning Committee will co-ordinate the Technical Committees and serve as a channel between them and the Negotiating Council. The Planning Committee may delegate some of these functions to the Sub-Committee.
  - 2.7 The Technical Committees will be asked to each submit an initial report to the Planning Committee on 14 May 1993, for tabling in the Negotiating Council on 18 May 1993.



## **BRIEF TO WORKING GROUP SECRETARIES, MINUTE TAKERS AND ASSISTANTS AND SECRETARIAL SERVICES STAFF FROM CODESA ADMINISTRATION**

As it is vital that communications with Working Groups and WGSCs flow smoothly, those appointed to serve the Working Groups and those in Secretarial Services must understand and have consideration for one another's needs and the needs of other CODESA bodies (eg, the Secretariat).

The following points are intended as a guideline to procedure for Working Group secretaries, minute takers and assistants and to all members of Secretarial Services:

### **1. Procedure regarding minutes**

- 1.1 Draft minutes to be typed by minute taker in consultation with the secretary
  - 1.1.1 Please note: the minute taker is responsible for his/her own minutes and amendments thereto from the first draft to the final adopted version
  - 1.1.2 In the absence of the minute taker, the secretary is responsible for taking minutes/recording the proceedings, or for appointing an approved substitute minute taker
- 1.2 All minutes to be formatted according to the guidelines as laid down by the Secretariat. For guidelines regarding creation of documents on PC, please see point 3 below. Please see attached sample A for format of minutes
- 1.3 1.3.1 Where liaison with/approval from the Secretariat is necessary, this to be facilitated by the secretary and minute taker/assistant, via Jane Makhanya. It is the responsibility of the secretary and minute-taker to ensure requisite changes are made to the draft minutes before these are given to Secretarial Services (SS)
  - 1.3.2 Approval by Secretariat will not always be possible/necessary, as a uniform format and routine is established. What is absolutely necessary is to keep Secretariat informed (see 1.10 below)
- 1.4 Typed draft minutes and appropriate cover sheet to be given to assistant who will liaise with SS on the faxing of draft minutes to chairperson
- 1.5 SS to return chairperson's corrected version to secretary who will co-ordinate correction of draft minutes
- 1.6 Corrected draft to be given to SS by assistant, together with covering letter (if necessary), copies of all Addenda (with instructions on how these addenda should be referenced if necessary) and clear instructions regarding recipients of the fax and the deadline for transmission of the fax
- 1.7 Transmission reports to be given by SS to the assistant who will give them to the secretary as proof of transmission should queries arise
- 1.8 SS will keep on file the current version of the minutes. Should the Working Group secretary wish to keep records of all drafts and/or notes of the minutes etc, this to be at his/her own discretion
- 1.9 Any instruction from the Secretariat shall override requests from Working Group

secretaries

- 1.10 All minutes to be given to SS in 8 copies (6 for Secretariat and Administration; 2 for filing) by assistant

## 2. Agendas

- 2.1 Instructions as for minutes to be followed
- 2.2 Agendas should be timeously planned. The ideal would be to fax out past minutes together with forthcoming agenda!
- 2.3 Please see attached sample "B" for format of Agenda

## 3. Other Documents

- 3.1 All documents have to be **filed and archived**. To facilitate filing and archiving, please observe the following points:
- 3.1.1 Documents will not be accepted for filing or archiving if they do not bear an accurate **header**.
- 3.1.1.1 Headers must correspond to the PC file name of the document and must indicate the directory in which it has been created (indication in the suffix of the file name).
- 3.1.1.2 Eg, Management Committee minutes for 1 April would be created in the MC directory under MM sub-directory. The file would be saved as "min0104.mm".
- 3.1.1.3 The header would thus be MIN0104.MM (1). The figure one in brackets indicates the assigned number of the PC on which the document was created: 1 = Ashley, 2 = Pam, 3 = SS PC, 4 = Di, 5 = Kim, etc. The PC number is included in the header, but not in the file name
- 3.1.1.4 The header should be formatted in Letter Gothic 16.6cpi, flush right, bold caps
- 3.2 One copy of every document must be given to Ashley for filing. Where the document needs to be given to the Secretariat, it should be given to Ashley x 8.
- 3.3 An original of the document (ie, clean letterhead paper, printed not copied) must be given to Dianne for the Documentation Centre. Please give Dianne a copy of every document you create: she will sort the material for the Centre at her own discretion.

## 4. Secretarial Services Support

- 4.1 Specific members of SS have been assigned to give support to Working Group secretaries, minute takers and assistants where needed. They are:
- |                 |                |
|-----------------|----------------|
| Working Group 1 | Kim Morgan     |
| Working Group 2 | Dianne Campher |
| Working Group 3 | Dianne Campher |
| Working Group 4 | Ashley Symes   |
| Working Group 5 | Pam Saxby      |
- These people will assist you in co-ordinating faxing and typing (if necessary) and overflow administration, if a situation should arise that this cannot be handled by Working Group assistants. Where the appointed SS staff member is not available to help, Working Group assistants should bring their request to Ashley who will



delegate the task appropriately

- 4.2 Regarding bulk photocopying for Working Groups, shredding of confidential documents, stationery requirements, etc, assistants should liaise with Jane Makhanya.
- 4.3 The administration office's receptionist, telephonist and fax operator is Lovedalia Letsaolo. If you anticipate any special phone messages, deliveries or incoming faxes, please liaise with Lovedalia (always bearing in mind that incoming faxes must be copied and given to Ashley for filing, before they leave the SS office).
- 4.4 Please note that Ashley Symes oversees all SS activity and that therefore SS staff members must keep her informed of all requests made to them by Working Group assistants, etc.

## 5. Notification of meetings

- 5.1 Secretaries must, as a matter of priority, inform Glenda Cohen of all meetings scheduled for the Working Group and WGSC. The following must be specified in writing:
  - \* Date
  - \* Starting time
  - \* Finishing time
  - \* Location, ie Johannesburg, Cape Town, Durban
- 5.2 If the meeting is arranged at a location other than Johannesburg, please advise delegates that CODESA has an arrangement with the Protea Ritz Hotel in Seapoint, Cape Town. All delegates will be accommodated and a conference room booked there. If the meeting falls over meal times, snacks and drinks will be arranged. Tea and coffee will be arranged in all cases
- 5.3 For all meetings, a system of communicating travel arrangements to Glenda Cohen must be established. Some Groups are allowing delegates to make their own arrangements individually, while others are taking down all delegate requirements and communicating them all together. The latter is naturally easier for admin, but either system is acceptable.
- 5.4 Secretaries taking details for delegates must establish:
  - \* From where they are flying and at what time
  - \* Transport and other travel requirements
  - \* Details regarding when they would like to return
- 5.5 Secretaries to supply to Glenda a list of probable attendees to the meeting so that flights and accommodation can be booked

## 6. Preparation for meetings

Assistants are responsible for informing SS of which documents they require for a meeting, and in how many copies. SS will make the copies, but the assistant will be responsible for collating delegate packs and for distributing them timeously and in an orderly fashion at the meeting.

## 7. Deadlines

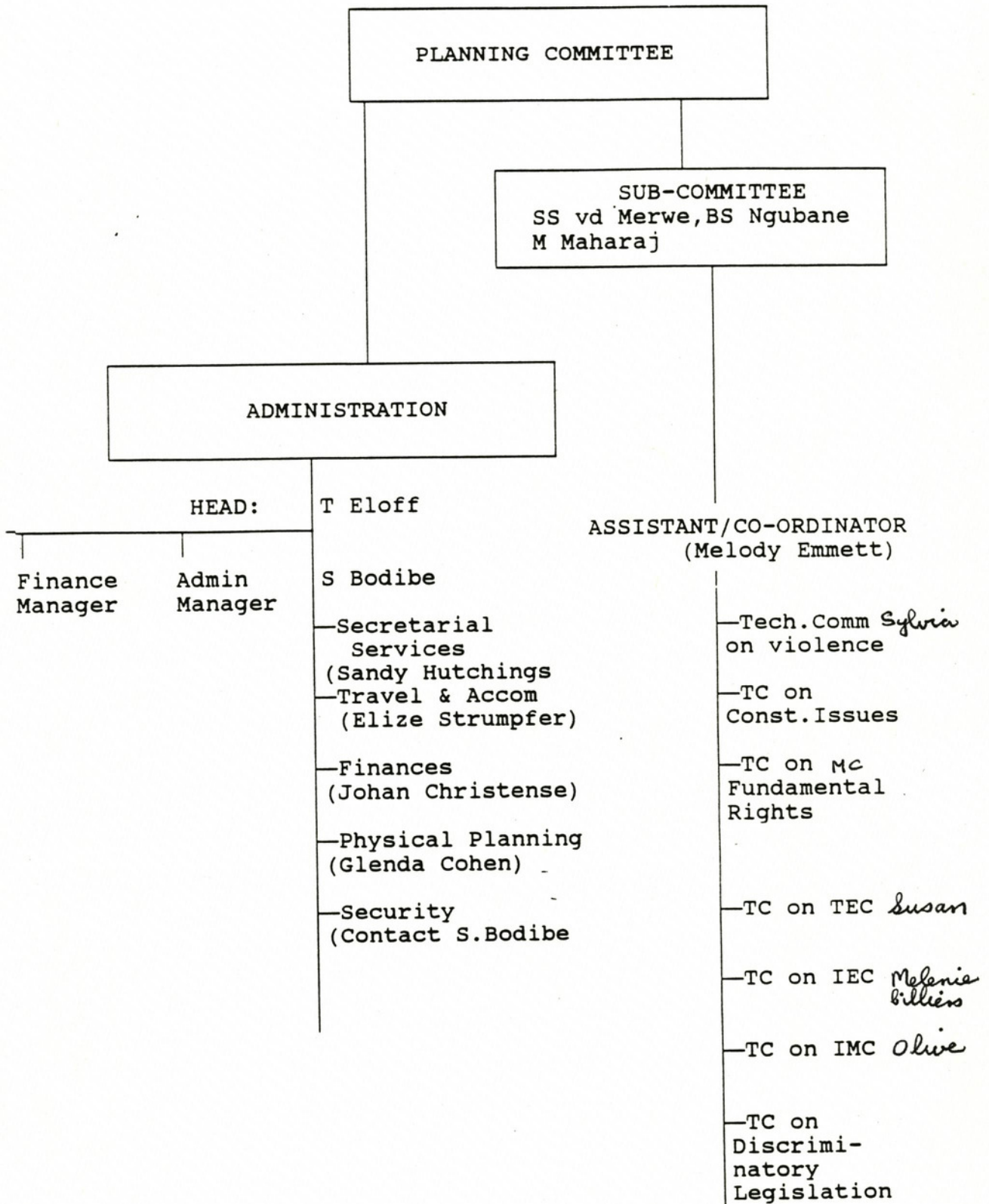
- 8.1 Secretaries, minute takers and assistants must give a deadline for any work which they require SS to carry out. These deadlines should at all times be

realistic/attainable

- 8.2 Chairpersons and secretaries should consult with minute takers and SS on realistic deadlines for preparation and distribution of documentation. It would be advisable to avoid making promises to delegates before these deadlines have been discussed

Thank you.





*Proposals to the  
Negotiating Council on the  
appointment of  
Technical Sub-Committees  
and their Terms of Reference on  
certain matters arising from  
The Consolidated Document*

*Submitted by the Planning Committee on  
26 April 1993*



## PROPOSAL ONE : THE INDEPENDENT ELECTION COMMISSION

1. We propose that the Planning Committee discuss the following and approve of the following issues to constitute the Terms of Reference of a Technical Sub-Committee charged with the task of drafting a legislative framework for the Independent Election Commission. Such a framework will constitute the basis for discussion at the Negotiating Council/Forum:
2. Terms of Reference of the Technical Sub-Committee:

### 2.1 Aims

Proposals for the establishment of an Independent Election Commission (IEC), charged with the responsibility of conducting the elections, monitoring the election process and the elections, and to act as adjudicator and arbitrator on matters related thereto. These proposals are for the national elections. Where regional elections are concerned new formulations will have to be considered.

### 2.2 The Independent Election Commission

2.2.1 The IEC shall be appointed by the State President upon the recommendation of the Multi-Party Forum.

2.2.2 The IEC shall consist of 7-11 members.

2.2.3 The Chairperson and Deputy Chairperson/s of the IEC shall be appointed by the State President on the recommendation of the Multi-Party Forum.

2.2.4 In order to enable the IEC to act impartially and in a non-partisan way, the following conditions and criteria shall apply:

2.2.4.1 There are three options with regard to membership of the IEC:

- (a) The IEC will consist of respected and suitably qualified persons, drawn from a broad cross section of the population, all of whom shall be eligible voters;
- (b) A specified number of the IEC will be assigned to persons seconded from international organisations. These shall enjoy equal status with those who are drawn from eligible voters;
- (c) The IEC shall have a specified number of seats

assigned to persons seconded from the international community and that such persons shall function in the IEC in a known voting capacity.

- 2.2.4.2 Members of the IEC shall be appointed in their individual capacities and not as representatives of any political parties, organisations, administrations, governments and/or interest groups.
  - 2.2.4.3 Appointees shall divest themselves of any political office while serving on the IEC.
  - 2.2.4.4 No member of the IEC shall be an office-bearer or official of any political party/organisation or candidate in the election.
  - 2.2.4.5 Members of the IEC shall not hold any other office which may give rise to a conflict of interest while serving on the IEC.
- 2.2.5 Vacancies in the IEC: Vacancies shall be filled by the State President, on the recommendation of the Multi-Party Forum (MPF) or Transitional Executive Council (TEC) whichever is appropriate at the time.

### 2.3 **Functioning of the IEC**

- 2.3.1 Members of the IEC shall serve on a full-time basis for the duration of the term of the IEC.
- 2.3.2 All decisions of the Commission shall be taken by a means of a vote and a simple majority shall be sufficient to bind the Commission.
- 2.3.3 In the event of a deadlock, the Chairperson of the Commission shall have a casting vote.

### 2.4 **Status of the IEC**

- 2.4.1 The IEC shall be independent of all governmental organisations.
- 2.4.2 The composition, powers, and functions of the IEC shall be enacted in legislation to be agreed to by the MPF.
- 2.4.3 The IEC shall be independent of the TEC.
- 2.4.4 In the event that the TEC decides to establish a Sub-council on Elections, such appointment will not interfere in any way with the



independence or powers of the IEC.

- 2.4.5 The sole obligation of the IEC to any other organ of government shall be to supply written reports to the TEC, on its decision in respect of the organisation and conduct of the elections.

## 2.5 Accountability and Finance

- 2.5.1 The IEC shall liaise with the TEC and the Independent Media Commission (IMC) on matters pertaining to the work of these bodies.
- 2.5.2 The IEC shall, from time to time, determine a budget to meet the reasonable costs of carrying out its powers, duties and functions in accordance with the enabling legislation.
- 2.5.3 The budget shall be presented to the TEC for approval and action.
- 2.5.4 The South African Government shall provide the funds necessary to cover the budget of the IEC.

## 2.6 Powers, duties and functions of the IEC

- 2.6.1 The IEC shall have the sole and ultimate responsibility for the organisation, conduct and supervision of the election.
- 2.6.2 In announcing the results of the election, the IEC shall have the responsibility of certifying whether, and to what extent, the elections have been free and fair.
- 2.6.3 In particular the IEC shall:

2.6.3.1 Administer the conduct of the elections.

2.6.3.2 Monitor the election process and the elections in order to: (a) ensure that the process and the elections are free and fair, and (b) enable the IEC to eventually certify the results of the elections.

In the execution of this function, the IEC may make use of, and act in conjunction with, local and international observers.

2.6.3.3 Act as an adjudicator and arbitrator on matters related to the election process and the elections referred to it by political parties, organisations, the public at large and/or the TEC.

In the execution of this function, the IEC may involve

international participation.

2.7 In order to discharge effectively and impartially the functions outlined in paragraph 6 above, the IEC shall supervise and establish separate and independent structures to execute each of the three tasks contained in paragraphs 6.3.1, 6.3.2 and 6.3.3 above. Each of these structures shall be accountable to, and coordinated by, the IEC. Provision can be made for the UN, EEC, Commonwealth and OAU to second four suitably qualified persons to serve in each of these three structures, depending on the option chosen under 2.4.1 above.

2.8 Provision shall be made for the promulgation of rules and regulations necessary for the discharge of the functions of the IEC.

2.9 **Eligibility of voters**

All South African citizens 18 (eighteen) years and above. This will include citizens of the TBVC states. The MPF/TEC shall look into whether changes are necessary to citizenship laws.

2.10 **Registration of political parties/organisations for purposes of elections**

All parties intending to participate in the elections shall be required to register with the IEC.

NB. There is a need for the MPF to agree upon measures to prevent abuse.

2.11 **Administering the elections**

The IEC shall be empowered, inter alia, to:

2.11.1 Make provisions for the identification of eligible voters.

2.11.2 Formulate a Code of Conduct for potential parties and to ensure that each party commits itself to peaceful electioneering and solemnly and publicly commits itself to such a Code of Conduct. Such a Code of Conduct should include suitable penalties for violations of the Code.

2.11.3 Receive and regulate the registration of parties that wish to participate in the elections.

2.11.4 Determine and supervise the campaign funds and election expenditure.

2.11.5 Promulgate laws and regulations for political advertising.

2.11.6 Educate the public about the electoral process through voter



education programs using radio, television and other means.

2.11.7 Set up an appropriate machinery throughout the country and appoint appropriate staff for the purposes of fulfilling its functions.

2.11.8 Make provision for and ensure that no voter votes more than once, that ballot boxes are properly sealed, that counting of votes is conducted in a manner that ensures accuracy and reliability.

2.12 **Monitoring the election process, in order to ensure that the elections are free and fair**

The IEC shall be empowered, inter alia, to:

2.12.1 Set up the necessary structures, countrywide, to observe, monitor and verify the entire process of the elections, before, during and after polling.

2.12.2 Make suitable provision for the international community organisation to participate in this process.

2.12.3 Take steps to prevent any intimidation.

2.12.4 The IEC shall be empowered to take steps to prevent corrupt and illegal practices.

2.13 **Adjudication and arbitration**

The IEC shall be empowered to, inter alia, to:

2.13.1 Serve as a final arbiter of any claims or disputes submitted by persons, political parties, organisations, administrations, governments and the TEC.

2.13.2 Establish appropriate machinery throughout the country for the speedy investigation of complaints concerning electoral irregularities, refusal of access to venues or meetings, and access to voters, intimidation and breaches of a Code of Conduct for political parties.

2.14 **General**

The IEC shall be empowered to make such other arrangements as may be necessary for the proper exercise of its functions.

3. The Technical Sub-Committee should be composed of three to four persons suitably qualified to translate the above mandate into a legislative framework.



**PROPOSAL TWO : STATE CONTROLLED/STATUTORILY  
INSTITUTED MEDIA**

1. Paragraph 2 below outlines the Terms of Reference for two institutions, vis the Independent Telecommunications Authority and the Independent Media Commission. Both are inter-related and we propose that a single Technical Sub-Committee be appointed to use the Terms of Reference as a point of departure for drafting the necessary legislative framework.

2. Terms of Reference:

2.1 Two mechanisms are involved in this regard:

2.1.1 Independent Telecommunications Authority

2.1.2 Independent Media Commission

2.2 The Independent Telecommunications Authority (ITA)

2.2.1 **Aim**

The creation and establishment of an Independent, neutral body to regulate the telecommunications sector, whose principal tasks are:

2.2.1.1 The regulation of the utilization of the electromagnetic spectrum, including the allocation of licenses and the determining of license conditions according to an agreed set of standards.

2.2.1.2 The appointment of a suitable structure to monitor the proper exercise of license conditions.

2.2.2 The report of Working Group 1 on this matter is sufficiently detailed to enable a technical sub-committee to prepare a draft legislative framework.

2.2.3 From the point of view of structure we propose the following:

2.2.3.1 An executive type of structure made up of respected and suitably qualified persons drawn from the broad cross-section of the population and representatives of the technical committees.

2.2.3.2 Technical committees dealing with:

\* Electronic media

\* Telecommunications

2.2.4 The ITA and IMC as well as boards of broadcasters will operate in accordance with the following guidelines:

2.2.4.1 An Act of Parliament which sets out broad principles.

2.2.4.2 Code(s) of Conduct broadly set out in the Multi-Party Negotiations and finalized by the ITA and the IMC themselves.

2.3 The Independent Media Commission (IMC)

2.3.1 **Aim**

The aim of an IMC is the levelling of the media playing fields in the period leading up to the elections, in respect of:

2.3.1.1 The monitoring of the electronic media, to ensure the impartiality, fairness and compliance with licensing conditions and fair access to such media.

2.3.1.2 The monitoring of state controlled/statutorily controlled media, including those in the TBVC states, to ensure their neutrality and impartiality.

2.3.2 **Composition**

2.3.2.1 The IMC shall consist of 7 - 11 members, appointed by the State President in consultation with the Multi-Party Forum (MPF)/Transitional Executive Council (TEC), whichever is appropriate at the time.

2.3.2.2 The MPF/TEC shall decide on the mechanisms for the appointment of the IMC, including public nominations, by political parties/organisations and interest groups, as well as a representative and transparent process.

2.3.2.3 Criteria for appointment of the IMC

2.3.2.3.1 Appointees shall be South Africans of merit and high standing.

2.3.2.3.2 They shall perform their duties in the public interest.

2.3.2.3.3 Appointees shall divest themselves of any political office while serving on the



IMC.

- 2.3.2.3.4 Appointees shall not be office-bearers of any political party/organisation or have a vested interest in the media industry.
- 2.3.2.3.5 The IMC shall collectively reflect the cross-section of the South African population.
- 2.3.2.3.6 The IMC shall have within its ranks individuals with the necessary legal expertise.

### **2.3.3 A Member of the IMC**

- 2.3.3.1 Shall hold office for such a term as designated for the IMC.
- 2.3.3.2 May vacate his/her office for reasons pertaining to the criteria mentioned in 3.2 above and/or accepted by the TEC.
- 2.3.3.3 May, in the case of 3.3.2 above, be replaced, in accordance with the procedure for the nomination of the IMC in the first place.

### **2.3.4 Chairperson**

The Chairperson of the IMC, shall be appointed by the State President in consultation with the MPF/TEC, whichever is appropriate at the time.

### **2.3.5 Powers, functions and duties**

- 2.3.5.1 In order to attain the objective set out in paragraph 3.1 above, the IMC shall monitor:
  - 2.3.5.1.1 The programme content of the electronic media for breaches of licensing conditions and the provisions of any Code of Conduct. In this regard, it shall act in cooperation with any similar structure set up for the regulation of the telecommunication sector.
  - 2.3.5.1.2 Governmental media, to ensure that they do not favour or prejudice any political

party/organisation.

2.3.5.2 The IMC shall serve as adjudicator for the hearing of complaints against inaccuracies or partiality, or the denial of fair access on the part of the electronic media, and shall have the power to order the rectification of any offensive conduct.

2.3.5.3 The IMC shall oversee the transformation of broadcasting, including the integration of the TBVC broadcasters into the new dispensation, and resolve any disputes that may arise, for instance: between the ITA and Board/s of broadcasters.

2.3.5.4 The IMC shall execute its functions in a manner which ensures the necessary effectiveness. It may:

2.3.5.4.1 Consult any person for the purposes of obtaining expert advice on any matter; and

2.3.5.4.2 Appoint sub-committees to perform such functions and duties as it may determine, from time to time.

#### **2.3.6 Accountability, Finance and Referral**

2.3.6.1 The IMC shall operate as an independent body.

2.3.6.2 It shall liaise with the ITA, the Independent Election Commission (IEC) and the TEC on matters pertaining to the work of these bodies.

2.3.6.3 The IMC may, in its discretion, refer any matter involving transgression by a licensee of licensing conditions to the ITA, for such action as may be deemed necessary.

2.3.6.4 The IMC shall be afforded the necessary finance to carry out its functions, and, in this regard, it shall be accountable to the TEC.

#### **2.3.7 Structure**

The IMC shall have a Secretariat and such infrastructure as it may deem necessary to carry out its functions.



### 2.3.8 Term of Office of the IMC

Subject to review by the Interim Parliament.

### 2.3.9 Code of Conduct

- 2.3.9.1 The IMC shall carry out its functions and exercise its powers in accordance with a Code of Conduct for all licensed broadcasters, as well as one specifically applicable to the national service broadcaster (SABC and public broadcasters of the TBVC territories).
- 2.3.9.2 Such a Code of Conduct would form part of the licensing conditions of the ITA.
- 2.3.9.3 Matters which could be contained in any Code of Conduct will, inter alia cover the following:
- 2.3.9.3.1 Public media should serve society as a whole and be independent of political parties.
  - 2.3.9.3.2 All parties shall be afforded fair and reasonable access to air their views, including such aspects as the right of reply, prime-time access, public withdrawals by offending parties etc.
  - 2.3.9.3.3 Broadcasters must be impartial in dealing with news, commentary, interviews and current affairs programs.
  - 2.3.9.3.4 Privacy of sources of media workers' information shall be protected.
  - 2.3.9.3.5 Programmes shall take into account cultural and language diversity within society.
  - 2.3.9.3.6 Broadcasters shall promote peace, justice, democracy and freedom of thought, conscience and religion.

### 2.3.10 Print Media

The IMC shall liaise with the Media Council on election matters pertaining to the print media.

**PROPOSAL THREE : AMENDMENT AND/OR REPEAL OF LAWS MILITATING AGAINST FREE POLITICAL ACTIVITY, INCLUDING THE ELIMINATION OF ALL DISCRIMINATORY LEGISLATION**

1. The Terms of Reference should be based on the Report of Working Group 1 (cf page 10 - 17 of the Consolidated Document and of the Gender Advisory Committee of the various reports of the Gender Advisory Committee).
2. In order to move the issue beyond general discussion, we propose the appointment of a Technical Sub-Committee of three to four persons with the necessary expertise and experience.
3. Their task would be at this stage to produce a report which would include the TBVC States, and would contain two schedules:
  - 3.1 A schedule of laws obtaining each of these areas which should be repealed with brief motivation for each of the laws involved.
  - 3.2 A schedule of legislation which should be amended, the specific clauses requiring amendment, the nature of the amendment and a brief motivation.
4. The Technical Sub-Committee may also set up specialised Sub-Committees each to give attention to the relevant legislation in the Transkei, Bophuthatswana, Ciskei and Venda.



## PROPOSAL FOUR : THE TEC AND ITS SUB-COUNCILS

1. The Consolidated Document deals with matters relating to the TEC under the title Transitional/Interim Constitution (cf 22).
2. We suggest that a Technical Sub-Committee be appointed which would take as its Terms of Reference the Report appearing in the Consolidated Document.
3. It would draft the above in the form of a systematic and itemised set of proposals to facilitate discussion in the Planning Committee and the Negotiating Council.
4. Its Terms of Reference would exclude those matters arising from the above report which have been allocated to other Technical Sub-Committees, e.g. The Independent Election Commission and The Independent Media Commission.

## STANDING RULES OF PROCEDURE

### 1. Application

These Rules of Procedure apply at Plenary meetings and at meetings of the Negotiating Forum and the Negotiating Council.

### 2. Participants

The participating parties entitled to be represented at meetings are those listed in the List of Participating Parties annexed hereto. The Negotiating Forum can add parties to or delete parties from the list, on the recommendation of the Negotiating Council. Observers can be admitted as decided.

### 3. Delegates

3.1 Each participating party shall be entitled to be represented by:

3.1.1 Ten delegates (women must be included in the delegation) at Plenary meetings;

3.1.2 Four delegates (at least one of whom would be a woman) and two advisers at meetings of the Negotiating Forum;

3.1.3 Two delegates (at least one of whom would be a woman) and two advisers at meetings of the Negotiating Council; the leader of the delegation can appoint an adviser to take his/her place as an alternate if necessary.

3.2 Each participating party shall submit and register the names of its delegates and advisers with the [name of the forum] Administration.

3.3 Advisers can be substituted at any time provided that the substituting advisers are registered with the Administration in advance and that the leaders of the delegations notify the Chairpersons whenever an adviser is substituted during the course of a meeting.

3.4 In the event of a dispute concerning the credentials of a delegate or an adviser, the issue will be decided by the meeting itself upon the receipt of a factual report and recommendation of the Planning Committee.



#### 4. **Agreements and Decisions**

- 4.1 All agreements are to be arrived at and decisions taken by general consensus.
- 4.2 If general consensus cannot be achieved, the method of sufficient consensus will be used.
- 4.3 Sufficient consensus means that:
  - 4.3.1 There is a lack of general consensus;
  - 4.3.2 There is enough agreement from enough participating parties to enable the process to move forward;
  - 4.3.3 Parties who disagree can record their objections or rejections formally, but will, in the spirit of cooperation, not hinder the process from going forward.
- 4.4 The ruling that there is consensus/sufficient consensus or not, shall be taken by the Chair in his/her discretion. However, before ruling that there is sufficient consensus or not, the Chair shall ensure that the disagreeing parties, especially those who consider themselves materially affected, as well as the meeting, shall have had sufficient opportunity to utilise a variety of mechanisms in order to reach the widest possible consensus.

In particular, such mechanisms shall include adjournments to enable informal discussions between participants, setting up technical committees composed as the meeting deems appropriate for the particular matter under consideration, as well as allowing participants to consult their principals.

The Chair and the meeting shall decide upon the specific mechanism/s on the basis of the nature of the issues around which the disagreement exists, with the view to arriving at consensus/sufficient consensus. These mechanisms are intended for resolving substantive issues and not for formal and administrative decisions.

- 4.5 The ruling that there is consensus/sufficient consensus or not can however be challenged by any party who disagrees. The meeting will then deal with it as is appropriate.

#### 5. **Quorum**

The Chair may declare a meeting open and permit the debate to proceed when delegates of at least two-thirds of the participating parties are present.

## 6. **Speeches and interventions**

- 6.1 Every delegate shall be entitled to speak.
- 6.2 If a speaking order has been agreed upon, the Chair shall call the speakers in that order.
- 6.3 In general, the Chair shall call on speakers in that order in which they signify their desire to speak. The Chair however, shall ensure that each delegation is afforded a reasonable opportunity to speak.
- 6.4 The Chair shall apply the standard rules applicable to meetings, except as otherwise stipulated herein.

## 7. **Chairing of meetings**

- 7.1 Plenary meetings shall be chaired by an independent Chairperson/s to be decided upon by the Negotiating Council.
- 7.2 The Negotiating Forum and the Negotiating Council shall be chaired by a core panel of Chairpersons (assisted by two persons from within the Negotiating Council), appointed on merit and capability by the Negotiating Council from its own ranks and serving on a rotating basis. This principle of rotation should be applied from time to time as decided by the Negotiating Council, bearing in mind the principle of continuity.

## 8. **Minutes and Documentation**

- 8.1 The proceedings of Plenary meetings shall be recorded and transcribed and copies of the transcript made available to all delegates.
- 8.2 The proceedings of meetings of the Negotiating Forum and Negotiating Council shall be recorded in full, but only agreements and decisions shall be minuted.
- 8.3 Where a member or members specifically request that their objection is noted, their objection will be so minuted.

## 9. **Media**

All meetings of the Plenary, The Negotiating Forum and The Negotiating Council shall be open to the media, with the proviso that the Negotiating Council may, in terms of its own procedures, decide on which part of its meetings should be closed to the media



10. **Amendment of the Rules of Procedure**

10.1 These Rules of Procedure can be amended by the Negotiating Forum.

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## RESOLUTION ON THE TRANSITION PROCESS

1. We, the participants at the Negotiating Forum meeting at the World Trade Centre, Johannesburg on 1st and 2nd April, 1993.

having,

- 1.1 Received a report from the Negotiating Council on the CODESA reports and the transition process;
  - 1.2 Identified some of the issues concerning constitutional matters which the Negotiating Council must consider.
- 
2. Resolve to instruct the Negotiating Council to consider and report on all matters arising from the Consolidated Report, including the following and other Constitutional issues:
    - \* Form of State and Constitutional Principles
    - \* Constitution-Making Body/Constituent Assembly
    - \* Transitional/Interim Constitution
    - \* Transitional Regional/Local Government
    - \* Fundamental Human Rights during the Transition
    - \* Transitional Executive Council, its Sub-Councils, the Independent Elections Committee and the Independent Media Committee
    - \* Future of the TBVC States
    - \* Self-determination
  3. The Negotiating Council shall present reports on progress made on the above issues to the Negotiating Forum.

6.5.3 In the light of these guidelines, the motion was withdrawn.

6.5.4 With regard to the issue of the status of the Resolutions Committee, the following was noted:

- \* That there is no Resolutions Committee in operation or in existence;
- \* That there should be some modus operandi where the opportunity to verbalise a resolution should be balanced with efficiency of running the meeting. It was agreed to refer the issue of this process to the Planning Committee for a recommendation to be submitted to the Negotiating Council.

6.5.5 In this light, it was agreed that the resolution would be withdrawn.

The meeting adjourned at 12h00 to give delegates and advisers an opportunity to read the documentation and have lunch.

Before the meeting adjourned, the Chairperson briefly took participants through the documentation.

The meeting reconvened at 13h50.

## 7. Substantive issues

7.1 Before the presentation and tabling of the Consolidated Document proceeded, it was agreed that, as a general guideline, an input by a member be limited to 5 minutes. It was noted that if any member felt that more time was needed for an input, the Chairperson should be approached and some understanding reached.

7.2 The Consolidated Document was tabled and presented on behalf of the Planning Committee, by the Sub-Committee (consisting of M Maharaj, B Ngubane and SS van der Merwe). Furthermore, the proposed recommendations were outlined.

7.3 With regard to the status of the Consolidated Document, the following was noted:

The Negotiating Forum at its meeting of 1 April 1992 agreed on the following with regards to the transition process:

- \* That a Consolidated Document be drafted and together with the document of the CODESA Agreements (already distributed to



participants) and the summary of the CODESA Agreements (already distributed to participants) form a trilogy of documents to facilitate the work of the Negotiating Council. Furthermore, the trilogy of documents enables all participants to address the issues in full.

- \* That the Resolution on The Transition Process (Addendum K of the documentation distributed) indicated that the Consolidated Document should give an overview of the CODESA Reports and the Reports of the Gender Advisory Committee, as well as the issues flowing therefrom. Furthermore, the Consolidated Document should be tabled at the Negotiating Council.
- \* That the Consolidated Document shall be without prejudice to all participants and that the Document shall not be binding.
- \* That the Negotiating Council consider and report on all matters arising from the Consolidated Report, including inter alia the constitutional matters as listed in Addendum K of the distributed documentation.
- \* That, in pursuance of the above decisions of the Negotiating Forum, and as mandated by the Negotiating Forum, the Planning Committee instructed the Sub-Committee to prepare the Consolidated Document, isolate the issues arising therefrom and make proposals on the Technical Sub-Committees that will be required (see Planning Committee minutes of 1 April 1993).
- \* That the Consolidated Document flows from the document on CODESA Agreements and the summary of CODESA Agreements. This takes the process one stage further in that instead of presenting the reports in the form of Working Group Reports, they are now isolated and put together in terms of topics. It was further noted that the wording in the Consolidated Report is the same as in the document on CODESA Agreements and as in the summary of the CODESA Agreements.
- \* That the usage of the word "agreement" on page 16 of the documentation distributed reflects the title of the document.

7.4 A further report was presented by the Sub-Committee on the issue of violence and a resolution encompassing recommendations on violence was tabled (see Addendum D). In this regard the following was noted:

- \* That this resolution does not in anyway pre-empt discussion by any participants in the Council; and
- \* That participants were urged to make submissions on this issue or amendments to the draft resolution should they so wish. Submissions

would be received until Thursday 29 April at 17h00.

- \* That discussion and adoption of the draft resolution was deferred to the next meeting of the Negotiating Council on Friday 30 April 1993.
- 7.5 It was noted that the proposed Technical Sub-Committees would enable all participants to address the issue at hand, whether they were in the CODESA process or not.
- 7.6 It was noted that the persons to be appointed to the proposed Technical Sub-Committees should be appointed in their own right and because of their expertise.
- 7.7 With regard to the establishment of and the suggested guidelines of the proposed Technical Sub-Committees, the following was agreed:
- \* That the establishment of the proposed Technical Sub-Committees stand over until the next meeting of the Negotiating Council on Friday 30 April 1993;
  - \* With regard to guidelines, any participants wishing to submit recommendations or viewpoints are requested to do so before 17h00 on Thursday 29 April. The Sub-Committee would then formulate a set of guidelines to present for adoption as Terms of Reference to the meeting of the Negotiating Council on Friday 30 April 1993.
  - \* That the Sub-Committee present to the meeting of the Planning Committee on Thursday 29 April 1993 a report and recommendations on the outstanding Constitutional Issues as identified by the meeting of the Negotiating Forum on 1 April 1993 in the Resolution on The Transition Process. This will be done at a time mutually agreed to by the Sub-committee and the Planning Committee. The Planning Committee would then submit by fax a report with the recommendations to participants by 17h00 on Thursday 29 April 1993. In this way the package could be dealt with in its entirety.
  - \* The Planning Committee will meet on Thursday at a time which will enable it to do the work that the Negotiating Council has instructed it to do.
- 7.8 It was noted that the concept/structure of Technical Sub-Committees was adopted at the meeting of the Negotiating Forum on 1 April 1993.
- 7.9 It was noted that a document circulated by the IFP has no status with the meeting.

Sub-Committee



on behalf of the meeting:

The Koserwatiewe Party for Dr AP Treurnicht;  
The Inyandza National Movement for Mr O Tambo;  
The Transkei Government for Mr C Hani.

- \* It was noted that the motion on behalf of the Planning Committee extending condolences to the Hani family should appear as an addendum to the minutes.

4.2.2 No matters arising were noted.

4.3 The minutes of the Planning Committee meeting of 22 and 23 April were noted.

4.4 A request to speak on matters that appeared in the media by T Langley was discussed. It was agreed that this was not the appropriate time and when the substance of these issues was discussed, members could raise their points of view.

## 5. Substantive Issues

### 5.1 Report from the Planning Committee on Constitutional Issues

5.1.1 The Explanatory Memorandum and the Report was presented and tabled on behalf of the Planning Committee by M Webb.

5.1.2 After discussion the following was noted:

- \* Negotiations would not take place within the Technical Sub-Committees or within the Planning Committee but in the Negotiating Council and that the Technical Sub-Committees are not fora for negotiating substantive issues, but will facilitate the structure of discussion on the issues;
- \* The principle and structure of Technical Committees was agreed to at the meeting of the Negotiating Forum on 1 April 1993;
- \* The Technical Committees, when reporting to the Negotiating Council via the Planning Committee, would take into account views as discussed in the Negotiating Council and written inputs received by the Technical Sub-Committees;
- \* The work of the Technical Sub-Committees would be directed by the Negotiating Council;

- \* The issue of Guidelines for the Technical Sub-Committees should remain open, but the Technical Sub-Committees should commence work with the existing Guidelines;
- \* The Technical Sub-Committees would report back to the Negotiating Council (through the Planning Committee) on an on-going basis;
- \* It was agreed to establish the two Technical Sub-Committees, one on Constitutional Issues and the other on the Fundamental Human Rights During The Transition (as recommended by the Planning Committee);
- \* The Planning Committee was mandated to explore the advisability of creating additional Technical Sub-Committees to deal with the Constitutional Issues.
- \* The process towards reaching agreement in terms of the these two Technical Sub-Committees was agreed to;
- \* The Explanatory Memorandum was adopted with amendments (see Addendum B). It was noted that paragraph 6 and 7 forms the basis of the relationship between the Negotiating Council and the Technical Sub-Committees.
- \* It was noted that any further possible inputs on these issues should be submitted to the relevant Technical Sub-Committees for consideration and the Technical Sub-Committees should then report back to the Negotiating Council.
- \* The importance that the IFP attaches to the issue of the Form of State was noted, with a request that this issue is not submerged within the work of the Technical Sub-Committee on Constitutional Issues.

The meeting adjourned for lunch at 13h00.

The meeting reconvened at 14h30.

## 5.2 Violence

- 5.2.1 The proposals and recommendations from the Planning Committee as submitted to the meeting of the Negotiating Council on 26 April was resubmitted to the meeting.



- 5.2.2 The IFP requested presenting a document. After discussion and the expressing of various points of view no agreement was reached on this issue. It was then agreed that the Planning Committee meet to resolve this issue.
- 5.2.3 A recommendation by the Planning Committee was adopted by the meeting as an interim measure (see Addendum C). It was noted that the IFP and the Kwazulu Government accepted this recommendation only as an interim measure and without prejudice.
- 5.2.4 In accordance with this recommendation it was agreed that a Technical Sub-Committee on Violence be immediately established with a view to:
- \* Analyse the causes of violence;
  - \* Establish further steps and mechanisms to deal with these causes;
  - \* Interact with the Negotiating Council to deal with problem of violence in the most effective and constructive way;
  - \* Make reports and recommendations to the Negotiating on an ongoing basis.
- 5.2.5 It was suggested that the Planning Committee immediately liaise with Mr John Hall in this regard and report back to the next meeting of the Negotiating Council on Friday 7 May 1993. It was further suggested that Regional Peace Committees be contacted and briefed by the National Peace Committee.
- 5.2.6 It was agreed that all participants be given the opportunity to submit to the Administration, not later than Tuesday, suggestions regarding the composition of the Technical Sub-Committee. The composition should be finalised at the next meeting of the Negotiating Council. The Planning Committee is to submit a recommendation to the Negotiating Council.
- 5.2.7 It was agreed to defer further discussion on the Proposals submitted to the Negotiating Council by the Planning Committee on Violence to the next meeting of the Negotiating Council on Friday 7 May 1993.
- 5.2.8 A Resolution on Violence with regard to journalists was adopted by the meeting (see Addendum D).

### 5.3 Recommendations by the Planning Committee on The Transitional Process

- 5.3.1 It was agreed in principle that Technical Sub-Committees be established. It was noted that this agreement does not mean that the issue of Technical Sub-Committees is closed.

5.3.2 It was agreed to refer the matter to the Planning Committee to deal with and to submit a firm proposal to the next meeting of the Negotiating Council on Friday 7 May 1993. It was noted that the Planning Committee would recommend the composition of the Technical Sub-Committees to the Negotiating Council for a decision.

5.3.3 Every participant was encouraged to submit recommendations in respect of the composition of the Technical Sub-Committees. The deadline for such submissions is 12h00 on Wednesday 5 May 1993.

5.3.4 It was noted that these in principle decisions are getting the process started and they do not constitute the order of priority.

5.3.5 It was noted that the recommendation of the establishment of Technical Sub-Committees on The Strengthening of the National Peace Accord and the Peace Corps was deferred to the next meeting of the Negotiating Council in line with a request by the IFP.

5.3.6 It was noted that the setting up of the Technical Sub-Committees on:

- \* The Independent Elections Commission;
- \* The Independent Media Commission;
- \* The amendment or repeal of legislation impeding free political activity and discriminatory legislation; and
- \* The TEC and its Sub-Councils

does not constitute structures of the TEC but deals with some constitutional issues in the process. It was further noted that the establishment of these Technical Sub-Committees does not mean agreement on the implementation of the TEC.

5.3.7 Reservations were noted by Bophuthatswana and the Ciskei with regard to references to the TBVC States in the Terms of Reference of the Technical Sub-Committees.

5.3.8 It was further noted that the Koserwatiewe Party reserves their position with regard to the establishment of the aforementioned Technical Sub-Committees.

#### 5.4 An Election Date

5.4.1 The Declaration of Intent (see Addendum E) was submitted by the Planning Committee to the Negotiating Council for its approval.

5.4.2 Reservations from within the Planning Committee in this regard were noted by R Cronje, FT Mdlalose and M Webb.



5.4.3 The principle of an election was agreed to.

5.4.4 Due to time constraints this issue was referred to the next meeting of the Negotiating Council to be held on Friday 7 May 1993.

6. **Procedural Issues**

Due to time constraints all the issues under Item 6 were referred to the next meeting of the Negotiating Council on Friday 7 May 1993.

7. **Meetings Schedule**

This issue was deferred until the next meeting of the Negotiating Council on Friday 7 May 1993.

8. **Closure**

The meeting adjourned at 18h20.

**EXPLANATORY MEMORANDUM TO BE ACCEPTED BY ALL PARTICIPANTS IN THE MULTI-PARTY PROCESS RELATING TO PROPOSALS ARISING FROM THE MULTI-PARTY FORUM RESOLUTION ON THE TRANSITION PROCESS.**

1. The Transition Process involves reaching agreement on a number of key elements. Discussion around any particular element gives rise to suspicion and fears that agreement on it would lead to that agreement being implemented before agreement has been reached on ALL the key elements that constitute a package around the transition process.
2. Such fears were addressed in the CODESA process in Working Group 3 whose report appears in the Consolidated Document on pages 22-29. This Report states that "These agreements (that is, relating to the first stage of the transition, namely the TEC) and their implementation are dependent upon agreement being reached by CODESA in respect of the second stage of the Transition, including an Interim Constitution, and general Constitutional Principles". (cf clause 4 of the Agreement on page 22).
3. Mindful that the above proviso is contained in the CODESA Agreements which are treated in the Multi-Party Forum as points of reference, and not as binding agreements; mindful also that some of the participants in the current Multi-Party Forum have specifically indicated that they consider themselves bound by the agreements reached in CODESA; it therefore becomes necessary that participants in the Multi-Party Forum should commit themselves to a similar type of provision so that the proposals based on the Multi-Party Resolution on the Transition Process may be addressed in a manner that removes any fears that agreement on any particular proposal necessarily implies agreement on their implementation.
4. The proposals contained in the first report of the Sub-Committee deals with the need for the setting up of technical committees on the following aspects:
  - 4.1 The Independent Elections Commission
  - 4.2 The Independent Media Commission and the Independent Telecommunications Authority
  - 4.3 The Amendment or repeal of legislation impeding free political activity and discriminatory legislation
  - 4.4 On the TEC and its Sub-councils with the proviso that the question of security forces and all armed formations shall be given priority attention.
  - 4.5 On strengthening the National Peace Accord
  - 4.6 On the Peace Corps

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The second report of the Sub-Committee on other constitutional matters proposes two more technical committees:

- 5.1 On fundamental rights in the Transition
- 5.2 On other constitutional matters namely, Form of State and Constitutional Principles, Constitution Making Body/ Constituent Assembly, Transitional/Interim Constitution, Transitional Regional Government, the Future of the TBVC States.

6. It is expressly understood by all participants that each of the above proposals and the documentation emanating from such technical committees shall be discussed in the Negotiating Council with the view to arriving at an agreement on these matters. Furthermore that as when agreement is reached on each of these matters the Council shall expressly determine when and how the specific agreement shall be implemented. This provision is made so as to ensure participants have a clear understanding of the package of agreements which would constitute the key elements of the transition process.
7. Technical committees are not fora for negotiating substantial issues. They are instruments of the Negotiating Council in order to produce systematic documentation to facilitate discussion and negotiating in the Negotiating Council. Documentation produced by each of these technical committees shall be discussed at the Negotiating Council and on the basis of those discussions sent back to the technical committees for further development. This process would be repeated until agreement is reached in the Negotiating Council on a final document on the issue in question.

*Miriam*  
*Miriam Cleary / Spangile*

## BRIEFING OF TECHNICAL COMMITTEES

1. The Negotiating Council agreed to establish seven Technical Committees. It is envisaged that each of these Technical Committees will facilitate discussion and the reaching of agreements in the Negotiating Council.
2. The purpose of the Technical Committees is outlined in an Explanatory Memorandum which was agreed to by the Negotiating Council on 7 May 1993. In particular we refer to paragraphs 6 and 7 of this Memorandum:

"6. It is expressly understood by all participants that each of the above proposals and the documentation emanating from such Technical Committees shall be discussed in the Negotiating Council with the view to arriving at an agreement on these matters. Furthermore, that as and when agreement is reached on each of these matters the Council shall expressly determine when and how the specific agreement shall be implemented. This provision is made so as to ensure that participants have a clear understanding of the package of agreements which would constitute the key elements of the transition process."

"7. Technical Committees are not fora for negotiating substantive issues. They are instruments of the Negotiating Council in order to produce systematic documentation to facilitate discussion and negotiating in the Negotiating Council. Documentation produced by each of these Technical Committees shall be discussed at the Negotiating Council and on the basis of those discussions sent back to the Technical Committees for further development. This process would be repeated until agreement is reached in the Negotiating Council on a final document on the issue in question."

3. **The Seven Technical Committees are:**

- 3.1 On Violence
- 3.2 Constitutional Issues ( including Form of State and Constitutional Principles, Constitution Making Body/Constituent Assembly, Transitional /Interim Constitution, Transitional Regional/Local Government, Future of the TBVC States, Self Determination)
- 3.3 Fundamental Rights During the Transition
- 3.4 The Independent Election Commission
- 3.5 The Independent Media Commission and the Independent Telecommunications Authority
- 3.6 Amendment or Repeal of Legislation Impeding Free Political Activity as well as Discriminatory Legislation
- 3.7 The Transitional Executive Council and its Sub-Councils.

4. The issues allocated to each of the above Technical Committees arise from key elements of the negotiating process which will enable South Africa to move from the current order to a democracy. Detailed guidelines were agreed to at the Negotiating



Council in respect of each of these Technical Committees. These are being made available to each Technical Committee in order to guide their work as well as provide each with an overview of the tasks entrusted to all the Technical Committees.

5. The Technical Committees, as was stated earlier, are not Negotiating Fora. It is expected that the basic working documents of each Technical Committee would be:
  - 5.1 The trilogy of documents emanating from the CODESA process, namely the Report on CODESA Agreements, the Summary of these CODESA Reports and the Consolidated Document on CODESA Reports.
  - 5.2 The proposals of the Planning Committee (the first and the second reports) which are partially derived from the Consolidated Document on CODESA Reports, and which constitute the guidelines in respect of each Technical Committee.
  - 5.3 Submissions and inputs from the participants to the current negotiating process: A special circular is being sent out by the Planning Committee to all participants inviting these submissions and setting deadlines for such submissions to be made.
  - 5.4 Discussions on any of the substantive issues which have taken place in the Negotiating Forum and the Negotiating Council before the Technical Committees were set up (these have been extracted from the relevant minutes and are included in the files being prepared for each Technical Committee).
  - 5.5 Discussions which shall take place in the Negotiating Council on the basis of the reports and documents prepared by each Technical Committee.
  - 5.6 Any other submissions which may be made to the Technical Committees by individual experts and interest groups, provided these are submitted within the time frames of the Negotiating Process
6. The basic process within which the Technical Committees shall function are as follows: Each Technical Committee shall prepare systematic documentation (which may even take the form of draft legislation) for structured discussion, amendment etc in the Negotiating Council. If no agreement has been reached on any specific issue on aspects of a Technical Committee report, such aspects would be referred back to the Technical Committee for their further development which would take into account the discussions in the Negotiating Council. The process would be repeated until participants in the Negotiating Council reach agreement.
7. In addition to the above guidelines etc we refer you to the Declaration of Intent which was adopted by the Negotiating Council on 7 May 1993. This Declaration imposes certain time frames with regard to the work of the Technical Committees. In this context we draw your attention to the fact that the following dates have been set for meetings of the Negotiating Council during the month of May: The Negotiating



Friday <sup>08:00</sup> Report

Council is scheduled to meet on Tuesday 18 May, Tuesday 25 May and Friday 28 May. The meetings are preceded by meetings of the Planning Committee which are scheduled for Friday 14 May, Monday 17 May, Tuesday 18 May, Monday 24 May, Tuesday 25 May.

8. It is important that participants in the Negotiating Council and members of the Planning Committee receive reports and documentation from the Technical Committees at least 24 hours before their meetings.

9. It should be noted by the Technical Committees that the negotiations take place in the Negotiating Council. The Planning Committee is a facilitating body and has been entrusted by the Negotiating Council with the task of managing and coordinating the work of the Technical Committees. To this end the Planning Committee will use the services of a three person Sub-Committee working under the guidance of and accountable to the Planning Committee. In the context of this structural framework, the Technical Committees are committees of the Negotiating Council to whom they are accountable.

10. **Relations with the media:**

It should be further noted that persons serving in the Technical Committees do so in their individual capacities and not as representatives of any party/organisation. It should be expressly understood that neither the Technical Committees nor individuals serving on any of these Technical Committees are to make statements or comments to the media on matters relevant to the work of the Technical Committee on which they are serving.

*not make documents available; also not reports.*

11. **Submissions and inputs to Technical Committees:**

Submissions by participants, interest groups and experts shall be made to the Technical Committees in writing. These shall be received by the Administration and forwarded to the three person Sub-Committee for transmission to the respective Technical Committees. No oral evidence shall be entertained.

12. **Reports of the Technical Committees**

These shall be made available in the first instance to the Planning Committee, through its Sub-Committee, for submission to the Negotiating Council.

13. The relevant Technical Committee shall attend meetings of the Negotiating Council when its report/s are under consideration. From time to time a Technical Committee or its rapporteur/convenor may be requested to attend specific meetings of the Planning Committee as and when necessary.

14. The three person Sub-Committee shall be available on a day to day basis to clarify any matters relating to the guidelines outlining the tasks of specific Technical



Committees. On matters that go beyond these guidelines the Sub-Committee shall bring the matter to the attention of the Planning Committee for guidance.

15. The Administration shall provide each Technical Committee with a secretary. The secretary shall also facilitate contact between the Technical Committee and the Administration for production of documents and all administrative needs. Each Technical Committee is being provided with an office/ working space at the World Trade Centre by the Administration. Each Technical Committee is free to structure itself in a manner that will enable it to function effectively. To this end they may appoint a convenor/rapporteur from amongst themselves as they see fit.
16. Attached hereto is an organogram of the structures of the Multi-Party Negotiating process.

# SUMMARY OF PROPOSED STRUCTURES

