

THESE MINUTES ARE CONFIDENTIAL AND RESTRICTED TO MEMBERS OF THE NEGOTIATING COUNCIL.

**MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 14H00 ON WEDNESDAY 1 SEPTEMBER 1993 AT THE WORLD TRADE CENTRE**

PRESENT: See Addendum A

**1. Moment of Prayer/Meditation**

A moment of prayer/meditation was observed by all members.

**2. Welcome and Attendance**

The participants were welcomed

**3. Ratification of the Agenda**

The agenda was ratified with no amendments.

**4. Minutes**

4.1 The minutes of the meeting of 24 August 1993 were ratified with no amendments.

4.2 No matters arising were noted out of the minutes of 24 August 1993.

**5. Reportback from the Planning Committee**

5.1 Resolution on the processing of the three accepted Bills put to the Negotiating Council by the Planning Committee:

5.1.1 A resolution was circulated in the meeting to be dealt with during the course of the day (see Addendum B).

5.1.2 Before the close of the meeting PJ Gordhan, on behalf of the Planning Committee, presented the resolution to the Council.

5.1.3 The Bophuthatswana Government and the Ciskei Government noted that they would object to the adoption of the resolution.

5.1.4 The PAC requested that it be noted that the acceptance of the resolution would constitute a new process altogether and it amended the original process.

5.1.5 After a lengthy discussion, the Chairperson ruled that in terms of the Standing Rules and the guidelines for Chairpersons, one or more parties had material objections to the decision. Therefore, the matter would be discussed informally overnight and resolved at the next meeting of the Negotiating Council on 2 September 1993.

5.2 Commission on National Symbols:

It was noted that a recommendation on the composition of the Commission as well as the process and procedure relating to the Commission would be put before the meeting of the Negotiating Council on Tuesday 7 September 1993.

5.3 Women and the TEC:

It was noted that the Planning Committee was still having informal discussion with the women's caucus to finalise this issue.

5.4 Moment of Silence:

It was noted that the Negotiating Council would adjourn at 11h55 on Thursday 2 September to observe a minute of silence in commemoration of the "Day of Peace".

6. **Substantive Issues**

6.1 **Fifteenth Working Draft of the Transitional Executive Council Bill:**

6.1.1 The Technical Committee on the TEC and its Subcouncils was welcomed. Present were Z du Toit, F Haysom, CJ Heunis and D van Wyk. Apologies were noted from E Mapheto and J Renene. The Technical Committee presented its report.

6.1.2 Definition "Armed Force" refers:

- \* It was suggested that the sentence should end after the word law.
- \* After discussion it was agreed to accept the clause as formulated.



- 6.1.3 Definition "Traditional Authority" refers:
- \* The Traditional Leaders were requested to assist the Technical Committee with this definition. Debate was then curtailed.
- 6.1.4 Definition "Traditional Leader" refers:
- \* The Traditional Leaders were requested to assist the Technical Committee with this definition. Debate was then curtailed.
- 6.1.5 Clause 2 (b) "Establishment of Transitional Executive Council" refers:
- \* Questions of clarity were put to the Technical Committee on this clause.
  - \* It was suggested that as this clause should be read with clause 3 (c) and clause 7 (5), reference should be made to these two clauses in clause 2 (b).
  - \* After discussion it was agreed to accept this clause as formulated.
- 6.1.6 Clause 3 (c) "Objects of the Council" refers:
- \* Questions of clarity were put to the Technical Committee.
  - \* It was suggested that the words "or any other law" should be removed from this clause.
  - \* It was suggested that the words "facilitating the transition to a democratic order" be deleted and replaced by "in order to fulfil the terms of (a) and (b) above". Furthermore, that the sentence should end after the words "assigned to it".
  - \* It was suggested that all the words before the word "exercising" should be deleted. This proposal was seconded. The Technical Committee stated that this would constitute a function and not an object.
  - \* After discussion the clause was agreed to as formulated. The Bophuthatswana Government and the Ciskei Government noted its objection to this decision.

- 6.1.7 Clause 4 (2) "Constitution of Council" refers:
- \* Clause 4 (2) was agreed upon as formulated (see Addendum B).
- 6.1.8 Clause 4 (8) "Constitution of Council" refers:
- \* Questions of clarity were put to the Technical Committee.
  - \* It was agreed that the words "any other law" should be inserted at the end of clause 8 (a) (ii) and therefore the clause as amended was agreed to.
  - \* It was noted that the PAC totally rejected this clause.
- 6.1.9 Clause 4 (9) "Constitution of Council" refers:
- \* It was noted that the PAC totally rejected this clause.
  - \* The clause as formulated was agreed to.
- 6.1.10 Clause 7 (5) "General powers of Council" refers:
- \* It was suggested that this clause should be deleted. Various concerns were raised about the specific powers referred to in this clause.
  - \* Other participants supported the inclusion of this clause.
  - \* It was suggested that this clause relates to functions that the Negotiating Council had already agreed upon.
  - \* The clause was adopted by sufficient consensus.
  - \* The AVU, the Bophuthatswana Government and the Ciskei Government noted their objection to the decision and their rejection of this clause.
  - \* It was suggested that the clauses referred to in this clause should be revisited due to its acceptance. Other participants did not agree with this viewpoint. After discussion the Technical Committee was requested to identify the clauses that should be revisited in the course of debate due to the acceptance of clause 7 (5).



- 6.1.11 Clause 9 (3) "Constitution of Subcouncils" refers:
- \* The PAC had been requested to make a written submission to the Technical Committee the last time this report had been discussed in the Negotiating Council. This had not been done. The PAC then put its viewpoint to the meeting but after further discussion it was agreed to accept the clause as formulated.
  - \* It was noted that the PAC objected to the clause.
- 6.1.12 Clause 13 "Powers in regard to certain proposed legislation and other actions" refers:
- \* The recommendation of the Technical Committee as contained in the note under clause 13 (1) (a) and (b) was agreed to by the Negotiating Council.
  - \* The AVU objected to clause 13 (2) (a) and (b).
  - \* The clause as formulated was agreed to.

The meeting adjourned for tea at 16h15.

The meeting reconvened at 16h40.

- 6.1.13 Clause 15 1 (c) "Powers and duties in regard to law and order, stability and security" refers:
- \* The clause as formulated was agreed to.
- 6.1.14 Clause 15 (2) "Powers and duties in regard to law and order, stability and security" refers:
- \* It was agreed to hold this clause over until later or until the next meeting of the Negotiating Council.
- 6.1.15 Clause 15 (4) "Powers and duties in regard to law and order, stability and security" refers:
- \* The clause as formulated was agreed to.
- 6.1.16 Clause 15 (5) (a) and (b) "Powers and duties in regard to law and order, stability and security" refers:

\* The clauses as formulated were agreed to.

6.1.17 Clause 15 (6) (a) and (b) "Powers and duties in regard to law and order, stability and security" refers:

\* The clauses as formulated were agreed to.

6.1.18 Clause 16 (1) "Powers and duties in regard to defense" refers:

\* The DP noted that it had made a submission to the Technical Committee on this clause which had not been accepted. The DP put its proposal to the meeting but it was not seconded. The clause therefore remained as formulated.

6.1.19 Clause 16 2 (c) "Powers and duties in regard to defense" refers:

\* It was noted that the words "or sub-section 5 (a)" should be inserted after the words "section 4 (1) (b) in clause 16 (2) (c) (i).

\* Questions of clarity were put to the Technical Committee.

\* It was suggested that this point did not really level the playing fields.

\* It was suggested that it should be clearly stated that what applied to the armed forces should also be applicable to the Defence Force.

\* It was suggested that additional clauses were necessary under clause 16 (2) (c) dealing with the Defence Force, their budgets, provision for a committee of experts to look at their names, the penalties that can be imposed on the defense force, etc. The Technical Committee stated that these concerns had been provided for in the Draft Bill.

\* It was noted that this clause should be understood in terms of sub-clause 16 (1) (k).

\* After discussion it was noted that the Technical Committee would reconsider this clause taking into account the views expressed in the meeting.



6.1.20 Clause 16 (3) "Powers and duties in regard to defence" refers:

- \* Clause 16 (3) (a) was agreed to as formulated.
- \* It was suggested that clause 16 (3) (b) should make it clear that revision could take place according to existing regulations until new regulations had been promulgated. It was noted that the South African Government would make a further submission on this issue to the Technical Committee.
- \* It was suggested that the following words should be inserted at the end of clause 16 (3) (b) "also in terms of existing laws governing such deployment".
- \* It was noted that the PAC would make a submission on clause 16 (3) (b) to the Technical Committee.
- \* It was noted that this clause would be dealt with when the report was next discussed in the Negotiating Council.

6.1.21 Clause 16 (4) "Powers and duties in regard to defence" refers:

- \* The clause as formulated was agreed to.

6.1.22 Clause 16 (8) "Powers and duties in regard to defence" refers:

- \* Concerns were expressed with regard to the envisaged control of arms. It was suggested that foreign experts should have a role in this regard.
- \* Questions of clarity were put to the Technical Committee.
- \* The PAC was requested to make a submission on this clause stating its viewpoint to the Technical Committee.

6.1.23 Clause 16 (9) "Powers and duties in regard to defence" refers:

- \* It was noted that the PAC proposal as submitted to the Technical Committee in writing had not been taken into account. The PAC again put forward its proposal with regard to this clause but it was not seconded.
- \* After discussion the clause was agreed to as formulated.

- 6.1.24 Clause 16 (11) (d) "Powers and duties in regard to defence" refers:
- \* The clause as formulated was agreed to.
- 6.1.25 Clause 16 (11) (e) (iv) "Powers and duties in regard to defence" refers:
- \* It was suggested that the words "subject to existing laws" should be inserted into this clause.
  - \* The clause as formulated was agreed to.
- 6.1.26 Clause 16 (12) (c) "Powers and duties in regard to defence" refers:
- \* It was agreed that the words "or from any other source" should be inserted into this clause. The Technical Committee would attend to the necessary reformulation.
- 6.1.27 Clause 17 (1) (i) "Powers and duties in regard to finance" refers:
- \* The clause as formulated was agreed to.
- 6.1.28 Clause 17 (4) (b) "Powers and duties in regard to finance" refers:
- \* The clause as formulated was agreed to.
- 6.1.29 Clause 17 "Powers and duties in regard to finance" refers:
- \* It was noted that the SACP had moved an addition to this clause. The Technical Committee stated that it had not received a written submission and therefore did not take the issue further.
- 6.1.30 Clause 18 "Powers and duties in regard to foreign affairs" refers:
- \* It was noted that a proposal by the PAC had not been taken into account. The Technical Committee responded as to why this had not been taken into account. The PAC submission was then read out to the meeting. No seconder could be found.
  - \* The clause as formulated was agreed to.



- 6.1.31 Clause 22 (2) "Procurement of information" refers:
- \* It was noted that this clause would be dealt with at the next meeting of the Negotiating Council when the next report of the Technical Committee was discussed.
- 6.1.32 Clause 23 (4) "Resolution of disputes" refers:
- \* The clause as formulated was agreed to.
- 6.1.33 Clause 25 "Decisions" refers:
- \* It was noted that this section was still under discussion in bilateral meetings under the guidance of the Planning Committee.
- 6.1.34 Clause 26 (4) "Administrative support staff and accounting" refers:
- \* The clause as formulated was agreed to.
- 6.1.35 Clause 29 (1) "Duration" refers:
- \* Questions of clarity were put to the Technical Committee.
  - \* It was agreed that the cabinet should be the legal successor of the TEC. The Technical Committee was requested to reformulate the clause.
- 6.1.36 Clause 30 "Short Title and Commencement" refers:
- \* It was agreed that the words "or Councils" should be inserted after the words "Negotiating Council" in clause 30 (1).
  - \* Clause 30 (2) was agreed to as formulated.
- 6.1.37 The Technical Committee was instructed to draft a clause which made the act binding on the State and the State President in sofar as he shall be obliged to act in accordance, etc. The National Party noted its objection to this.
- 6.1.38 It was noted that participants who wished to make submissions should do so by tonight at the latest. It was noted that the next report of the Technical Committee should be completed by Monday 6 September. It was further noted that clauses that

could be processed at the next meeting of the Negotiating Council should be given to the Administration. T Eloff would liaise with the Technical Committee in this regard.

6.1.38 The Technical Committee was thanked for its work so far completed.

**7. Meetings Schedule and Draft Programme**

The meetings schedule and draft programme was noted (see Addendum C).

**8. Closure**

The meeting was adjourned at 19h35.

These minutes were ratified at the meeting of the Negotiating Council of 28 September 1993 and the amended version signed by the Chairperson of the original meeting on 19/10/93.....

  
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CHAIRPERSON



**Addendum A**

The following delegates and advisers were present at the meeting of the Negotiating Council on Wednesday 1 September 1993:

R Cronje : Chairperson  
 B Kgosisile : Assistant Chairperson

<b>Organisation</b>	<b>Delegates</b>	<b>Advisers</b>
ANC	C Ramaphosa M Manzini	J Netshintenshe PM Maduna
AVU	C Pienaar C Kruger	A Beyers AJJ van Rensburg
Bophuthatswana	BE Keilelame R Mangope	JJ Ferreira SG Mothibe
Cape Trad. Leaders	M Nonkonyana SN Sigcau	GD Gwadiso
Ciskei	M Webb VT Gqiba	TM Bulube
DP	CW Eglin M Finnemore	KM Andrew PG Soal
Dikwankwetla	SOM Moji JSS Phatang	K Ngwenya
IFP		
IYP	NJ Mahlangu NS Mtsweni	AP Laka Q Vilankulu
KP		
INM	SS Ripinga ND Mokoena	MS Gininda GG Zama
Kwazulu		
Labour Party	L Landers CC August	CJG Leander PAC Hendrickse
NIC/TIC	PJ Gordhan	K Mayet C Salojee
NP	D de Villiers TJ King	SJ Schoeman
NPP	A Rajbansi L Singh	M Govender RR Singh

Trad. Leaders	MB Mota MT Moroke	RH Mopeli MA Molefe
PAC	P de Lille B Alexander	RK Sizani B Desai
Solidarity	DS Rajah K Moodley	AS Razak
SACP	J Slovo L Jacobus	S Shilowa
SA Government	RP Meyer LR Brink	SJ de Beer
Transkei	Z Titus N Jajula	R Nogumla
TVL Trad. Leaders	MA Netshimbupfe	NE Ngomane
UPF	A Chabalala J Maake	NM Tsheole
Venda	SE Moeti	GM Ligege S Makhuvha
XPP	PT Shilubana MH Matjokana	GNK Hetisani

T Eloff	:	Administration
G Hutchings	:	Minutes
P Lelaka	:	Administration
M Radebe	:	Administration



**TRANSITIONAL EXECUTIVE COUNCIL BILL**

**AMENDMENT TO SECTION 4(2)**

**SIXTEENTH DRAFT**

- (2) The Government of or any political party registered only in or operating only from or any organization operating only from the Republic of Transkei, Bophuthatswana, Venda or Ciskei shall not be a participant in the Council unless -
- (a) the provisions of this Act, as well as the provisions of the Independent Electoral Commission Act, 1993, the Electoral Act, 1993, and the Independent Media Commission Act, 1993, have been incorporated into the law of the State concerned; or
  - (b) **formal provision has been made by law in such State for the application of any Act referred to in paragraph (a) in that State.**

**DRAFT PROGRAMME FOR MEETINGS**

1 SEPTEMBER 1993

Tuesday 31 August 1993	Discussion:	*	IMC (finalise & formal adoption)
Wednesday 1 September 1993	Discussion:	*	TEC
Thursday 2 September 1993	Discussion:	*	IBA (finalise & formal adoption)
		*	Interim Constitution
Monday 6 September 1993	Discussion:	*	TEC (finalise & adoption)
		*	Interim Constitution
Tuesday 7 September 1993	Discussion:	*	Interim Constitution
Wednesday 8 September 1993	Discussion:	*	Interim Constitution
Thursday 9 September 1993	Discussion:	*	Interim Constitution



## REVISED PROPOSED SCHEDULE OF MEETINGS

1 SEPTEMBER 1993

Negotiating Council	Thursday 2 September 1993	09h00-18h00
Planning Committee	Monday 6 September 1993	09h30-13h00
Negotiating Council	Monday 6 September 1993	14h00-19h00
Negotiating Council	Tuesday 7 September 1993	09h00-19h00
Negotiating Council	Wednesday 8 September 1993	11h00-19h00
Negotiating Council	Thursday 9 September 1993	09h00-18h00

Please note :

**The adjournment times of the Negotiating Council meetings as stated are target times, which will only apply if the agenda has been completed, subject to the final decision of the meeting.**