

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

**MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 10h00 ON THURSDAY 26 AUGUST 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 the following amendments:

- \* The addition of a new item 4 to read "Report from the Planning Committee". The subsequent numbering was amended accordingly.

**4. Reportback from the Planning Committee**

**4.1 Draft Bill on the Independent Electoral Commission:**

4.1.1 It was noted that this issue had been referred to the Planning Committee for its attention.

4.1.2 The Planning Committee recommended that:

- \* The Ad-Hoc Committee of the IEC be reactivated.
- \* A task group be formed composed of J Bruwer, D Davis, M Maharaj, R Rosenthal, A Tredoux and SS van der Merwe to assist the ad-hoc committee in addressing and resolving the outstanding political issues.
- \* That the task group should be seen as a dispute resolving

mechanism.

- \* Once the political points of difference had been resolved, the Technical Committee, in liaison with the ad-hoc committee, should redraft the Bill where relevant.
- \* The Negotiating Council adjourn for thirty minutes to allow participants to submit their concerns with regard to the Draft Bill to the ad-hoc committee.
- \* The ad-hoc committee was scheduled to work full time until the differences had been resolved and an attempt would be made to finish its work by the end of today.

4.1.3 After discussion, it was agreed to accept the recommendation of the Planning Committee, on the proviso that when the report on the Draft Bill of the IEC was put before the Negotiating Council, that the members of the ad-hoc committee did not disagree with each other after having reached consensus in its meeting. This assurance was given to the meeting by the Chairperson of the meeting.

4.1.4 The Labour Party noted its objection to the recommendation and the decision.

4.1.5 It was noted that B Desai as a member of the ad-hoc committee requested to be released from his participation in the ad-hoc committee. It was agreed to not replace B Desai in the ad-hoc committee.

4.1.6 It was noted that a progress report should be submitted at 15h00 to the Negotiating Council.

## 5. Minutes

5.1 The minutes of the meeting of 17 August 1993 were adopted with the following amendments:

- \* The addition of a new item 6.1.2 to read "Clause 11 "General powers of Subcouncils" refers" : The SACP suggested an additional sub-clause (1) (e). It was noted that a submission would be made in writing to the Technical Committee in this regard." The subsequent numbering was amended accordingly.
- \* Item 6.1.10, the first asterisk refers : The word "be" between the words "should" and "not" should be deleted.

- \* Item 6.2.11 refers : The word "discussed" should read "discussion".

5.2 No matters arising were noted out of the minutes of 17 August 1993.

The meeting adjourned at 10h30 to receive the "peace cake" from the City Council of Kempton Park and for tea.

The meeting reconvened at 11h25.

## 6. Substantive Issues

### 6.1 Transitional Executive Council - Eleventh Working Draft:

6.1.1 The Technical Committee was welcomed. Present were Z Du Toit, F Haysom, CJ Heunis, E Mapheto, J Renene and D van Wyk. The Technical Committee gave an overview of its report. Discussion and debate followed. During the course of the discussion questions of clarity were put to the Technical Committee.

6.1.2 Definition "armed force" refers:

- \* Concerns were expressed about the possibility of various armed forces not falling under the supervision of the TEC during the transition as this would not facilitate the levelling of the playing fields. To accommodate these concerns it was suggested that in clause 4 a reference to armed forces belonging to or associated with any participant of the TEC should be included.
- \* It was suggested that this definition was necessary as formulated because of the special relationship between the PAC and APLA.
- \* The PAC reserved its position on this definition.
- \* It was suggested that this definition should apply to all armed forces, not only the armed forces that were associated with or under the control of any of the participants.
- \* It was suggested that all that was necessary was a legal definition and the procedural issues should be deleted from the definition.

- \* It was suggested that an amendment was necessary to clause 4 to cater for a participant that has an armed force linked to it.
- \* It was suggested that the definition and the suggested reference in clause 4 should be consistent with the provisions under the Subcouncil on Defence.
- \* The Technical Committee was requested to reformulate this definition taking into account the views and concerns expressed in the meeting.

6.1.3 Definition "Constitution" refers:

- \* The clause as formulated was agreed to.

6.1.4 Definition "defence force" refers:

- \* The clause as formulated was agreed to.

6.1.5 The Technical Committee was requested to standardise and maintain consistency with regard to all terminology with other Draft Bills. The definition of "Council" was referred to. It was noted that a joint meeting of Technical Committees was scheduled for Monday 30 August 1993 at which issues such as these would be dealt with.

6.1.6 Definition "military force" refers:

- \* The clause as formulated was agreed to.

6.1.7 Definition "Multi-Party Negotiating Process" refers:

- \* The clause as formulated was agreed to.

6.1.8 Definition "National Peacekeeping Force" refers:

- \* The clause as formulated was agreed to.

6.1.9 Definition "Negotiating Council" refers:

- \* The clause as formulated was agreed to.

6.1.10 Definition "political party" refers:

- \* It was suggested that the words "and/or movement" should be inserted after the word "organization"

throughout this definition.

6.1.11 Definition "the Subcouncil" refers:

- \* The clause as formulated was agreed to.

6.1.12 Clause 2 "Establishment of Transitional Executive Council" refers:

- \* The clause as formulated was agreed to.

6.1.13 Clause 3 "Objects of the Council" refers:

- \* It was agreed that the words "and structures" should be inserted after the word "processes" in sub-clause (a) (iv).
- \* It was agreed that a general provision to include words such as "facilitating the transition" should be provided for under this clause as a further sub-clause. Other participants suggested that this should not be too wide.
- \* The Transkei Government gave notice that when clause 18 was dealt with, it would return to this clause.
- \* It was suggested that missing from this clause was reference to the executive powers over the security forces.

6.1.14 Clause 4 "Constitution of Council" refers:

- \* Clause 4 (1) refers : It was suggested that a definition of organisations should be included in the Draft Bill.
- \* It was suggested that two women from the Subcouncil on Women should be co-opted to serve on the TEC. Lengthy discussion followed after which it was agreed that this issue be discussed informally over lunch by the women's caucus and be revisited after lunch. After lunch this issue was returned to. It was noted that the women's caucus recommended that each participant on the TEC be represented by one male delegate and one female delegate. The SACP suggested that clauses 4 (6) (b) and (c) be amended to provide for a delegate and an alternate and if the delegate is a male then the alternate should be a female and vice versa. Further discussion followed and as no agreement could be

reached, it was agreed that this issue be revisited, after further informal discussion, before the close of the meeting or in the meeting of the Negotiating Council on Monday 30 August 1993. It was suggested that an ad-hoc committee should be set up to deal with this issue and other participants suggested that the Planning Committee be mandated to deal with this issue. No agreement could be reached and the Chairperson then ruled that the whole issue should be revisited at the meeting of the Negotiating Council on Monday 30 August 1993.

- \* The PAC noted that its interpretation of the word "violence" in clause 4 (1) (b) (iii) did not include the armed struggle.
- \* It was suggested that the word "only" should be inserted after the word "operating" in clause 4 (2).
- \* Concerns were raised with regard to clause 4 (2) about organisations operating in the homelands that did not want to participate in the TEC. The Technical Committee stated that it would consider this issue.
- \* It was suggested that the word "registered" in clause 4 (2) should be widened.
- \* Clause 4 (4) was agreed to as formulated.
- \* It was suggested that provision should be made for the TEC to appoint its own office bearers.
- \* It was suggested that with regard to clause 4 (5) provision should be made for the Council, once appointed after a period of time or experience, to amend full-time to part-time depending on its needs. The Technical Committee was requested to consider this taking into account the views expressed in the meeting. It was suggested that these concerns could be accommodated under clause 4 (6).
- \* It was suggested that the words "the Negotiating Council" should be deleted and replaced with the words "the Transitional Executive Council".
- \* It was suggested that the Negotiating Council should accept in principle that the Negotiating Council should

set certain ground rules before the establishment of the TEC, but the TEC had the prerogative to amend those should it so be required.

\* It was agreed that discussion on the TBVC States should not occur until the Planning Committee submitted a report/recommendation on this issue. (Clause 4 (6) refers.)

\* Clause 4 (6) (b) and clause 4 (6) (c) were agreed to as formulated.

\* The PAC noted that it could not accept clause 4 (8).

6.1.15 Clause 6 "Conditions of service, remuneration and allowances of members of Council" refers:

\* The clause as formulated was agreed to.

6.1.16 Clause 7 "General powers of Council" refers:

\* Clause 7 (1) (a) was agreed to as formulated.

\* Clause 7 (1) (e) was agreed to as formulated.

\* Clause 7 (1) (h) was agreed to as formulated.

\* Clause 7 (1) (j) was agreed to as formulated.

\* It was agreed that the word "may" in clause 7 (3) (a) and (b) should be replaced by the word "shall".

\* It was agreed that the words "by each Subcouncil" should be inserted after the word "informed" in clause 7 (3) (c).

\* Clause 7 (3) (d) and clause 7 (3) (e) were agreed to as formulated.

The meeting adjourned for lunch at 13h00.

The meeting reconvened at 14h30.

6.1.17 Clause 8 "Establishment of Subcouncils" refers:

\* It was suggested that there should be a definition of Traditional Authorities.

\* Clause 8 (1) (g) was agreed to as formulated.

\* Clause 8 (3) (a) was agreed to as formulated.

\* Clause 8 (3) (b) was agreed to as formulated.

6.1.18 Clause 9 "Constitution of Subcouncils" refers:

\* Clause 9 (1) was agreed to as formulated.

\* It was suggested that the words "with due regard to different viewpoints" should be inserted after the word "Council" in clause 9 (3).

\* It was suggested that the word "representative" should read "member" in clause 9 (3).

\* After discussion the Technical Committee was requested to consider a possible reformulation of clause 9 (3).

\* Clause 9 (4) was agreed to as formulated.

6.1.19 Clause 10 "Vacation of office, removal from office and filling of vacancies in Subcouncils" refers:

\* The AVU expressed concerns with regard to clause 10 (1) and was requested to make a written submission to the Technical Committee, upon which it would reconsider the clause.

\* Clause 10 (2) was agreed to as formulated.

6.1.20 Clause 11 "Conditions of service, remuneration and allowances of members of Subcouncils" refers:

\* Clause 11 (1) was agreed to as formulated.

\* Clause 11 (2) was agreed to as formulated.

\* Clause 11 (3) was agreed to as formulated.

6.1.21 Clause 12 "General powers of Subcouncils" refers:

\* The introductory phrase of clause 12 (1) was agreed to.



\* Clause 12 (1) (a) was agreed to.

6.1.22

Clause 13 "Powers in regard to certain proposed legislation and other actions" refers:

\* Clause 13 (1) (a) was agreed to.

\* It was suggested that clause 13 (1) (b) should be widened. Furthermore, to include in this clause the power to identify any existing legislation which may impede free political activity and subsequent to that to direct the government concerned to repeal that legislation. This was agreed to. The Ciskei reserved its position on this decision. The AVU noted that it was not in favour of this proposed extension of the powers of the TEC.

\* It was suggested that the TEC should have the power to address any issue to level the playing fields.

\* After discussion around the above issues, it was suggested that before a decision is taken on the issue of legislation that is already in existence and the TEC's powers in respect of such legislation, Administration distributes a document that was formulated after a joint meeting of the Technical Committee where instructions in this regard were formulated.

\* Concerns were expressed with regard to 13 (2) (a) and the practical implications and ethics of this clause with regard to political parties or organisations not present at the Multi-Party Negotiating Process and political parties or organisations that did not comply with the objects of the Council.

\* Other participants raised the question of sanctions on participants who opposed the TEC. It was further suggested that mechanisms to deal with political parties or organisation parts which do not comply with the TEC and its objects should be established. It was also suggested that the Technical Committee should consider stringent sanctions as per the Draft Bills on the IEC and the IBA.

\* It was suggested that the draft Bill should be binding on armed forces as well as political parties.

- \* After discussion the Negotiating Council agreed that clause (2) (a) should be accepted as is. The AVU and the Ciskei Government noted its objection to this clause. The PAC noted its objection and rejection of the clause.
- \* Before the Chairperson made a ruling on this issue, the mechanism of an adjournment was applied in an attempt to maximise consensus on this clause.

The meeting adjourned for tea at 16h15.

The meeting reconvened at 16h30.

- \* It was agreed to return to clauses 13 (2) (a) and (b) after the whole Bill had been dealt with.
- \* It was suggested that the objects of the Council with regard to 13 (2) (b) should also be widened.
- \* Clause 13 (3) was agreed to as formulated.
- \* It was noted that the issue of liaison between the TEC, the IEC and IMC would be on the agenda of the joint meeting of the Technical Committees on Monday 30 August 1993.

6.1.23 Clause 14 "Powers and duties in regard to regional and local government and traditional authorities" refers:

- \* The introductory phrase of clause 14 was agreed to as formulated.
- \* It was agreed that the words "and Traditional Authorities" should be added at the end of clause 14 (a).
- \* Clause 14 (d) was agreed to as formulated.
- \* Clause 14 (e) was agreed to as formulated.
- \* Clause 14 (f) was agreed to as formulated.
- \* Clause 14 (h) (ii) was agreed to as formulated.

\* Clause 14 (h) (iii) was agreed to as formulated.

\* It was agreed that the word "review" should be replaced by "approve" in clause 14 (i).

6.1.24

Clause 15 "Powers and duties in regard to law and order, stability and security" refers:

\* Clause 15 (1) (a) was agreed to as formulated.

\* Clause 15 (1) (b) was agreed to as formulated.

\* It was suggested that the words "in consultation" should be replaced by "after consultation" in clause 15 1 (c). If this was agreed to, the proviso could be deleted. Other participants did not agree with this suggestion. After discussion it was agreed that the Transkei Government and the PAC have bilateral discussions with the South African Government on this issue.

\* Clause 15 (1) (d) was agreed to as formulated.

\* Clause 15 (1) (e) was agreed to as formulated.

\* Clause 15 (1) (g) was agreed to as formulated.

\* Clause 15 (1) (k) was agreed to as formulated.

\* Clause 15 (1) (m) was agreed to as formulated.

\* The Technical Committee noted that with regard to clauses 15 (2) (a) and (b) and the question of the powers of the State President, it was going to consider these powers collectively.

\* It was suggested that the Minister should not declare a state of emergency until the TEC had been consulted. It was further suggested that if this was provided for, clause 15 2 (b) was not necessary.

\* It was suggested that a time limit should apply to clause 15 (2) (b).

\* Discussion followed on these two clauses after which it was agreed that PJ Gordhan and R Meyer reformulate the clauses to enable the Council to reach agreement.

- \* Clause 15 (2) (c) was agreed to as formulated.
- \* Clause 15 (2) (d) was agreed to as formulated.
- \* It was suggested that clause 15 (3) should be reformulated taking into account the views expressed in the meeting with regard to the position of the Commissioner.
- \* It was suggested that clause 15 (4) should be reformulated taking into account the views expressed in the meeting.
- \* It was suggested that the words "which may itself propose such regulations or directives or amendments to or the repeal of such regulations or directives" should be included in clause 15 (5).
- \* It was suggested that the Technical Committee should consider the possible extensions of the provisions of this Bill, not only to regulations but also to the directives (clause 15 (5) refers).
- \* After the discussion it was agreed to accept clause 15 (5) as formulated.
- \* The South African Government noted that it would be making a submission of a technical nature to the Technical Committee with regard to clause 15 (6). It was noted that the Negotiating Council would, therefore, revisit this clause.

6.1.25 Clause 16 "Powers and duties in regard to defence" refers:

- \* It was suggested the word "on" should be inserted between the words "effect" and "the" in clause 16 (1) (a).
- \* It was suggested that the word "each" should replace the word "any" in clause 16 (1) (b).
- \* Clause 16 (1) (c) was agreed to as formulated.
- \* Clause 16 (1) (d) was agreed to as formulated.
- \* Clause 16 (1) (e) was agreed to as formulated.

- \* It was suggested that with regard to the framework as a whole (clauses 16 (1) (f), (j) and (k) refers), provision should be made for an advisory board consisting of not only military people, but also civilians with a knowledge of military affairs.
- \* It was suggested that the word "Defence Force" in clause 16 (1) (f) should commence with a lowercase letter and not a capital letter. The formulation of the clause as is was agreed to.
- \* Clause 16 (1) (g) was agreed to as formulated.
- \* Clause 16 (1) (h) was agreed to as formulated.
- \* Clauses 16 (1) (j) (i) and (ii) were agreed to as formulated.
- \* It was suggested that the Planning Committee was noted as the incorrect mechanism with regard to clause 16 (1) (k). It was suggested that the Technical Committee should consider alternatives.
- \* It was suggested that the training referred to in clause 16 (2) (a) should be qualified or should be recorded in terms of what is being provided for in clause 16 (1) (k).
- \* Clause 16 (2) (b) was agreed to as formulated.
- \* It was suggested that the opening phrase of clause 3 (a) should read "The Council shall, in consultation with the Ministers of Defence of all the defence forces which have Ministers and the Commanders of armies make regulations ....."
- \* It was suggested that the Subcouncil of defence should be kept fully informed of any deployment (clause 16 (3) (a) refers).
- \* It was suggested that the withdrawal aspect should be deleted from clause 16 (3) (b) or the words "with the concurrence of the said Minister" should be inserted into the clause. It was suggested that the South African Government should make a submission on this issue to the Technical Committee.
- \* Clause 16 (3) (c) was agreed to as formulated.

- \* It was suggested that a different mechanism was necessary with regard to the resolution of disputes (clause (16 (3) (d) refers). It was further suggested that the Technical Committee should review all references to clause 23 and submit suggestions with regard to arbitration bearing in mind that the issues are mainly political.
- \* It was noted that the Technical Committee would get some military advice as to whether there would be conflict and competition with regard to the various defence forces in respect of clause 16 (4).

- 6.1.26 Due to time constraints it was agreed to curtail the debate at this point. It was agreed that the debate on this report would commence with clause 16 (4) at the next meeting of the Negotiating Council.
- 6.1.27 The Technical Committee was thanked for its work so far completed.

**7. Draft Schedule of Meetings and Programme:**

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

**8. Closure**

The meeting was adjourned at 18h05

These minutes were ratified at the meeting of the Negotiating Council of 7 September 1993 and the amended version signed by the Chairperson of the original meeting on 28/9/93.....

  
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CHAIRPERSON

The following delegates and advisers were present at the meeting of the Negotiating Council on Thursday 26 August 1993:

MJ Mahlangu : Chairperson  
M Finnemore : Assistant Chairperson

Organisation	Delegates	Advisers
ANC	C Ramaphosa B Kgosisile	M Manzini M Manzini
AVU	C Pienaar C Kruger	AJ Horn AJJ van Rensburg
Bophuthatswana	R Mangope R Cronje	BE Keikelame SG Mothibe
Cape Trad. Leaders	M Nonkonyana SN Sigcau	GD Gwadiso
Ciskei	M Webb VT Gquiba	TM Bulube
DP	C Eglin M Finnemore	KM Andrew
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	R O'Reilly PAC Hendrickse
NIC/TIC	PJ Gordhan F Hajaij	K Mayet IC Meer
NP	D de Villiers TJ King	SJ Schoeman L Wessels
NPP	A Rajbansi S Naidoo	B Singh P Rughoo

● Trad. Leaders	RH Mopeli MT Moroke	MB Mota
PAC	P de Lille B Alexander	R Sizani B Desai
Solidarity	DS Rajah	K Moodley T Palan
SACP	J Slovo L Jacobus	S Shilowa
SA Government	RP Meyer LR Brink	AF Tredoux DPA Schutte
Transkei	Z Titus N Jajula	R Nogumla
TVL Trad. Leaders	MA Netshimbupfe	NE Ngomane
UPF	A Chabalala J Maake	NM Tsheole
Venda	SE Moeti	S Makhuvha
XPP	ST Mona MH Matjokana	GNK Hetisani

T Eloff	:	Administration
G Hutchings	:	Minutes
L Letsoala	:	Administration
M Radebe	:	Administration



**DRAFT PROGRAMME FOR MEETINGS**

26 AUGUST 1993

Monday 30 August 1993	Discussion:	* * * *	IBA (finalise) IMC (finalise) TEC IEC
Tuesday 31 August 1993	Discussion:	* * *	IEC (finalise) TEC (finalise) Formal adoption of the Draft Bills on the TEC, IEC, IMC and IBA
Wednesday 1 September 1993	Discussion:	*	Interim Constitution
Thursday 2 September 1993	Discussion:	*	Interim Constitution
Monday 6 September 1993	Discussion:	*	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

26 AUGUST 1993

Planning Committee	Monday 30 August 1993	09h30-13h00
Negotiating Council	Monday 30 August 1993	14h00-22h00
Negotiating Council	Tuesday 31 August 1993	10h00-22h00
Negotiating Council	Wednesday 1 September 1993	11h00-19h00
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.**