

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

MINUTES OF THE MEETING OF THE PLANNING COMMITTEE HELD AT 13H25 ON MONDAY 16 AUGUST 1993 AT THE WORLD TRADE CENTRE

PRESENT : R Cronje
C Eglin
PJ Gordhan
RP Meyer
MC Ramaphosa
Z Titus (Chairperson by rotation)
M Webb

M Maharaj (Sub-Committee)
SS van der Merwe (Sub-Committee)

T Eloff (Administration)
G Hutchings (Minutes)

1. Moment of Prayer/Meditation

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

2. Welcome and Attendance

2.1 All members were welcomed.

2.2 Apologies were noted for non-attendance by B Alexander, FT Mdlalose, B Ngubane (sub-committee) and J Slovo.

2.3 Apologies for late arrival were noted by M Maharaj (Sub-Committee) and M Webb.

3. Ratification of the Agenda

The agenda was ratified with the following amendment:

- * It was agreed that the issue of Walvis Bay should form a separate item and not fall under "Commission on the Delimitation/Demarcation of Regions".

Minutes

- 4.1 The minutes of the meeting of Monday 2 August 1993 were ratified with the following amendments:
- * In items 6.1.1.2 and 6.1.1.3 that the name "Vilikazi" should read "Vilakazi."
- 4.2 The minutes of the meeting of Tuesday 3 August 1993 were ratified with the following amendments:
- * In item 5.1.1 the name "Vilikazi" should read "Vilakazi".
- 4.3 The minutes of the meeting of Wednesday 4 August 1993 were ratified with no amendments.
- 4.4 Matters arising out of the minutes of Monday 2 August 1993:
- * Item 1.6 refers: It was noted that the NEF had been informed about who the representatives of the liaison committee from the side of the Planning Committee were. A response was awaited from the NEF with regard to its representatives.
- 4.5 Matters arising out of the minutes of Tuesday 3 August 1993:
- * Item 4.3, third asterisk refers: It was noted that the Administration had made enquiries with regard to the letter sent to the Ilanga. No response had been received from the said publication but the enquiries from the Administration would continue.
 - * Item 5.1.9 refers: It was agreed to mandate the Sub-Committee to convey the sentiments expressed therein to the Technical Committees.
 - * Item 6.1 refers: It was noted that the Administration had communicated the ruling referred to.
- 4.6 No matters arising were noted out of the minutes of Wednesday 4 August 1993.

5. Substantive Issues

5.1 Reports in the Negotiating Council until Thursday 19 August 1993:

5.1.1 Violence:

- 5.1.1.1 It was noted that the Report of the Technical Committee

had been discussed on Thursday 12 August 1993.

5.1.1.2 It was agreed to attend to the issues with regard to the Report of the Technical Committee on Violence that had been referred to the Planning Committee, at a later stage of the meeting.

5.1.2 Constitutional Issues:

5.1.2.1 It was noted that the issue of the drafting of the preamble of the Draft Constitution had been referred to the Planning Committee for its attention.

5.1.2.2 After discussion it was agreed to refer this issue back to the Technical Committee and instruct the Technical Committee to draft two preambles, one dealing with the technical aspects of the draft constitution and one dealing with the spiritual aspects of the draft constitution.

5.1.2.3 It was agreed that the Planning Committee reports back to the Negotiating Council on the views expressed in the Planning Committee on this issue and the proposed route for the drafting of the preamble.

5.1.2.4 It was agreed that the report of the Technical Committee dealing with Confederalism, self determination and the outstanding constitutional principles should be dealt with when Constitutional Issues next appeared on the agenda of the Negotiating Council in the week commencing 23 August 1993.

5.1.2.5 A lengthy debate and discussion then proceeded on SPR's, all the issues arising therefrom and the way forward. It was noted that all the issues that had been referred to the Planning Committee entailed political decisions.

5.1.2.6 It was suggested that interaction between participants was necessary to get clarity and agreement on the following:

- * The fleshing out of the Constitutional Principles
- * The Constitutional Court - its composition and functioning
- * The deadlock-breaking mechanisms
- * The issue of boundaries.

It was further noted that the content of the Interim Constitution was important as it would form the basis for the Final Constitution.

5.1.2.7 It was suggested that bilaterals and/or multilaterals were necessary on this issue.

5.1.28 After a lengthy discussion on the issue, it was agreed to curtail the debate due to time constraints. No recommendations or decisions emerged from the discussion.

5.1.3 TEC and its Sub-Councils:

5.1.3.1 It was noted that the Eighth Working Draft of the Bill was discussed on Thursday 12 August 1993.

5.1.3.2 It was noted that the Technical Committee could possibly finish its work in the course of this week.

5.1.4 Independent Electoral Commission:

5.1.4.1 It was noted that the Technical Committee had, on the basis of its own inputs and recommendations from the Ad-Hoc Committee, almost rewritten its entire report and therefore was unable to indicate all the changes.

5.1.4.2 Discussion proceeded on this issue with various concerns expressed.

5.1.4.3 It was agreed that the Technical Committee should motivate its action.

5.1.5 Visit to the East Rand:

5.1.5.1 The Sub-Committee was requested to obtain an updated report on the issue of security and report back to the Planning Committee. A decision would then be taken on this issue.

5.1.6 Walvis Bay:

5.1.6.1 A further draft resolution was put to the meeting.

5.1.6.2 After a lengthy discussion it was agreed to put forward the resolution as amended to the Negotiating Council for adoption (see Addendum A).

6. Procedural Issues

6.1 Women and the Composition of the Planning Committee and the Panel of Chairpersons:

6.1.1 It was noted that the women's caucus was meeting on this issue.

6.1.2 After discussion it was agreed that the Planning Committee should recommend to the Negotiating Council that it agrees in principle that two women should be added to the Planning Committee and two to the Panel of Chairpersons. A recommendation with regard to the persons would be submitted to the Negotiating Council at a later stage.

6.1.3 With regard to the submission of names from the Planning Committee, it was agreed that informal discussion proceeds on this issue. PJ Gordhan was requested to co-ordinate this issue informally and the issue would be followed up when the Planning Committee next met. In making recommendations, members should ensure balanced representation and ability of the nominees. It was further agreed that the nominees should preferably be from parties/organisations/administrations who are presently not represented on the Panel of Chairpersons or on the Planning Committee.

6.2 Report of the Communications Committee:

6.2.1 The Sub-Committee gave a reportback on a meeting held with the Communications Committee. This meeting was held in accordance with the decision of the Planning Committee taken on 9 August 1993 (see Planning Committee minutes of 9 August 1993, item 7.11).

6.2.2 After discussion it was agreed to notify the Communications Committee that the Planning Committee had again considered the resolutions/questions and was of the view that the Communications Committee should continue to function on an ad-hoc basis as issues arise. Furthermore, the Planning Committee would bear the Communications Committee in mind should larger issues arise.

7. Administrative and Financial Matters

7.1 Correspondence:

7.1.1 Request from the National Peace Committee (see Addendum J, p28 of the agenda documentation):

The request was approved of and a report would be submitted to the

Negotiating Council in this regard. The Administration was mandated to make all the necessary logistical arrangements and report back to the Planning Committee.

7.1.2 Request from Kempton Park City Council (see Addendum K, p29 of the agenda documentation):

The request was approved of and a report would be submitted to the Negotiating Council in this regard. It was agreed that the cake would be made available for Negotiating Council participants at the tea break on Thursday 26 August 1993.

7.2 **Number of Bodyguards per delegation:**

It was agreed that this should be flexible but the general rule was four per delegation and should be adhered to as far as possible.

7.3 **Request from the South African History Archival Institution:**

7.3.1 It was noted that the South African History Archival Institution had requested the Administration to make available the audio tapes of the meetings of the Negotiating Council.

7.3.2 After discussion it was agreed to refer this issue to the Sub-Committee for a recommendation to the Planning Committee.

8. **Meetings Schedule and Draft Programme**

8.1 Discussion proceeded around the draft programme.

8.2 After discussion it was agreed that the Sub-Committee and the Administration should liaise with the Technical Committees in order to formulate an accurate draft programme before it was submitted to the Negotiating Council. A report should be received by the Planning Committee on this issue when it next met during the course of the day.

8.3 Concerns were again raised with regard to the work of the Ad-Hoc Committees. It was agreed that the Sub-Committee should inform the Planning Committee about the work programme of all the Ad-Hoc Committees.

8.4 Concerns were expressed with regard to the way the Technical Committee on the Independent Electoral Commission was proceeding with its work. The Sub-Committee was requested to take note of the views expressed.

Draft Agenda for the meeting of the Negotiating Council

The agenda as amended was approved of (see Addendum B).

The meeting adjourned at 14h25.

The meeting reconvened at 16h15.

10. Women and the Composition of the Planning Committee and the Panel of Chairpersons:

10.1 It was noted that the proposed recommendation with regard to the persons to be added to the Planning Committee, and the Panel of Chairpersons had been discussed informally with the women's caucus.

10.2 It was noted that the women's caucus wanted to meet on this issue and decide on its nominees.

10.3 After discussion, it was agreed to report to the Negotiating Council that the Planning Committee recommended that two women be added onto the Panel of Chairpersons and the Planning Committee respectively. It was agreed that the Planning Committee should then indicate that it had a proposal to put forward with regard to names and assess if the meeting wanted the Planning Committee to proceed with its recommendation.

11. Technical Committee on the Independent Electoral Commission:

The Sub-Committee gave a reportback on a meeting held with the Technical Committee. It was noted that the Sub-Committee had requested the Technical Committee to prepare a series of schedules to facilitate the debate on the report in the meeting of the Negotiating Council on 17 August 1993. Schedule One should contain all the clauses that were previously discussed and where there were no problems. Schedule Two should contain all the clauses where only technical and language amendments had taken place with no substantive changes. Schedule Three should indicate the clauses that have had substantive amendments and it is these clauses that should be debated in the Negotiating Council.

12. Technical Committee on the Independent Media Commission

12.1 It was noted that the Technical Committee would be requested to prepare schedules as referred to in item 11 above.

12.2 It was agreed that the suggestion of schedules from the Sub-Committee should be applied as a general rule for all Technical Committees. The Sub-

Committee was requested to ensure that this suggestion was put into effect by the Technical Committees.

13. **Technical Committee on Fundamental Human Rights during the Transition**

13.1 The Sub-Committee requested the Planning Committee to consider the following issue and to supply guidance:

The Ad-Hoc Committee on Fundamental Human Rights had proposed that consultation take place with various identified experts on Customary Law. Three experts have been proposed. The Ad-Hoc Committee is awaiting a decision on this issue by the Planning Committee. The Ad-Hoc Committee is scheduled to meet next on 18 August 1993. The Technical Committee did not agree with the recommendation but would be bound by the recommendation if it was approved by the Planning Committee. It was noted that the Technical Committee was unable to proceed with its work until it had received a report from the Ad-Hoc Committee. No time frame was set for the meeting of the experts and no terms of reference had been devised for the experts when they consider customary law vis a vis fundamental rights in transition.

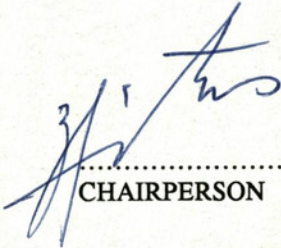
13.2 It was agreed that the Planning Committee would take this issue further at the next meeting of the Planning Committee.

14. **Future Meetings**

It was agreed that the Planning Committee meet at lunch time on 17 August 1993 to finalise all outstanding agenda items.

The meeting adjourned at 16h50.

These minutes were ratified at the meeting of the Planning Committee of 6 September 1993
and the amended version signed by the Chairperson of this meeting on 28/9/ 1993.


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CHAIRPERSON

**DRAFT RESOLUTION ON WALVIS BAY
PUT TO THE NEGOTIATING COUNCIL BY THE PLANNING COMMITTEE ON
16 AUGUST 1993**

This Negotiating Council meeting on 16 August 1993 at the World Trade Centre in Kempton Park:

Noting:

1. The strong views expressed in the Council that Walvis Bay and the off-shore islands should not form part of any demarcation/delimitation of regions for South Africa but that it should be incorporated in Namibia as soon as possible;
2. The report of the Commission on the demarcation/delimitation of regions dated 31 July 1993 does not contain a recommendation that Walvis Bay and the off-shore islands should be included in any proposed SPR;
3. The agreement between the Government of the Republic of South Africa and the Republic of Namibia dated 1 November 1992 establishing a joint administration for Walvis Bay and its off-shore islands as an interim arrangement pending an eventual settlement of the question thus creating a sui generis position for Walvis Bay and its off-shore islands;
4. That the two Governments have been in touch with one another on the issue of the incorporation of Walvis Bay and the off-shore islands into Namibia.
5. The assurance by the Namibian Government that every possible consideration will be given to the legitimate rights and interests of South African citizens in Walvis Bay in accordance with the Namibian Constitution, the relevant laws of the country as well as the existing bilateral agreements signed between the two Governments.
6. The concern of the South African Government that there are further important matters including issues such as vested rights, property rights and the transfer of administrative structure without disruption of service to the public that must be resolved between the Governments of South Africa and Namibia;
7. The indication by the South African Government that it is in principle not opposed to the early incorporation of Walvis Bay and the off-shore islands into Namibia subject to resolving certain important matters identified above;

Endorses:

1. The in-principle decision on the incorporation of Walvis Bay and the off-shore islands into Namibia.

Resolves:

1. To request the South African and Namibian Governments to meet on an urgent basis to finalise the outstanding matters in order for incorporation of Walvis Bay and the off-shore islands into Namibia to take place at the earliest opportunity; and
2. To request the South African Government in the meantime to prepare legislation to this end as a matter of urgency.
3. That the South African Government informs the Negotiating Council and/or the TEC Subcouncil on Foreign Affairs of progress in respect of the above.

**DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON MONDAY 16 AUGUST 1993 AT 14H00**

Chairpersonship - PJ Gordhan assisted by L Landers

1. **Moment of Prayer/Meditation**
2. **Welcome and Attendance**
3. **Ratification of Agenda**
4. **Minutes**
 - 4.1 Ratification of the minutes of the meeting of:
 - 4.1.1 9 August 1993
 - 4.1.2 10 August 1993
 - 4.1.3 11 August 1993
 - 4.2 Matters arising out of the minutes of the meeting of:
 - 4.2.1 9 August 1993
 - 4.2.2 10 August 1993
 - 4.2.3 11 August 1993
 - 4.3 Distribution of the minutes of:
 - 4.3.1 4 August 1993
 - 4.3.2 12 August 1993
5. **Reportback from the Planning Committee**
6. **Substantive Issues**
 - 6.1 Eighth Working Draft of the Bill on the TEC and its Sub-Councils
 - 6.2 Walvis Bay
 - 6.3 Destruction of Identity Documents
7. **Administrative and Financial Matters**
8. **Meetings Schedule and Draft Programme**
9. **Closure**