

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 09h30 ON THURSDAY 12 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 no amendments.

4. Minutes

4.1 The minutes of 3 August 1993 were adopted with the following amendment:

Item 5.2.12 refers: The addition of another asterisk to read "It was suggested that the word spouse should be included in sub-clause 1 (e)".

4.2 No matters arising were noted out of the minutes of 3 August 1993.

5. Reportback from the Planning Committee

5.1 Walvis Bay:

5.1.1 It was noted that this issue was still under discussion in the Planning Committee. A reportback would be made to the Negotiating Council after lunch.

5.1.2 After lunch R Meyer requested that the issue stands over until Monday 16 August 1993 to allow for further consultation. This was agreed to

on the understanding that a response would be available by Monday 16 August 1993.

5.1.3 The Labour Party noted its objection to the delay on the resolution of this issue.

5.1.4 It was noted that full discussion would occur on this issue at the next meeting of the Negotiating Council on Monday 16 August 1993.

6. Substantive Issues

6.1 **Eighth Report of the Technical Committee on Fundamental Human Rights during the Transition:**

6.1.1 The Technical Committee on Fundamental Human Rights during the Transition was welcomed. Present were G Grove and Z Yacoob. Apologies were noted from H Corder, LM du Plessis and S Nene.

6.1.2 The Technical Committee presented its eighth report. Discussion and debate followed with questions of clarity put to the Technical Committee.

6.1.3 It was suggested that the Technical Committee considers a possible function for the Ombud to consider class actions. Other participants suggested that this inclusion may overlap with the Human Rights Commission.

6.1.4 It was suggested that the Commission should have stronger independence and be as independent of Parliament as possible.

6.1.5 It was suggested that the Ombud should be a newly created structure.

6.1.6 It was suggested that it should be made clear that an individual may approach the court without first having to go to the Ombud.

6.1.7 It was suggested that the Technical Committee should consider including the concept of proportional representation in the selection of the five members of Parliament or to suggest another mechanism so as to ensure that all five members do not come from one party.

6.1.8 It was suggested that the Technical Committee investigates the effectiveness or ineffectiveness of the current Ombudsman.

- 6.1.9 It was suggested that no member of Parliament should be included in the Commission. This seemed to be generally acceptable to participants.
- 6.1.10 It was suggested that the Technical Committee should be more specific with regard to the experience that the members of the Commission should have.
- 6.1.11 It was suggested that the Ombud should have specific time frames in which to deal with complaints.
- 6.1.12 The question of International Observers to serve on the Human Rights Commission was raised.
- 6.1.13 The Technical Committee stated that the Negotiating Council would have to take the decision as to whether commissioners should be appointed for a specified period subject to the reviewal of his/her term of office, or whether a commissioner should be appointed for an unlimited period.
- 6.1.14 It was suggested that a judge or former judge should be appointed as the Chairperson of the Human Rights Commission. Other participants did not support this view. Debate followed on this issue, after which it was suggested that the Council should be given an opportunity to discuss the composition of the bench and judiciary.
- 6.1.15 It was suggested that the offices of the Ombud should be as wide as possible with regard to the SPR's.
- 6.1.16 It was suggested that the Technical Committee should reconsider the issue of magistrates as recipients of complaints and another mechanism should be suggested.
- 6.1.17 It was suggested that the Technical Committee should reconsider the question of reporting complaints/problems in writing, given the problems around illiteracy in various communities.
- 6.1.18 It was suggested that the Technical Committee should apply its mind to the question of the funding of the Human Rights Commission. It was further suggested that the State should have the ultimate control of the funding.
- 6.1.19 It was suggested that the Technical Committee should consider the inclusion of an additional item as number 2.2.2 to deal with the violation of human rights as it applies vertically in the

Terms of Reference of the Ombud.

6.1.20 It was suggested that included in item 2.2.3 should be the education of people about what their rights actually are.

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

The meeting adjourned for tea at 10h45.

The meeting reconvened at 11h05.

6.2 **Fifth Report of the Technical Committee on Violence:**

6.2.1 The Technical Committee was welcomed. Present were P Hatty, P Ootshuizen, V Ntsubane and A Seegers. Apologies were noted from G Myburgh, M Phillips, S Vos and H Vilikazi. The Technical Committee presented its report to the meeting.

6.2.2 It was noted that the Technical Committee was waiting for a report from the Technical Committee on the TEC and its Sub-Councils and the Goldstone Commission before giving attention to the Peace-Keeping Force.

6.2.3 Discussion and debate proceeded around the report with questions of clarity referred to the Technical Committee.

6.2.4 It was suggested that the Negotiating Council approaches the SABC Board with a request that the SABC more adequately covers the proceedings of the Negotiating Council.

6.2.5 It was suggested that paragraph 4 of the report should be referred to the Communications Committee for its attention. Other participants suggested that this issue be referred to the Planning Committee for its attention.

6.2.6 Various participants expressed the viewpoint that the issue of the Peace-Keeping Force should be dealt with as a matter of priority.

6.2.7 The role of the media and its portrayal of violence was discussed. It was suggested that representations should be made via the Planning Committee to representatives of the media to discuss the issues raised in this report. The

importance of exposing the process and the deliberations of the Negotiating Council to the public was stated.

- 6.2.8 It was suggested that the Technical Committee should, in its next report, submit clear guidelines with regard to the carrying of arms and weapons in demonstrations taking into account the views expressed in the meeting.
- 6.2.9 It was suggested that the words "with unlawful intent" should be deleted in item 6.2.8 of the report. This was agreed to.
- 6.2.10 It was suggested that criteria was needed for the issuing and possession of arms.
- 6.2.11 It was agreed to adopt the recommendations of the Technical Committee as specified in Item 1.1.2. It was further agreed that paragraph 6.2 contained in Item 1.1.2 replaces paragraph 6.2 in the Fourth Report.
- 6.2.12 It was noted that the Technical Committee was in the process of following up on Items 1.1.3 and 1.1.9. The Negotiating Council urged the Technical Committee to move with speed to finalise the outstanding issues. This was also applicable to Items 2 and 3.
- 6.2.13 It was agreed that items 4.3.3 and 4.3.4 be referred to the Technical Committee on the Independent Media Commission and the Planning Committee for attention.
- 6.2.14 It was agreed that items 4.3.1 and 4.3.2 be referred to the Planning Committee for attention.
- 6.2.15 Concerns were expressed about the commitment of participants who were not part of the Multi-Party Negotiating Process to the recommendations of the Technical Committee. The Planning Committee was requested to consider this issue as well.
- 6.2.16 The Technical Committee was thanked for its work so far completed.

6.3 Eighth Working Draft of the Bill on the TEC and its Sub-Councils:

- 6.3.1 The Technical Committee was welcomed. Present were Z du Toit, F Haysom, CJ Heunis, J Renene and D van Wyk. Apologies were noted from E Mapheto. The Technical Committee presented its report, highlighting issues that require decision from the Negotiating Council.

The meeting adjourned for lunch at 13h00.

The meeting reconvened at 14h55.

6.3.2 Clause 3 "Objects of the Council" refers:

- * It was suggested that the objects of the Council co-incided with the objects of the IEC.

6.3.3 Clause 4 "Constitution of the Council" refers:

- * Questions of clarity were addressed to the Technical Committee.
- * A question was raised with regard to what sanctions would apply under sub-clause 4 (1) (b) (ii).
- * It was suggested that sub-clause 4 (3) remains as is.
- * It was suggested that sub-clause 4 (5) remains as is.
- * It was suggested that the Technical Committee should reconsider sub-clause 4 (6), as it was unacceptable to various participants. It was stated that no participant should/could be bound by decisions taken in its absence. Other participants did not agree with this point of view. The Technical Committee, in its deliberations, should take into account the views expressed in the meeting.

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

- * It was suggested that the word "Council" should be added to the end of sub-clause 6 (1).
- * It was suggested that the allowances and benefits should not be determined by the State President, but by the Multi-Party Negotiating Process.

6.3.5 Clause 7 "General Powers of Council" refers:

- * It was suggested that the Council should have statutory and executive powers.
- * The DP reserved its position on the Subcouncils and on the general powers of the Council.

- * It was suggested that this clause should be tightened up to incorporate some of the powers that the TEC would actually have in terms of some of the other provisions.
- * It was suggested that the relationship between the TEC and the Subcouncils should be clearly stated.
- * It was suggested that the words used in the allocation of powers should clearly show the power to implement and give effect to the decisions taken.
- * The Technical Committee noted that it was still in the process of finalising this clause. In finalising this clause, the Technical Committee was requested to take into account the views expressed in the meeting. It was agreed to defer further discussion on this clause until the reformulation was complete.
- * The Technical Committee was requested to highlight the amendments in its next report.

6.3.6 Clause 8 "Establishment of Subcouncils" refers:

- * It was suggested that there should be a Subcouncil on Traditional Leadership with regard to sub-clause (1). The Technical Committee was requested to reconsider this issue. It was noted that this issue would be discussed again at a future meeting of the Negotiating Council. Informal discussion amongst participants on this issue was suggested. It was suggested that this issue could also be revisited in the debate on the Regional and Local Government Subcouncil.
- * It was suggested that clause 8 (2) (a) and (b) be deleted and the power be given to the Council as was previously envisaged.

6.3.7 Clause 9 "Constitution of Subcouncils" refers:

- * It was suggested that the Technical Committee should give consideration to the method of appointment of non-members of the Council to the Subcouncil.
- * It was suggested that overall criteria with regard to the constitution of the Subcouncils should be formulated to ensure balanced representation on the Subcouncils. Various participants suggested that this issue needed a political decision.
- * It was suggested that six members per Subcouncil was not adequate.

* It was agreed that the words "as far as possible" be deleted from sub-clause 9 (3).

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

* It was noted that sub-clause 10 (1) should read "If a member of a Subcouncil loses the confidence of a participant etc." and not "If a member of a Subcouncil loses the confidence of the Council ... etc.".

6.3.9 At this point it was agreed to suspend debate on this Report and recommence the debate on this Report at Clause 11 on Monday 16 August 1993. The Technical Committee was thanked for its work so far completed.

7. General Issues

7.1 **Proposal with regard to the involvement of the International Community leading up to the elections and during the elections:**

A resolution was tabled (see Addendum B) in the Negotiating Council on this issue. It was agreed to refer the resolution to the Planning Committee for its attention and to submit recommendations to the Negotiating Council in this regard.

7.2 **Tree Planting Ceremony:**

An appeal was made to all participants to take part in the tree planting ceremony in accordance with arrangements that the Negotiating Council had previously agreed to.

8. Meetings Schedule and Draft Programme

The meetings schedule and the draft programme were agreed to (see Addendum C).

9. Closure

9.1 The Chairperson was thanked for the way the day's proceedings were handled.

9.2 The meeting was closed at 16h50.

These minutes were ratified at the meeting of the Negotiating Council of 17 August 1993 and the amended version signed by the Chairperson of the original meeting on 25/8/1993.....


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CHAIRPERSON

Addendum A

The following delegates and advisers were present at the meeting of the Negotiating Council on Thursday 12 August 1993:

R Cronje : Chairperson
 PJ Gordhan : Assistant Chairperson

Organisation	Delegates	Advisers
ANC	C Ramaphosa B Kgosisile	T Botha
AVU	C Pienaar C Kruger	A Beyers AJJ van Rensburg
Bophuthatswana	R Cronje R Mangope	SG Mothibe BE Keikelame
Cape Trad. Leaders	M Nonkonyana SN Sigcau	GD Gwadiso DM Jongilanga
Ciskei	M Webb VT Gquiba	TM Bulube
DP	C Eglin D Smuts	KM Andrew
Dikwankwetla	TJ Mohapi JSS Phatang	K Ngwenya SOM Moji
IFP		
IYP	NJ Mahlangu NS Mtsweni	AP Laka Q Vilankulu
KP		
INM	SS Ripinga ND Mokoena	MS Gininda
Kwazulu		
Labour Party	L Landers MYK Bassier	T Abrahams I Richards
NIC/TIC	PJ Gordhan E Gandhi	K Mayet
NP	D de Villiers TJ King	SJ Schoeman L Wessels
NPP	A Rajbansi	M Govender S Bhagirathes

CC Trad. Leaders

RH Mopeli
M Moroke

MB Mota

PAC

P de Lille
B Desai

L Makhanda

Solidarity

DS Rajah

N Singh

SACP

S Shilowa
L Jacobus

E Pahad

SA Government

RP Meyer
LR Brink

CL Fismer

Transkei

Z Titus
N Jajula

TVL Trad. Leaders

LM Mokoena
FF Kekana

MA Netshimbupfe
NE Ngomane

UPF

MJ Mahlangu
A Chabalala

J Maake
RJ Dombo

Venda

SE Moeti
AK Masehela

GM Ligege
S Makhuvha

XPP

MH Matjokana
PT Shiluvana

HN Manzini

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

DRAFT RESOLUTION TO THE NEGOTIATING COUNCIL
SUBMITTED BY THE LABOUR PARTY ON THURSDAY
12 AUGUST 1993

Noting the progress achieved By the MPNP and the Negotiating Council in respect of the draft bills dealing with the :

- * Transitional Executive Council (TEC)
- * Independent Electoral Commission (IEC)
- * Independent Media Commission (IMC)
- * Independent Broadcasting Authority (IBA)

Noting also that the role of the International Community (United Nation, Organization of African Unity, Commonwealth, European Community etc.) In the period leading up to the elections and, in particular, during the elections has not yet been established and finalized by the Negotiating Council;

THEREFORE RESOLVES:

That the Planning Committee be charged with

- * Considering the mechanisms and steps required for the Enactment and Implementation of these draft bills;
- * Considering the steps and mechanisms necessary to facilitate the active and effective involvement of the International Community both in the period leading up to the elections and during the elections; and
- * With regard to the forementioned, bring forward recommendations to the Negotiating Council for it's consideration.

REVISED PROPOSED SCHEDULE OF MEETINGS

16 AUGUST 1993

Planning Committee	Monday 16 August 1993	09h30-13h00
Negotiating Council	Monday 16 August 1993	14h00-19h00
Negotiating Council	Tuesday 17 August 1993	09h00-19h00
Negotiating Council	Wednesday 18 August 1993	11h00-19h00
Negotiating Council	Thursday 19 August 1993	09h00-19h00

Planning Committee	Monday 23 August 1993	09h30-13h00
Negotiating Council	Monday 23 August 1993	14h00-19h00
Negotiating Council	Tuesday 24 August 1993	09h00-19h00
Negotiating Council	Wednesday 25 August 1993	11h00-19h00
Negotiating Council	Thursday 26 August 1993	09h00-19h00

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.

DRAFT PROGRAMME FOR MEETINGS

16 AUGUST 1993

Monday 16 August 1993	Discussion:	*	TEC
	(Distribution :		IEC, IMC and IBA)
Tuesday 17 August 1993	Discussion:	*	IEC
		*	IMC and IBA (if time allows)
Wednesday 18 August 1993	Discussion:	*	IMC and IBA (finalise)
	(Distribution :		FHR)
Thursday 19 August 1993	Discussion:	*	TEC (finalise)
Monday 23 August 1993	Discussion:	*	IEC (finalise)
Tuesday 24 August 1993	Discussion:	*	FHR (finalise)
Wednesday 25 August 1993	Discussion:	*	Constitutional Issues
Thursday 26 August 1993	Discussion:	*	Constitutional Issues