

1/4/5/2

[1]

[NAME OF FORUM]

STANDING RULES OF PROCEDURE

(With regard to Section 4 hereof entitled "Agreements and decisions" the Sub-Committee received suggestions from the IFP, the PAC and the DP. These suggestions appear as Annexures A, B and C respectively.)

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.

3. Delegates

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

3.1.1 Ten delegates at Plenary meetings;

3.1.2 Three delegates and two advisers at meetings of the Negotiating Forum;

3.1.3 One delegate and two advisers at meetings of the Negotiating Council;

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 Delegates can be substituted by alternatives to be registered with the Administration in advance.

- 3.4 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.
- 3.5 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.
- 4.4.1 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, accept 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, appointed on merit and capability by the Negotiating Council from its own ranks and serving on a rotating basis

**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**

**9. Media**

**9.1 All Plenary meetings shall be open to the media**

**9.2 The Negotiating Forum and the Negotiating Council shall itself decide on whether, and if so which of its meetings shall be open to the media**

**10 Amendment of the Rules of Procedure**

**10.1 These Rules of Procedure can be amended by the Negotiating Council**

**DECISION MAKING PROCESS**

(Suggestions by the IFP)

1. When called by the Chair to express its position on a proposal or on a matter before the meeting, every delegation shall have such position stated by the leader of the delegation or by a spokesperson appointed by the leader of the delegation.
2. Agreement will be reached by consensus.
3. If general consensus cannot be reached the method of material consensus shall be employed.
4. Parties who disagree can record their objection or rejection formally, and
  - 4.1 record that the process may go forward nevertheless;
  - 4.2 record that the process should not go forward.
5. The ruling that there is material consensus or not should be taken by the Chairperson in his or her discretion.
6. In the event that the Chair rules that
  - 6.1 there is no material consensus; or
  - 6.2 there is material consensus but one or more parties challenge this ruling,the following process shall be followed:
  - a) the matter shall be referred to a technical committee for reformulation, and
  - b) the technical committee shall consider the views expressed and try to find consensus position.

In the event that the technical committee is not able to determine the consensus position, it can in its discretion

\* request delegates and outside experts to give evidence

or

\* set up a special subcommittee of its own members and/or outside experts and/or delegates to investigate and discuss the matter and to report.

- c) The Technical Committee shall report on what it believes is the consensus position or the position as close to consensus as achievable at that stage.
- d) If the negotiations forum is still unable to reach material consensus the matter shall be referred again to the Technical Committee to decide whether it can amend, supplement or substantiate its original report having heard the additional debate.
- e) If after all this there is still no consensus the Negotiations Forum has to decide the way forward under the circumstances.

7. Definition: Material consensus is sufficient consensus qualified by the requirement of materiality. When a decision is "material" to one or more parties, there can not be consensus if the parties materially affected by that decision do not agree. In other cases material consensus will be equivalent to the notion of sufficient consensus previously employed.

(Suggestions by the PAC)

1. DISPUTE RESOLVING AND DEADLOCK AND DEADLOCK BREAKING MECHANISMS.

1.2 After the word 'plenary' add a new sentence

'It is however advisable that maximum effort be employed in the Negotiating Council to attend to deadlocks which has arisen. To this end a standing Appeals Committee should be established with balanced representativity and acting as a sub-organ to which all structures from the Negotiating Council upwards can refer matters for proposed consensus formulation. The Appeals Committee may also propose bilateral discussions with or without mediators between parties after due consultation with them.

1.3 Add new sentence

'This is subject to the agreed upon role of the international community'.

2. Re: ITEMS 8-10 OR ORIGINAL DRAFT AGREEMENTS AND DECISIONS:

add new 10.4 to read

'should the item under discussion be a fundamental cornerstone of the approach to constitution making of one of the parties and no decision can be reached, a deadlock shall be deemed to exist. Such deadlock will be dealt with in terms of the deadlock-breaking machinery.

3. Re: ITEM 11 OF ORIGINAL DRAFT

After the word 'appropriate' add 'having regard for the provisions of the dispute resolving deadlock breaking mechanism'.

(Suggestions by the Democratic Party)

1. Deadlock Breaking Mechanism

1.1 The rules relating to Consensus/Sufficient Consensus decided upon at the Multi-Party Planning Conference of 5 and 6 March should apply in order to determine whether there is Consensus/Sufficient Consensus.

2. Procedures on Issues

2.1 In the event of there not being sufficient consensus the matter would be referred to the Technical Committee.

2.2 The Technical Committee would consider the views expressed and try to find a consensus position. In this process, the Technical Committee could:

a) request MPC delegations and/or outside experts to give evidence;

and/or

b) set up Sub-Committees consisting of Technical Committee members and/or outside experts and/or other MPC delegates and advisers.

2.3 The Technical Committee would report to the MPC on what it believes is the consensus position or as close to it as is achievable at that stage.

2.4 If the MPC is still unable to reach sufficient consensus the matter will be referred back once more to the Technical Committee to see whether, having heard the MPC debate, it is able to propose an amended report (after taking further evidence if necessary) to the MPC.

2.5 If the MPC is unable to reach sufficient consensus after it has considered the Technical Committee's second report, the MPC will then have to decide how to proceed further.

3. Use of Indicative Secret Ballots

3.1 Decisions should be made on the basis of consensus/ sufficient consensus. However, provision should be made for indicative secret ballots both in respect of appointments (e.g to agenda and Technical Committees) and on issues. These ballots would not be decisive or binding, but would help to guide the MPC towards finding sufficient consensus more quickly than the procedures used at CODESA.