

● 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 ON 10 MAY 1993 AT 10H30 AT THE WORLD TRADE CENTRE

- PRESENT: B Alexander
 R Cronje (Chairperson by rotation)
 C Eglin
 PJ Gordhan
 FT Mdlalose
 RP Meyer
 MC Ramaphosa
 J Slovo
 Z Titus
 M Webb
- 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 An apology for late arrival by PJ Gordhan, FT Mdlalose and J Slovo was noted.

3. Ratification of Agenda

The agenda was ratified with no amendments.

4. Minutes

4.1 The minutes of the meeting of the Planning Committee of 3 May 1993 were adopted with the following amendments:

4.1.1 Item 5.2.3 to read "It was noted that the Technical Sub-Committees

would be responsible for their own meetings schedule, subject to the time frames given by the Planning Committee";

- 4.1.2 Item 5.3.8 read "It was agreed in principle to recommend to the Technical Sub-Committee dealing with constitutional issues to consider the advisability of setting up a commission on regions to deal with the issue of boundaries, functions and powers in terms of the CODESA Reports with regard to whatever dispensation is to be agreed upon. This would not imply commitment, decision or acceptance on behalf of any participant. The issues would still be debated within the Negotiating Council. The Technical Sub-Committee is to submit to the Planning Committee a recommendation on the composition, Terms of Reference, time frames and the way in which the commission would function. This commission would be a public commission. This recommendation should reach the Planning Committee before 14 May 1993."

It was noted that the formulation of this item is to be relooked at in order to ensure that it correctly reflects the decision.

- 4.1.3 Item 6.1.4, the first asterisk, first sentence to read "That the principle of provincial representation should be maintained, but the problems around the representivity of existing delegations should be addressed in consultation with and in a manner acceptable to all concerned";
- 4.1.4 Item 6.2 to read, "It was agreed to recommend to the Negotiating Council that this issue be removed from the agenda until the Planning Committee is in a position to submit a recommendation to the Negotiating Council";
- 4.1.5 Item 6.4.3, the word "from" be replaced by "with regard to";
- 4.1.6 Item 6.6.2 to read "In the Plenary, the Negotiating Forum, the Negotiating Council, the Planning Committee or in any sub-structures as set up by these structures, non-South Africans cannot be participants on the basis that they are representing, in either delegate or adviser capacity, any participant";
- 4.1.7 Item 6.6.3, the last sentence be deleted.

- 4.2 Matters arising from the minutes of the Planning Committee meeting of 3 May 1993:

4.2.1 Contact with other Negotiating Fora:

It was noted that the Administration has received a complete list of all other negotiating fora. This list was distributed to members. Furthermore, letters will be sent to these fora.

4.2.2 Meeting with the National Peace Accord members:

4.2.2.1 It was agreed that an ad hoc sub-committee of the Planning Committee (consisting of FT Mdlalose, RP Meyer, MC Ramaphosa and M Webb) meet with J Hall and A Gildenhuis of the National Peace Accord at 08h30 on Friday 14 May 1993. Any other members of the Planning Committee may be present if they so wish. The meeting of the Planning Committee would, therefore, commence at 09h00 on Friday 14 May 1993.

4.2.2.2 It was agreed that the following three points should be conveyed to the members of the National Peace Committee by the ad hoc sub-committee:

- * That the problem of violence has to be addressed within the Negotiating Council. It should be noted that the Negotiating Structures do not want to supersede or override the authority of the Peace Committee, but since constitutional negotiations should move forward in tandem with an effective resolution of the problem of violence, the Negotiating Structures have a responsibility to deal with the matter of violence;
- * Furthermore, as not all participants are signatories to the National Peace Accord, the issue of violence should also be attended to within the Negotiating Council;
- * The Technical Committee will therefore link the interests of the Peace Committee and the Negotiating Structures.

4.2.2.3 It was noted that four members of the National Peace Committee Executive would form part of the Technical Committee on Violence and would attend the briefing for the Technical Committees scheduled for 14h30 on 10 May 1993.

4.2.2.4 It was suggested that the Technical Committee on Violence submit recommendations to the Planning Committee on how contact could be made between this process and other bodies, for example, the Goldstone Commission.

5. Substantive Issues

5.1 Technical Committees : Management and Briefing

The Sub-Committee presented a report to the Planning Committee. The following was noted:

5.1.1 A basic core set of documentation would be distributed to the members of the Technical Committees at the briefing. This included:

- * The Resolution on the Transition Process as adopted at the meeting of the Negotiating Forum on 1 April 1993;
- * The Resolution on Violence as adopted at the meeting of the Negotiating Forum on 1 April 1993;
- * The Structures and Standing Rules of the Negotiating Process;
- * The decision of the Negotiating Council with regard to the trilogy of documents and the inclusion of these documents;
- * The decisions of the Negotiating Council at their meeting of 30 April 1993 with regard to Technical Committees;
- * Transcriptions from meetings of the Negotiating Council and of the Negotiating Forum of the sections relevant to the Technical Committees on violence and the transition process;
- * The relevant Guidelines as per each Technical Committee;
- * The Declaration of Intent with regard to an Election Date as adopted by the Negotiating Council meeting on Friday 7 May 1993;
- * The schedule of meetings of the Negotiating Process until 3 June 1993.
- * Any inputs as submitted by participants;

5.1.2 It was agreed that submissions from participants to the Technical Committees should be sent to the Administration who would record the date the submission is received. The Administration would then distribute the submission to the

relevant Technical Committee and to the Sub-Committee (consisting of M Maharaj, B Ngubane and M Maharaj). The Sub-Committee should report back to every meeting of the Planning Committee in this regard.

- 5.1.3 It was agreed that the Sub-Committee draft a document to use in the briefing to the Technical Committee members. After lunch the document, as submitted to the Planning Committee, was agreed to with amendments. This document would supplement the verbal briefing of the Technical Committees. (See Addendum A)
- 5.1.4 It was further agreed that the Sub-Committee draft a circular to all participants requesting inputs/submissions from participants to Technical Committees. After lunch the draft circular was approved as amended. It was agreed that this circular be faxed immediately to all participants. It was noted that all submissions are to be in writing. This also applies to submissions received from experts. (See Addendum B)
- 5.1.5 After lunch the Sub-Committee presented a report to the Planning Committee stating the process and time frames as agreed to in the Planning Committee up to the meeting of the Negotiating Council on 18 May 1993. (See Addendum C)
- 5.1.6 It should be noted by the Technical Committees that Item 6 and 7 of the "Explanatory Memorandum" form the basis of the relationship between the Technical Committees and the Negotiating Structures.
- 5.1.7 It was suggested that members of the Technical Committees attend meetings of the Negotiating Council and the Negotiating Forum as observers to listen to relevant discussion. It was agreed that the Sub-Committee submit a proposal to the Planning Committee in this regard.
- 5.1.8 It was noted that the necessary Administrative back-up and facilities had been arranged for the Technical Committees.
- 5.1.9 It was agreed that the Administration be mandated to negotiate with any member of a Technical Committee on the issue of remuneration, bearing in mind the decision of the Planning Committee on this issue. This should be stated at the verbal briefing for the Technical Committees. It was further noted that the parameters for remuneration fall between R300 per day to R160 per hour (only working hours apply and not travelling time). It was noted that all relevant expenses incurred by

members of the Technical Committees would be carried by the process. It was agreed to request members of Technical Committees to keep in mind the concept of socially responsible fees

5.1.10 The Sub-Committee was mandated to recommend replacement names for members of Technical Committees who had not accepted nominations, where necessary.

5.1.11 It was agreed that the issues as referred to in the initial proposals of the Planning Committee (i.e. Strengthening of the Peace Accord Structures, the Security Forces and Armed Formations and a Peace Corps, cf Documentation distributed at the meeting of the Negotiating Council of 26 April 1993, Addendum C p56), be referred to the Technical Committee on Violence with a request to consider these outstanding issues and submit recommendations to the Planning Committee in their initial report.

5.1.12 It was noted that in line with the proposals of the Planning Committee, the issue of the Security Forces and Armed Formations be dealt with in the Technical Committee on the TEC.

5.1.13 It was agreed to defer the resubmission of the Draft Resolution on Violence to the Negotiating Council to a later date at an appropriate time.

5.1.14 After lunch the following process for the briefing of members of the Technical Committees was agreed to:

- * The current Planning Committee Chairperson would welcome the members and introduce the Planning Committee, after which members of the Technical Committees would be requested to introduce themselves;

- * The Sub-Committee would deal with the pack of core documentation and the document to brief the Technical Committees, followed by a period of questions and answers;

- * The Technical Committees would then convene and decide on their programme of work and any other business;

- * The Technical Committee dealing with Constitutional Issues would be requested to remain behind and the issue of the proposed commission/committee be dealt with (see below Item 5.3).

5.1.15 At 14h30 a briefing was given to all members of the Technical Committees by the Planning Committee with the assistance of the Sub-Committee as mandated by the Planning Committee.

5.2 **Proposed Resolution to ensure peaceful conditions for Constitutional Negotiations and free political activity in South Africa**

It was agreed that this Resolution be submitted to the Technical Committee on Violence and the Technical Committee dealing with the TEC. A report in this regard should be submitted to the next meeting of the Negotiating Council on 18 May 1993.

5.3 **Advisability of a commission/committee on regions**

It was agreed to refer this issue to the Technical Committee on Constitutional Issues. A recommendation encompassing the type of structure, the Terms of Reference, the Composition, Time-Frames, etc. of such a commission/committee on regions should be included in the initial report of the Technical Committee to the Planning Committee. A proposal in this regard would then be submitted to the meeting of the Negotiating Council on 18 May 1993. This would ensure the issue had been specifically dealt with, but also within an overall context.

6. **Procedural Issues**

6.1 **New Participants:**

6.1.1 It was noted that letters to all applicants are to be sent out by the Administration informing them of the decision of the Negotiating Council of 7 May 1993.

6.1.2 Furthermore, the Administration is to send letters to the Traditional Leaders (excluding the Orange Free State Traditional Leaders) requesting them to solve problems of representivity within their delegations amongst themselves and to inform them of the decision of the Negotiating Council (the principle of provincial representation remains). The Administration was mandated to assist the Traditional Leaders if so requested.

6.2 **Media Arrangements:**

It was noted that a report would be submitted to the next meeting of the Planning Committee on Friday 14 May 1993.

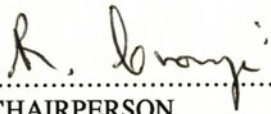
7. **Administrative and Financial Matters**

- 7.1 A request to distribute Bibles to participants had been received by the Administration. It was agreed to have these available at registration and participants who wished to take one, could do so.
- 7.2 It was agreed that the Administration should be flexible on the issue of the number of bodyguards per delegate.

8. **Closure**

- 8.1 All members were requested to apply their minds to the question of how debates in the Negotiating Council on the reports of the Technical Committees are to be structured. This would be dealt with at the next meeting of the Planning Committee on Friday 14 May 1993.
- 8.2 The meeting closed at 17h30.

These minutes were ratified at the meeting of the Planning Committee of 24 May 1993 and the amended version signed by the Chairperson of this meeting on ~~28~~ *28 May* 1993.


.....
CHAIRPERSON

BRIEFING OF TECHNICAL COMMITTEES

1. The Negotiating Council agreed to establish seven Technical Committees. It is envisaged that each of these Technical Committees will facilitate discussion and the reaching of agreements in the Negotiating Council.
2. The purpose of the Technical Committees is outlined in an Explanatory Memorandum which was agreed to by the Negotiating Council on 7 May 1993. In particular we refer to paragraphs 6 and 7 of this Memorandum:

"6. It is expressly understood by all participants that each of the above proposals and the documentation emanating from such Technical Committees shall be discussed in the Negotiating Council with the view to arriving at an agreement on these matters. Furthermore, that as and when agreement is reached on each of these matters the Council shall expressly determine when and how the specific agreement shall be implemented. This provision is made so as to ensure that participants have a clear understanding of the package of agreements which would constitute the key elements of the transition process."

"7. Technical Committees are not fora for negotiating substantive issues. They are instruments of the Negotiating Council in order to produce systematic documentation to facilitate discussion and negotiating in the Negotiating Council. Documentation produced by each of these Technical Committees shall be discussed at the Negotiating Council and on the basis of those discussions sent back to the Technical Committees for further development. This process would be repeated until agreement is reached in the Negotiating Council on a final document on the issue in question."

3. **The Seven Technical Committees are:**

- 3.1 On Violence
- 3.2 Constitutional Issues (including Form of State and Constitutional Principles, Constitution Making Body/Constituent Assembly, Transitional /Interim Constitution, Transitional Regional/Local Government, Future of the TBVC States, Self Determination)
- 3.3 Fundamental Rights During the Transition
- 3.4 The Independent Election Commission
- 3.5 The Independent Media Commission and the Independent Telecommunications Authority
- 3.6 Amendment or Repeal of Legislation Impeding Free Political Activity as well as Discriminatory Legislation
- 3.7 The Transitional Executive Council and its Sub-Councils.

- The issues allocated to each of the above Technical Committees arise from key elements of the negotiating process which will enable South Africa to move from the current order to a democracy. Detailed guidelines were agreed to at the Negotiating Council in respect of each of these Technical Committees. These are being made available to each Technical Committee in order to guide their work as well as provide each with an overview of the tasks entrusted to all the Technical Committees.
5. The Technical Committees, as was stated earlier, are not Negotiating Fora. It is expected that the basic working documents of each Technical Committee would be:
 - 5.1 The trilogy of documents emanating from the CODESA process, namely the Report on CODESA Agreements, the Summary of these CODESA Reports and the Consolidated Document on CODESA Reports.
 - 5.2 The proposals of the Planning Committee (the first and the second reports) which are partially derived from the Consolidated Document on CODESA Reports, and which constitute the guidelines in respect of each Technical Committee.
 - 5.3 Submissions and inputs from the participants to the current negotiating process: A special circular is being sent out by the Planning Committee to all participants inviting these submissions and setting deadlines for such submissions to be made.
 - 5.4 Discussions on any of the substantive issues which have taken place in the Negotiating Forum and the Negotiating Council before the Technical Committees were set up (these have been extracted from the relevant minutes and are included in the files being prepared for each Technical Committee).
 - 5.5 Discussions which shall take place in the Negotiating Council on the basis of the reports and documents prepared by each Technical Committee.
 - 5.6 Any other submissions which may be made to the Technical Committees by individual experts and interest groups, provided these are submitted within the time frames of the Negotiating Process
 6. The basic process within which the Technical Committees shall function are as follows: Each Technical Committee shall prepare systematic documentation (which may even take the form of draft legislation) for structured discussion, amendment etc in the Negotiating Council. If no agreement has been reached on any specific issue on aspects of a Technical Committee report, such aspects would be referred back to the Technical Committee for their further development which would take into account the discussions in the Negotiating Council. The process would be repeated until participants in the Negotiating Council reach agreement.
 7. In addition to the above guidelines etc we refer you to the Declaration of Intent which

was adopted by the Negotiating Council on 7 May 1993. This Declaration imposes certain time frames with regard to the work of the Technical Committees. In this context we draw your attention to the fact that the following dates have been set for meetings of the Negotiating Council during the month of May: The Negotiating Council is scheduled to meet on Tuesday 18 May, Tuesday 25 May and Friday 28 May. The meetings are preceded by meetings of the Planning Committee which are scheduled for Friday 14 May, Monday 17 May, Tuesday 18 May, Monday 24 May, Tuesday 25 May.

8. It is important that participants in the Negotiating Council and members of the Planning Committee receive reports and documentation from the Technical Committees at least 24 hours before their meetings.

9. It should be noted by the Technical Committees that the negotiations take place in the Negotiating Council. The Planning Committee is a facilitating body and has been entrusted by the Negotiating Council with the task of managing and coordinating the work of the Technical Committees. To this end the Planning Committee will use the services of a three person Sub-Committee working under the guidance of and accountable to the Planning Committee. In the context of this structural framework, the Technical Committees are committees of the Negotiating Council to whom they are accountable.

10. **Relations with the media:**

It should be further noted that persons serving in the Technical Committees do so in their individual capacities and not as representatives of any party/organisation. It should be expressly understood that neither the Technical Committees nor individuals serving on any of these Technical Committees are to make statements or comments to the media on matters relevant to the work of the Technical Committee on which they are serving.

11. **Submissions and inputs to Technical Committees:**

Submissions by participants, interest groups and experts shall be made to the Technical Committees in writing. These shall be received by the Administration and forwarded to the three person Sub-Committee for transmission to the respective Technical Committees. No oral evidence shall be entertained.

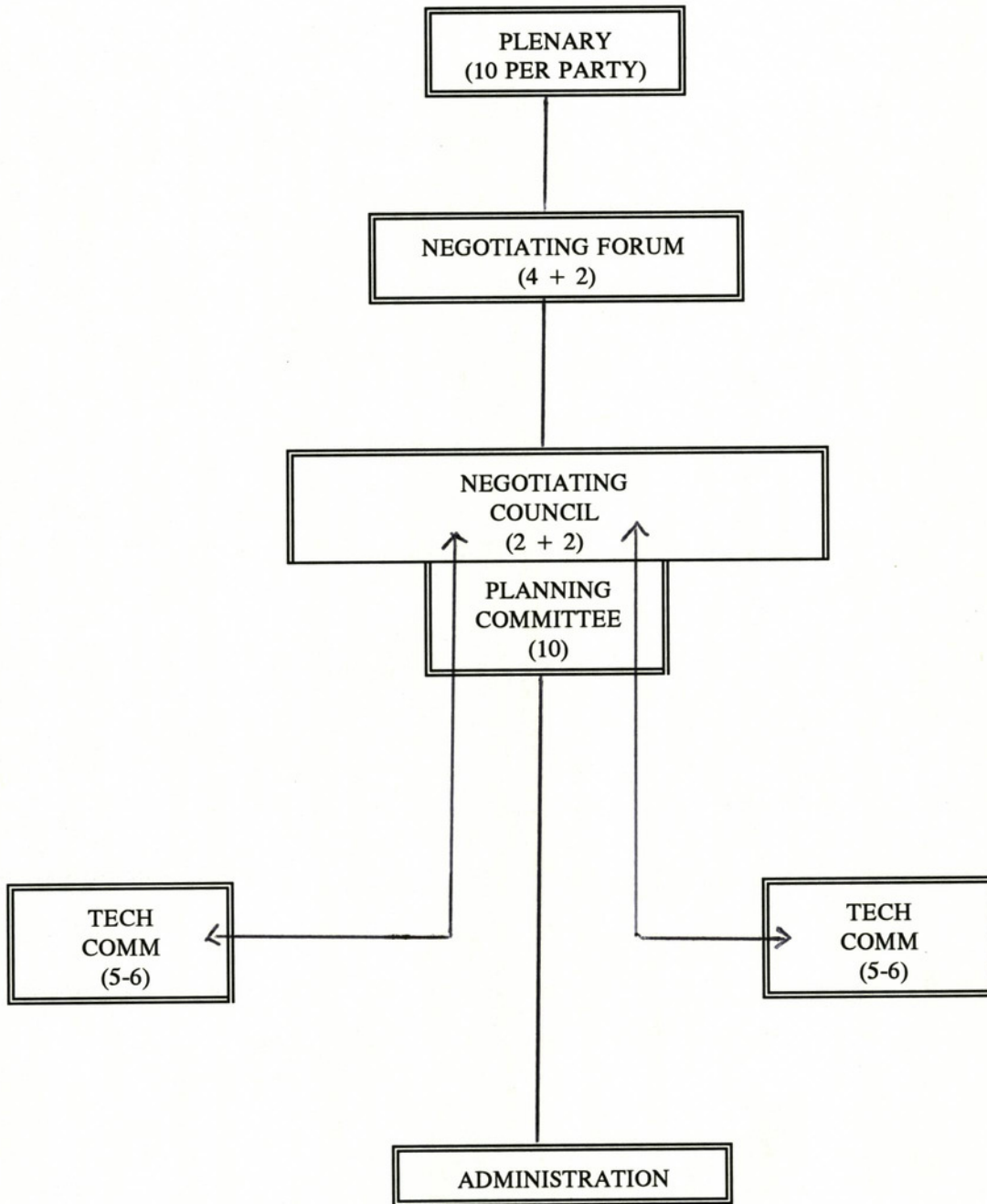
12. **Reports of the Technical Committees**

These shall be made available in the first instance to the Planning Committee, through its Sub-Committee, for submission to the Negotiating Council.

13. The relevant Technical Committee shall attend meetings of the Negotiating Council when its report/s are under consideration. From time to time a Technical Committee

- or its rapporteur/convenor may be requested to attend specific meetings of the Planning Committee as and when necessary.
- 14. The three person Sub-Committee shall be available on a day to day basis to clarify any matters relating to the guidelines outlining the tasks of specific Technical Committees. On matters that go beyond these guidelines the Sub-Committee shall bring the matter to the attention of the Planning Committee for guidance.
- 15. The Administration shall provide each Technical Committee with a secretary. The secretary shall also facilitate contact between the Technical Committee and the Administration for production of documents and all administrative needs. Each Technical Committee is being provided with an office/ working space at the World Trade Centre by the Administration. Each Technical Committee is free to structure itself in a manner that will enable it to function effectively. To this end they may appoint a convenor/rapporteur from amongst themselves as they see fit.
- 16. Attached hereto is an organogram of the structures of the Multi-Party Negotiating process.

SUMMARY OF STRUCTURES



MULTI-PARTY NEGOTIATING PROCESS

Telephone (011) 397-1198 Fax (011) 397-2211

URGENT

To : All Participants in the Multi-Party Negotiating Process
From : The Planning Committee
Date : 11 May 1993
Re : Written Inputs from Participants to Technical Committees

1. On Friday, 7 May 1993, the Negotiating Council appointed seven Technical Committees and identified the experts to be asked to serve on them. Attached is a list of the Technical Committees and the names of the experts who have agreed to serve.
2. The Negotiating Council decided that the Technical Committees should not be negotiating forums and that, for purposes of their reports, they should take into account the discussions in the Negotiating Council and the submissions received from participants in the Council.
3. The Planning Committee requests the participants to make their initial written submissions on the substantive issues to each of the Technical Committees as soon as possible, but to reach the Administration preferably by 17h00 on Thursday 13 May 1993. If this is not possible, then a framework of intended submissions (heads of arguments) should reach the Administration not later than Thursday 13 May 1993 at 17h00 and the detailed submissions not later than Wednesday, 19 May 1993 at 12h00.
4. Submissions received by the Administration at the World Trade Centre not later than 17h00 on Thursday, 13 May 1993, together with the first reports of the Technical Committees, will be made available to participants timeously for discussion by the Negotiating Council on Tuesday, 18 May 1993.

PLANNING COMMITTEE

THE COMPOSITION OF THE TECHNICAL COMMITTEES

NB. Each of the Technical Committees should be mandated to consult with experts on any issue they might consider necessary.

1. Violence

In addition to four representatives from the National Peace Committee the following:

- * Mr V Ntsubane
- * Prof P Oosthuisen
- * Prof A Seegers
- * Prof H Vilakazi

2. Constitutional Matters:

- * Mr F Cachalia
- * Adv A Chaskalson
- * Prof GE Devenish
- * Adv E Moseneke
- * Adv B Ngoepe
- * Prof W Olivier
- * Dr F Venter
- * Prof M Wiechers

3. Fundamental Rights During the Transition

- * Prof H Corder
- * Prof LM du Plessis
- * Mr G Grovè
- * Ms D Nene
- * Adv Z Yacoob

4. Transitional Executive Council

- * Ms Z du Toit
- * Prof F Haysom
- * Dr JC Heunis
- * Mr ME Mapheto
- * Adv J Renene
- * Prof D van Wyk

5. Independent Media Commission and Independent Telecommunications Authority

- * Ms A Armstrong
- * Dr B de Villiers
- * Adv D Dison
- * Mr EJ Mabuza
- * Adv P Pretorius

6. Independent Electoral Commission

- * Prof D Davis
- * Adv HR Laubscher
- * Mr SK Ndlovu
- * Mr RB Rosenthal

7. Repeal of Discriminatory Legislation

- * Prof J Dugard
- * Prof MG Erasmus
- * Adv P Langa
- * Adv P Moroka-Motlana
- * Adv J de Bruyn (ex officio, Department of Justice)

**REPORT FROM SUB-COMMITTEE TO THE PLANNING COMMITTEE
10 MAY 1993**

1. Draft circular on Technical Committee (See Addendum B above).
2. The following procedure is suggested:
 - a. Submissions handed to the Technical Committees as soon as they are received.
 - b. Technical Committees' first reports include submission received before 17h00 on Thursday 13 May 1993.
 - c. Planning Committee members will not receive reports before the meeting on Friday 14 May 1993.
 - d. Planning Committee take note of reports and instruct administration to distribute to participants to reach them not later than Saturday 15 May 1993.
 - e. Planning Committee decide on how reports are to be presented to the Negotiating Council and interact with the Technical Committees in this regard.
 - f. Planning Committee decide on agenda for the Negotiating Council meeting of 18 May 1993 taking into account the necessity for the Council to receive and deal with the reports. Draft agenda is distributed together with Technical Committee reports.
 - g. Planning Committee decide whether or not to meet on Monday 17 May 1993. Members might prefer to spend Monday with their own delegations preparing for the next day's Negotiating Council and to rather meet at 08h00 on Tuesday to discuss whatever preparatory matters are to be dealt with.