

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 10h30 ON THURSDAY 21 OCTOBER 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

It was noted that minutes would be distributed at the next meeting of the Negotiating Council.

5. Substantive Issues

5.1 Debate on the Report of the Commission on National Symbols:

5.1.1 The members of the Commission on National Symbols were welcomed. Present were E Botha (Chairperson), FG Brownell, L Gilfillan, P Kapp, PGP Maluleka (Vice Chairperson), F Meer, C Pama, CJ Reinecke, T Sirayi and M Xulu.

5.1.2 Process with regard to National Symbols:

After discussion it was agreed that the process around national symbols required more time but that a deadline was necessary. It was therefore agreed that the Planning Committee considers all the issues raised and

related matters to facilitate the process. In this regard the following issues should be considered by the Planning Committee:

- * The composition of the Commission;
- * Whether there was a distinction to be made between the flag, the anthem, the coat of arms and the seal;
- * How the process should be taken forward with regard to the Draft Constitution for the Transition;
- * Whether provision should be made in the necessary legislation to provide for alterations to any of the national symbols in time for the election or just prior to the election
- * Time Frames

It was agreed that the Planning Committee should submit a recommendation to the Negotiating Council with regard to this issue as soon as possible.

5.1.3 The National Anthem:

Discussion proceeded on the recommendations and report of the Commission. After lengthy debate and discussion, it was agreed that no consensus could be reached on this issue at that stage. It was further agreed that the Planning Committee should consider this issue and submit a recommendation to the Negotiating Council on the way forward in this regard. Liaison may occur with the Commission members in respect of the recommendation from the Planning Committee.

5.1.4 The Flag:

It was noted that there was a need to deepen and broaden the process around the flag. It was agreed to refer this issue, and that of the coat of arms/seal, to the Planning Committee for a recommendation to be submitted to the Negotiating Council.

5.1.5 It was noted that there was a sense of urgency with regard to the process and time frames around the issue of National Symbols.

5.1.6 The Commission suggested that the Planning Committee should also consider the issue of "facilitators" when the process was considered.

5.1.7 The Commission was thanked for its excellent work so far completed.

The meeting adjourned for lunch at 12h40.

The meeting reconvened at 14h30.

5.2 17th Report on Finances from the Technical Committee on Constitutional Issues:

- 5.2.1 The Technical Committee on Constitutional Issues was welcomed. Present were A Chaskalson, GE Devenish, E Moseneke, B Ngoepe, M Olivier, W Olivier and F Venter. Apologies were noted from M Wiechers. The Technical Committee then presented its 17th Report to the meeting. Discussion and debate followed on Transfer of Assets and Liabilities. Questions of clarity were put to the Technical Committee during the course of the entire debate and discussion.
- 5.2.2 It was suggested that the Commission for the SPR's as established in terms of Chapter 9 of the Draft Constitution for the Transition should play a role with regard to the issue of the transfer of assets and liabilities. Furthermore, the Fiscal and Financial Commission should also play a role in this regard, as well as where arbitration was necessary between different regions.
- 5.2.3 It was suggested that the Commission for SPR's should be called in to arbitrate among SPR's and make recommendations as far as the direction of assets are concerned.
- 5.2.4 It was suggested that liabilities should remain at the SPR level of government. In this regard it was also suggested that the Fiscal and Financial Commission should play a role and advise the national parliament when disputes arose.
- 5.2.5 It was suggested that assets of SPR's no longer required in the future could be sold off and the monies thereby raised used for the redemption of loans.
- 5.2.6 With regard to loan guarantees presently provided by the national government, it was suggested that the national government should honour those obligations.
- 5.2.7 It was suggested that there should be an audit of the assets, debts and liabilities of the state and the pension funds concerned and that the audit should be undertaken by the current auditor-general's office, prior to the reallocation of assets, debts and liabilities. Furthermore, provision should be made for debts as a result of the borrowing of some SPR's from the pension funds in order to finance the current state expenditure.

- 5.2.8 It was suggested that at present what was needed was an audited report of all the local authorities and provincial administrations. Once this had been done the issue could be properly addressed.
- 5.2.9 It was suggested that with regard to SPR assets established out of loans guaranteed by the national government, the national government should not be liable for the loans. Furthermore, the assets should be sold to pay off the loans.
- 5.2.10 It was suggested that in the legislation, the term "short term debt" and "long term debt" may have to be defined.
- 5.2.11 It was suggested that there may be a role for the TEC Subcouncil on Finance with regard to some of the suggestions raised by participants, as well as taking care of concerns raised with regard to the present and the coming in of the Constitution for the Transition.
- 5.2.12 With regard to the estimated total debt of the self-governing territories and the TBVC States, it was suggested that full disclosure was needed as to how the debt was distributed between the self-governing territories and the TBVC States. Furthermore, under what conditions the debts were incurred should also be disclosed. It was also suggested that there should be no constitutional guarantee that all of the liabilities of the self governing territories and the TBVC States be taken over by the central government and consolidated into the national debt. It was further suggested account would have to be taken of the various categories of existing debt.
- 5.2.13 It was suggested that the Negotiating Council should address the issue of pensions in the TBVC States and to ensure that in the new South Africa, the pensions would be honoured.
- 5.2.14 It was suggested that the Negotiating Council should take a resolution at an appropriate time to instruct the Auditor General to conduct an audit of all the assets and liabilities of the TBVC States and the self governing territories.
- 5.2.15 After lengthy discussion, it was agreed to curtail debate on the issue of the transfer of assets and liabilities and return to it at a future meeting of the Negotiating Council as more time was needed for participants to consider all the issues raised.
- 5.2.16 Clause 143 to Clause 145 "Existing Assets and Liabilities of the State" refers:

- * It was noted that these clauses are still to be formulated.

5.2.17 Clause 146 "National Revenue Fund" refers:

- * It was suggested that it should be made clear where the national government had a trading account.
- * It was suggested that the word "established" should be inserted between the words "be" and "a" at the beginning of clause 146 (1).
- * It was suggested that the words "or money" should be inserted between the words "revenues" and "raised" in clause 146 (1).
- * It was suggested that the words "for the purpose of the National Government" should be deleted from clause 146 (1).
- * No comments were noted on clause 146 (2).
- * With regard to clause 146, it was generally suggested that the structure of the revenue fund should be stated.

5.2.18 Clause 147 "Appropriation bills" refers:

- * It was suggested that the words "ordinary" and "annual" should be deleted.

5.2.19 Clause 148 "Appropriation to be initiated by a Minister" refers:

- * It was suggested that the words "or other proposal" should be deleted.

5.2.20 Clause 149 "Annual Budget" refers:

- * It was suggested that the heading should read "Annual Budgets".
- * It was suggested that the words "an annual budget reflecting the estimated receipts and expenditure" should be deleted and replaced by "annual budgets reflecting the estimates of revenue and expenditure" in clause 149 (1).
- * It was suggested that clause 149 (2) should be deleted and provided for in subordinate legislation

* It was suggested that clause 149 (3) should be deleted as it was already provided for in subordinate legislation.

* It was suggested that clause 149 (4) should be deleted as it was already provided for in subordinate legislation.

5.2.21

Clause 161 "Auditor-General - Establishment and appointment" refers:

* It was suggested that the word "Office" in clause 161 (1) should commence with a lowercase letter.

* With regard to clause 161 (2), it was suggested that an audit commission should appoint an auditor-general. Furthermore, the appointment should be by a simple majority.

* It was suggested that a further sub-clause should be added to this clause to read "The post of auditor-general should not be vacant for more than six months."

* No comments were noted on clause 161 (3).

* With regard to clause 161 (4), it was suggested that the words "Unless the Constitution adopted in terms of Chapter 5 provides otherwise" should be deleted and the sentence commences with the words "The Auditor-General..."

* With regard to clause 161 (4), it was suggested that the period of office for the auditor-general should be designated at the commencement of the term of the individual's term of office by the appointee or the people appointing.

* No comments were noted on clause 161 (5).

* It was suggested that clause 161 (6) should be deleted as it was already provided for in subordinate legislation. Other participants did not agree with this view.

* It was suggested that the word "address" should be deleted and replaced with "upon receipt of a request from both the ..." in clause 161 (7).

* With regard to clause 161 (8), it was suggested that the proposed suspension should only occur once the

investigation was complete and the results thereof known.

- * It was suggested that clause 161 (9) should be reformulated to read as follows "The president may allow the auditor-general at his or her request to vacate his or her post".

The meeting adjourned for tea at 16h45.

The meeting reconvened at 17h15.

5.2.22 Clause 162 "Auditor-General - Independence and Impartiality" refers:

- * No comments were noted on clause 162 (1).
- * Clause 162 (2) as formulated was agreed upon.
- * Clause 162 (3) as formulated was agreed upon.
- * No comments were noted on clause 162 (4).

5.2.23 Clause 163 "Auditor-General - Powers, Functions and Duties" refers:

- * The DP reserved its right to look at the precise relationship of the auditor-general at a national level and the auditor-general type functions at SPR level.
- * With regard to clause 163 (1), it was suggested that performance audits should be provided for.
- * With regard to clause 163 (2), it was suggested that the function to audit at a local level should not be a function of the national auditor-general's office if there was a regional or local board, organisation or institution. Other participants did not agree with this view.
- * With regard to clause 163 (2), it was suggested that there should only be one office of auditor-general for the country. The following reformulation was suggested "The auditor-general shall audit and report on all the accounts and financial statements of any local

authority, board, fund, institution, company, corporation or other organisations established or constituted by or under any law out of which the accounts and financial statements shall be in terms of law be audited by the auditor-general and of all persons in the employment of such body entrusted with own trust and other assets".

- * With regard to clause 163 (2), it was suggested that the Technical Committee should reconsider the use of the words "any person in the employment of such bodies", as in this context it was too broad.
- * No comments were noted on clause 163 (3).
- * No comments were noted on clause 163 (4).
- * No comments were noted on clause 163 (5).
- * With regard to clause 163 (6), it was suggested that the body concerned being audited should be the first to be informed and should receive a report first hand from the auditor-general and not have to wait through some other mechanism to discover what the auditor-general's report had to say about its level of government.
- * With regard to clause 163 (6), it was noted that the word "accounts" in the second line should read "reports".
- * It was suggested that after the words "such reports" in the third line of clause 163 (6), the following words should be inserted "or a report on any other matter".
- * No comments were noted on clause 163 (7).

5.2.24

Clause 164 "Auditor-General - Staff and Expenditure" refers:

- * It was suggested that a further sub-clause be inserted before clause 164 (1) to read "The office of the auditor-general shall be a legal entity".
- * No comments were noted on clause 164 (1).
- * No comments were noted on clause 164 (2).
- * No comments were noted on clause 164 (3).

- 5.2.25 Clause 165 "Reserve Bank - Central Bank" refers:
- * No comments were noted on clause 165.
- 5.2.26 Clause 166 "Reserve Bank - Primary objectives" refers:
- * It was suggested that clause 166 (1) be reformulated to read "The primary objectives of the Reserve Bank shall be to achieve internal and external price stability in the interest of balanced and sustainable economic growth". Various participants supported the clause as formulated. The Technical Committee stated that it needed a decision by Council on the suggested reformulation. No agreement could be reached and, therefore, it was agreed to leave this issue in abeyance until the clause was dealt with again by Council at a future meeting.
 - * With regard to clause 166 (2), it was suggested that provision should be made for regular consultation between the Reserve Bank and fiscal authorities.
 - * With regard to clause 166 (2), it was suggested that the proviso should be amended to read "provided that the Reserve Bank shall take account of the general economic policy of the government of the Republic". Various participants did not support this suggested amendment.
- 5.2.27 Clause 167 "Reserve Bank - Powers and duties" refers:
- * No comments were noted on clause 167.
- 5.2.28 Clause 170 "Financial and Fiscal Commission - Establishment" refers:
- * It was suggested that the name of the body should be amended to "Fiscal Commission". Various participants did not support this view.
 - * It was suggested that the name of the body should be amended to "Intergovernmental Fiscal Commission". Various participants did not support this view.
- 5.2.29 Clause 171 "Financial and Fiscal Commission - Objects and functions" refers:
- * No comments were noted on clause 171 (1).

- * No comments were noted on clause 171 (1) (a).
- * It was suggested that the word "national," be inserted between the words "the" and "SPR's" in clause 171 (1) (b).
- * No comments were noted on clause 171 (1) (c).
- * No comments were noted on clause 171 (1) (d).
- * It was suggested that the word "national," should be inserted between the words "to" and "SPR's" and the words "and local government" should be inserted after the word "SPR's".
- * No comments were noted on clause 171 (1) (f).
- * It was suggested that clause 171 (2) was superfluous.

5.2.30

Clause 172 "Financial and Fiscal Commission - Constitution, expertise and impartiality" refers:

- * It was noted that the DP would submit a suggested amendment to the Technical Committee with regard to the composition of the Financial and Fiscal Commission.
- * No comments were noted on clause 172 (1).
- * No comments were noted on clause 172 (1) (a).
- * No comments were noted on clause 172 (1) (b).
- * No comments were noted on clause 172 (2).
- * No comments were noted on clause 172 (2) (a).
- * With regard to clause 172 (2) (b), it was suggested that people serving on the Commission could also be financial analysts and management specialists.
- * With regard to clause 172 (2) (b), it was agreed to insert the following words into the clause after the words "expertise in the" : "fields of economic, public finance and administration" and, therefore, the words "field of public finance" should be deleted.

- * No comments were noted on clause 172 (3).
- * No comments were noted on clause 172 (4).
- * With regard to clause 172 (5), it was suggested that two terms would be sufficient. This was agreed to.
- * No comments were noted on clause 172 (6).
- * With regard to clause 172 (7), it was suggested that the position should not be full time.
- * No comments were noted on clause 172 (8).
- * No comments were noted on clause 172 (9).

5.2.31 Clause 173 "Financial and Fiscal Commission - Meetings of the Commission" refers:

- * No comments were noted on clause 173 (1).
- * No comments were noted on clause 173 (2).
- * No comments were noted on clause 173 (3).
- * No comments were noted on clause 173 (4).

5.2.32 Clause 174 "Financial and Fiscal Commission - Committees" refers:

- * No comments were noted on clause 174 (1).
- * No comments were noted on clause 174 (2).
- * No comments were noted on clause 174 (3).
- * No comments were noted on clauses 174 (4) (a), (i), (ii) and (b).

5.2.33 Clause 175 "Financial and Fiscal Commission - Co-option of persons to serve on or advise committees" refers:

- * No comments were noted on clause 175 (1).
- * No comments were noted on clause 175 (2).

5.2.34 Clause 176 "Financial and Fiscal Commission - Remuneration

and allowances of members of the Commission and other persons" refers:

* No comments were noted on clause 176.

5.2.35 Clause 177 "Financial and Fiscal Commission - Appointment of Staff" refers:

* Clause 177 (1) was agreed to as formulated.

* No comments were noted on clause 177 (2).

5.2.36 Clause 178 "Financial and Fiscal Commission - Regulations" refers:

* No comments were noted on clause 178 (a).

* No comments were noted on clause 178 (b).

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

6. **Planning Committee Reportback:**

When the meeting reconvened after lunch, the current Planning Committee Chairperson, Z Titus submitted the following report to the Negotiating Council:

6.1 **Ad-Hoc Committees on the Delimitation/Demarcation of Regions:**

It was noted that the Ad-Hoc Committees held their first meeting over lunch today. Good progress was registered. It was noted that the Planning Committee would give a further report with regard to the progress of the Ad-Hoc Committees on Monday 28 October 1993.

6.2 **Ad-Hoc Committee on the Draft Electoral Bill:**

6.2.1 It was noted that this Ad-Hoc Committee had had its first meeting over lunch today and was scheduled to meet on Friday 22 October 1993 and would continue to meet until all its work had been completed.

6.2.2 Before the meeting adjourned, it was agreed that the deadline for the work of the Ad-Hoc Committee should be Tuesday 26 October and a report from the Technical Committee would be put before Council on 27 October 1993 dealing with all the outstanding issues with regard to the Draft Electoral Bill. Concerns were expressed by Ad-Hoc Committee members with regard to the deadline. It was agreed to

remain flexible in this regard. It was further agreed that once an issue had been resolved by the Ad-Hoc Committee, the results thereof should be submitted directly to the Technical Committee.

6.2.3 It was noted that the Ad-Hoc Committee would meet directly after the Negotiating Council had adjourned on 22 October 1993 at 14h00.

6.3 AVU Issue:

6.3.1 It was noted that this issue had, at the request of the AVU, been under discussion in the Planning Committee since Monday 18 October. A report had already been made to Council during the course of the week.

6.3.2 It was noted that this issue related specifically to the S.A.D.F. Raid in Umtata which took place on Friday 15 October 1993. The question which was posed and which led to the deliberations which the Planning Committee has had, was whether the AVU had obtained the permission of the Administration to distribute the document which was ultimately presented by the AVU. The response from the Administration had in this regard been negative.

6.3.3 It was noted that on Monday 18 October 1993 the Planning Committee had been presented with an affidavit signed by S Burger of the AVU, stating that he had been authorised by the Chairperson of the meeting, L Landers to distribute the document. It was further noted that the Planning Committee had conferred with L Landers in this regard. L Landers confirmed, in the presence of C Kruger that S Burger had approached him.

6.3.4 It was noted that L Landers had been under the impression that S Burger had already approached the Administration in this regard and therefore gave permission for the document to be distributed.

6.3.5 It was noted that L Landers had volunteered the response to the Planning Committee. It was noted that the whole matter had been a misunderstanding as the focus of the debate on Friday 15 October 1993 had been on the Administration.

6.3.6 It was noted that the AVU had requested the tendering of an apology by L Landers to the AVU. It was further noted that the Planning Committee was not in a position to finalise this issue as two issues had emerged which could not be separated. Therefore, no concrete proposal was available from the Planning Committee. The two issues were:

* The request by PJ Gordhan directed at the AVU on Friday 15

October 1993 to the effect that the AVU should tender an apology to R Meyer and MC Ramaphosa as a result of the document distributed by the AVU;

* The request by the AVU that L Landers should tender an apology to it.

6.3.7 The AVU proceeded to comment on the report of the Planning Committee. A point of order was raised which stated that if the AVU proceeded with its input on this issue, a lengthy debate would develop and the issue was not on the agenda of the Council. Furthermore, limited time was available for the work of the Council scheduled and, therefore, this issue should be scheduled for a future meeting of the Negotiating Council at a more appropriate time. In the light of these concerns, it was agreed to refer the issue to the Planning Committee for a recommendation on when this issue should appear on the agenda of the Negotiating Council and at what point it should be discussed by the Negotiating Council.

6.3.8 The AVU objected to the fact that it was not allowed to be heard on this issue.

6.4 Traditional Leaders:

6.4.1 A document entitled "Final report to the Planning Committee : Constitutional Proposals presented by the Leaders" was circulated to participants (see Addendum B).

6.4.2 The attention of the participants was drawn to page 4, paragraph 4 of the said document. It was noted that the Planning Committee had considered all the recommendations contained therein.

6.4.3 Z Titus presented all the recommendations to the meeting.

6.4.4 It was suggested that the Council would need to debate the issue of two houses as well as the percentage proposed by Traditional Leaders. It was further suggested that with regard to local government the Planning Committee should make a recommendation to the Council in this regard.

6.5 S.A.D.F Raid on a house in Umtata:

6.5.1 It was noted that this issue was still under consideration in trilateral discussions by the PAC, the South African Government and the Transkei Government. A report would be submitted during the course of the afternoon.

6.5.2 Before the meeting adjourned, it was noted that a report on this issue would be put before the Negotiating Council on 22 October 1993.

6.6 Establishment of Transition Structures:

It was noted that the Planning Committee was not yet in a position to report further on this issue. The Planning Committee would report to Council on this issue during the course of the week commencing on Monday 25 October 1993.

6.7 Fundamental Rights during the Transition:

It was noted that this issue was still under consideration by the Ad-Hoc Committee and the Technical Committee. A progress report in this regard would be submitted to Council by the Planning Committee during the course of the week commencing on Monday 25 October 1993.

7. Meetings Schedule and Draft Programme

The meetings schedule and draft programme was agreed to (see Addendum C and Addendum D).

8. Draft Agenda for the Negotiating Council meeting of 22 October 1993

The draft agenda was distributed and approved of (see Addendum E).

9. Closure

The meeting adjourned at 18h30

These minutes were ratified at the meeting of the Negotiating Council of 3 November 1993 and the amended version signed by the Chairperson of the original meeting on 10/11/1993


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CHAIRPERSON

The following delegates and advisers were present at the meeting of the Negotiating Council on Thursday 21 October 1993:

MJ Mahlangu : Chairperson

Organisation	Delegates	Advisers
ANC	W Serete B Kgositsile	M Manzini
AVU	S Burger C Kruger	AJ Horn
Bophuthatswana		
Cape Trad. Leaders	M Nonkonyana	SM Burns-Ncamashe
Ciskei		
DP	KM Andrew D Smuts	E Trent
Dikwankwetla	JSS Phatang MC Noge	K Ngwenya
IFP		
IYP	NJ Mahlangu	AP Laka Q Vilankulu
KP		
INM	SS Ripinga ND Mokoena	KK Mahlaba GG Zama
Kwazulu		
Labour Party	MJ Windvogel L Landers	P Hendrickse T Richards
NIC/TIC	PJ Gordhan	
NP	D de Villiers TJ King	OAW van Zyl
NPP	A Rajbansi T Gunpath	O Ganie H Pitamber
OFS Trad. Leaders	MB Mota M Moroke	B Rajuili



	B Alexander P de Lille	B Desai ER Sibeko
Solidarity	DS Rajah	K Moodley
SACP	J Slovo L Jacobus	E Pahad
SA Government	RP Meyer LR Brink	BL Geldenhuys JBZ Laeur
Transkei	Z Titus N Jajula	R Nogumla
TVL Trad. Leaders	LM Mokoena MA Netshimbupfe	NE Ngomane
UPF	A Chabalala	RJ Dombo JS Maake
Venda	NE Mulaudzi	S Makhuvha
XPP	GNK Hetisani	PT Shilubana

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

**FINAL REPORT TO THE PLANNING COMMITTEE
CONSTITUTIONAL PROPOSALS PRESENTED BY THE
LEADERS**

SUBMITTED TO THE NEGOTIATING COUNCIL ON 21 OCTOBER 1993.

1. BACKGROUND INFORMATION:

This appears on pages 34 to 43 of the Planning Committee documentation prepared for the meeting of the 13th of October 1993.

2. GENERAL COMMENT:

This matter was referred to a Task Group made up of three Planning Committee members. Unfortunately Mr Eglin could not attend our meetings because he had to leave the country shortly after he had been appointed. The Task Group was joined by two nominees of the traditional leaders. They are also signatories to this document.

The Planning Committee mandated the Task Group to:

- 2.1 draft an appropriate organogram setting out the proposed structures including the relationship between them;
- 2.2 consider the impact which these proposals will or may have on the present constitutional proposals; and
- 2.3 identify issues calling for a political decision.

We have refrained from referring to what may happen in the future except where it is absolutely necessary for purposes of this report.

3. REPORT FROM THE TASK GROUP:

In this section we outline the proposals of the traditional leaders.

- 3.1 The organogram is essentially the same as that appearing in the documentation of the 13th of October except that the District Council has to be moved towards the right as it will merely discharge a specialised function and is not part of the proposed administrative structure.

3.1.1 PEOPLE'S ASSEMBLY (IMBIZO/SECHABA, etc.):

This is not a statutory body and no new proposals are being made in this regard.

3.1.2 TRADITIONAL AUTHORITY:

This authority is already in existence. The only new proposals being made now may be summarised as follows:

3.1.2.1 the members of the authority should be elected on a democratic basis. This requirement should not be imposed on the traditional leader who chairs the authority nor on any other traditional leader from the area concerned. These traditional leaders should all serve on the authority irrespective of the position they occupy within the area of the authority concerned and without being subject to the electoral process; and

3.1.2.2 the change of the existing statutory names of these structures.

3.1.2.3 It is suggested that in future these authorities be empowered to provide basic services to the communities in their areas, and SPR legislatures will deal with this.

3.1.3 TERRITORIAL/COMMUNITY AUTHORITY:

No changes are envisaged to the existing structure and this issue does not call for comment.

3.1.4 DISTRICT COUNCILS:

This body will be responsible for:

- 3.1.4.1 coordination of services;
- 3.1.4.2 drawing up of budgets; and
- 3.1.4.3 development planning.

This is an innovation and is closely linked to the provision of basic services. The relevant background information regarding the further handling of this issue is to be found in the agenda documentation of the 13th of October at page 40.

It was agreed that, by its very nature, this matter can be covered

within an appropriate constitutional principle (or principles). On that basis it was agreed to dispense with the District Council at this stage and to utilise constitutional principles No XXII and XXIII as the foundation for future developments and legislation. These principles read as follows:

3.1.4.1.1 "Each level of government shall have a constitutional right to an equitable share of revenue collected nationally so as to ensure that SPRs and local governments are able to provide basic services and execute the functions allocated to them in the Constitution;

3.1.4.1.2 A Financial and Fiscal Commission, representing inter alia each of the SPRs, shall recommend equitable fiscal and financial allocations to the SPR governments from revenue collected nationally, after taking into account the national interest, economic disparities between the SPRs as well as the population and developmental needs, administrative responsibilities and other legitimate interests of each of the SPRs".

3.1.5 TRADITIONAL REGIONAL AUTHORITIES (KING'S COUNCILS):

These structures exist in certain areas only. No changes are envisaged in this regard at this stage.

3.1.6 HOUSES OF TRADITIONAL LEADERS AT THE REGIONAL LEVEL:

The traditional leaders are proposing that these Houses be established within each of the regions where traditional authorities exist. These Houses will have full-blown legislative powers on matters pertaining to traditional leadership, traditional authorities, indigenous law and custom including any other matter having a bearing thereon.

The traditional leaders have indicated that, in the event of a conflict with the regional legislatures, the Houses of Traditional Leaders will merely have delaying powers (a period of 30 days is being suggested).

An alternative to this proposal would be the reservation of a specific number of seats within the appropriate regional legislature for traditional leaders.

3.1.7 HOUSE OF TRADITIONAL LEADERS AT THE NATIONAL LEVEL:

The proposals are the same as those outlined in item 3.1.6 except that one House is being proposed.

When it was pointed out that there is a possibility that all the matters to be dealt with by the House at the national level may be assigned exclusively to the regions, the traditional leaders pointed out that section 118 of the Constitution for the Transitional Period would have to be amended by transferring the powers relating to traditional authorities and indigenous law to the list of concurrent powers. The traditional leaders indicated that, should a separate House not be acceptable, then a number of seats will have to be reserved for them within the Senate.

4. RECOMMENDATIONS:


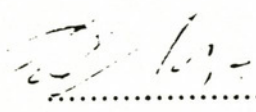

- 4.1 Items 3.1.2.1 and 3.1.2.2 should be referred by the Negotiating Council to the appropriate governments and administrations for the introduction of the required legislation.
- 4.2 On item 3.1.4 it is recommended that the constitutional principles already agreed upon be utilised as the basis for the drafting of the appropriate legislation in the future.
- 4.3 On items 3.1.6 and 3.1.7 it is recommended that a political decision be taken and that, depending on the decision taken, the relevant details be worked out later.
- 4.4 It is clear that Chapter 10 of the Constitution for the Transitional Period will have to be amended to deal with the position of the existing traditional local authorities during the transitional period. The Technical Committee on Constitutional Issues should, accordingly, be instructed to amend the said Chapter to provide for the continued existence of all traditional authorities and traditional regional authorities and for any other matters which may have to be added to the said Chapter 10.

5. CONCLUSION:

We have been informed by M Nonkonyana and MA Netshimbupfe that these proposals have the support of all traditional leader delegations in the Multi-Party Negotiating Process.

DATE: 20 OCTOBER 1993

SIGNED BY TASK GROUP MEMBERS:

1. Z TITUS (Convenor)
2.SN SIGCAU
3. M NONKONYANA
4.  MA NETSHIMBUPFE

REVISED PROPOSED SCHEDULE OF MEETINGS

21 OCTOBER 1993

Planning Committee	Thursday 21 October 1993	09h00-10h00
Negotiating Council	Thursday 21 October 1993	10h00-18h00
Negotiating Council	Friday 22 October 1993	08h30-14h00

Negotiating Council	Wednesday 27 October 1993	11h00-20h00
Planning Committee	Thursday 28 October 1993	10h00-13h00
Negotiating Council	Thursday 28 October 1993	14h00-20h00
Negotiating Council	Friday 29 October 1993	08h30-18h00

Planning Committee	Monday 1 November 1993	09h30-13h00
Negotiating Council	Monday 1 November 1993	14h00-20h00
Bilateral Meetings	Tuesday 2 November 1993	08h30-13h00
Negotiating Council	Tuesday 2 November 1993	14h00-20h00
Bilateral Meetings	Wednesday 3 November 1993	08h30-13h00
Negotiating Council	Wednesday 3 November 1993	14h00-20h00
Bilateral Meetings	Thursday 4 November 1993	08h30-13h00
Negotiating Council	Thursday 4 November 1993	14h00-20h00
Negotiating Council	Friday 5 November 1993	08h30-14h00

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

21 OCTOBER 1993

Thursday 21 October 1993	Discussion:	*	Report of the Commission on National Symbols
		*	Constitutional Issues (discussion of the 16th Report on the election of the President and the 17th Report on Finances)
Friday 22 October 1993	Discussion:	*	Draft Electoral Bill
Monday 25 October 1993	Bilateral Meetings		
Tuesday 26 October 1993	Bilateral Meetings		
Wednesday 27 October 1993	Discussion:	*	Draft Electoral Bill and Electoral Code of Conduct
		*	Report on the Delimitation/Demarcation of Regions
Thursday 28 October 1993	Discussion:	*	Constitutional Issues
Friday 29 October 1993	Discussion:	*	Constitutional Issues
	Distribution : Report of Task Group on Identification of Discriminatory Legislation		

**DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON FRIDAY 22 OCTOBER 1993 AT 08H30**

Chairpersonship - L Landers assisted by B Kgositsile

1. **Moment of Prayer/Meditation**
2. **Welcome and Attendance**
3. **Ratification of Agenda**
4. **Minutes**
Minutes will be distributed during the course of the meeting for ratification at the next meeting of the Negotiating Council
5. **Substantive Issues**
 - 5.1 Second version of the Draft Electoral Bill (continued)
6. **Meetings Schedule and Draft Programme (available in the meeting)**
7. **Closure**