

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 09H30 ON MONDAY 26 JULY 1993 THROUGH TO FRIDAY 30 JULY 1993 AT THE WORLD TRADE CENTRE

PRESENT : B Alexander
R Cronje (Chairperson by rotation)
PJ Gordhan
RP Meyer
MC Ramaphosa
J Slovo
Z Titus
M Webb

L Landers (as the incoming Chairperson of the Negotiating Council)

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 C Eglin and FT Mdlalose.

3. Ratification of Agenda

The agenda was ratified with no amendments.

4. Minutes

4.1 The minutes of the meeting of 28 June 1993 through to 1 July 1993 were ratified with the following amendments:

4.1.1 Item 5.1.3 to read "It was agreed that the name IMC and ITA should

be included on all future agendas of the Planning Committee.

- 4.1.2 Item 5.2.2 refers: The following words to be inserted between the words "mandated" and "to" : "by the State President".
- 4.1.3 Item 8.7 refers: The word "possibly" be deleted.
- 4.1.4 Item 18.1 refers: The word "approved" be replaced by "noted".
- 4.2 Matters arising out of the minutes of 28 June 1993 through to 1 July 1993:
 - 4.2.1 Item 23.1.4 refers: It was noted that the documents from Avstig had not been received by the Planning Committee from the Sub-Committee.
 - 4.2.2 Item 32.1.1 refers: It was noted that the document as promised by the PAC had not been received by the Planning Committee. B Alexander was requested to follow up on this item.

5. Substantive Issues

- 5.1 **Agenda for, and structuring and ordering of Reports in the Negotiating Council for the week 26 -30 July 1993:**
 - 5.1.1 It was agreed that the Attack on the St James Church in Kenilworth should appear on the Negotiating Council agenda. It was agreed to put forward a proposed resolution to the Negotiating Council on this issue. It was agreed that PJ Gordhan drafts a proposed resolution for consideration by the Planning Committee.
 - 5.1.2 The proposed draft programme was discussed (see p56 of the agenda documentation).
 - 5.1.3 It was agreed that the Technical Committee on Constitutional Issues present all its outstanding reports as distributed on Wednesday 21 July 1993.
 - 5.1.4 It was agreed that the Report from the Commission on Regions should be formally tabled earlier than proposed in the draft programme. Initial comments would then be allowed on the document. It was suggested that the Chairpersons of the Commission should be present when the report was tabled. The full debate would occur at a future meeting of the Negotiating Council.

- 5.1.5 It was noted that a report from the Violence Technical Committee would be distributed in the course of the day for discussion on Wednesday 28 July 1993. It was noted that this Technical Committee had experienced problems with its work and composition. It was noted that the Technical Committee may formally request a suspension of its activities until its composition problems had been resolved. It was agreed that the Sub-Committee meets with the Violence Technical Committee in this regard and report back to the Planning Committee.
- 5.1.6 It was suggested that the Sub-Committee sets out all the problems that the Violence Technical Committee is experiencing and how best the issues can be resolved.
- 5.1.7 It was noted that the Technical Committee on the Amendment or Repeal of Discriminatory Legislation had not identified legislation for repeal or amendment. It was further noted that with regard to the "Higher Code" this Technical Committee had reached agreement with the Fundamental Human Rights Technical Committee that there was no need for the "Higher Code" because of the overlap with the Bill of Rights. A clear brief was needed from the Negotiating Council with regard to the work of the Technical Committee on the Amendment or Repeal of Discriminatory Legislation. The Sub-Committee was mandated to pursue these issues with the Technical Committee and report back to the Planning Committee.
- 5.1.8 It was noted that the Negotiating Council had to make a decision on when the Bill of Rights would come into effect after it had been legislated, i.e. the date of implementation. The Sub-Committee was mandated to consider this issue and report back to the Planning Committee.
- 5.1.9 The issue of enforcement mechanisms and the overlaps between the different Technical Committees needed to be given urgent attention by the Planning Committee. The Sub-Committee was mandated to consider this issue and report back to the Planning Committee.
- 5.1.10 The question of horizontality and verticality of the application of the Bill of Rights was discussed. The Sub-Committee was mandated to consider this issue and report back to the Planning Committee.
- 5.1.11 The following issues requiring attention, arising from the debate on the Report of the Technical Committee on the

Amendment or Repeal of Discriminatory Legislation were referred to the Sub-Committee for attention:

- * To look into what mechanisms need to be employed or what suggestions can be made in respect of the date of implementation of the Bill of Rights.
- * To look into the issue of "verticality" and "horizontality" pending the report from the Technical Committee on Fundamental Human Rights, and establish some mechanism to resolve these particular issues.
- * To consider the issue of the need for democratic government and the rule of law government between the present time and the elections (getting from point A to point B).
- * To look into the issue of the uniformity of application of the Bill of Rights and the principles with regard to the elections.
- * The Fundamental Rights Committee and the IEC have suggested or are considering a set of enforcement mechanisms. Enforcement mechanisms are also necessary for the enforcement of the Bill of Rights. The Planning Committee should apply its mind to this issue and bring various recommendations on how the overlaps could be avoided. This will give guidance to the Technical Committee on the Repeal of Discriminatory Legislation.
- * The Planning Committee should submit recommendations as to how to deal with the part of the Second report of the Technical Committee, with regard to specific pieces of legislation.
- * How the tribunals would work.
- * It was suggested that the brief of the Technical Committee be clarified.

5.1.12 It was noted that the Administration had verbally informed the Technical Committees that Parliament was reconvening on 13 September 1993.

5.1.13 It was agreed to recommend to the Negotiating Council that the

areas of difference as identified with regard to Fundamental Human Rights during the Transition be dealt with by the mechanism of an ad-hoc committee. It was agreed to recommend the following composition to the Negotiating Council:

- * S Camerer (Convenor)
- * H Cheadle
- * P Gibson
- * P Maduna
- * SG Mothibe.

It was suggested that the ad-hoc committee should report back to the Planning Committee within the next 24 hours. It was agreed that this recommendation should be put before the Negotiating Council at the beginning of the meeting.

5.2 IFP Memorandum:

- 5.2.1 It was noted that this memorandum served as formal notification of the IFP's withdrawal from the process (see Addendum A).
- 5.2.2 It was agreed that the memorandum should be distributed to the Negotiating Council.
- 5.2.3 It was suggested that a letter of acknowledgement should be sent to the IFP. The question was raised as to what the Planning Committee could do to attempt to get the IFP, Kwazulu Government and the KP back to the negotiating table. Discussion proceeded.
- 5.2.4 It was noted that the IFP, the Kwazulu Government and the KP had received all the documentation, by courier, that the Negotiating Council had received during the week commencing 19 July 1993.
- 5.2.5 It was agreed that informal discussions should occur between participants as a mechanism to get all participants back to the negotiating table. R Cronje, as the current Planning Committee Chairperson was requested to ascertain the receptiveness of the participants concerned.
- 5.2.6 It was agreed that a formal response to the memorandum should occur. The Sub-Committee was requested to go through the memorandum and identify the issues and formulate/draft a constructive response. It was suggested that the response should be a resolution to be endorsed by the Negotiating Council. The resolution should state how the concerns of the participants are being met.

5.3 PAC/SA Government Issue:

5.3.1 It was noted that this issue had been dealt with under matters arising from the minutes.

5.3.2 B Alexander noted that he would report back on this issue to the Planning Committee in the course of the day.

6. Procedural Issues

6.1 Report on Sufficient Consensus:

6.1.1 It was noted that two submissions had been received on this issue (from the Ciskei Government and Dikwankwetla Party). The Bophuthatswana Government noted that it would make a submission directly to the Convenor of the ad-hoc committee.

6.1.2 It was agreed that the submissions received should be distributed to the ad-hoc committee and Planning Committee members.

6.2 Report of the Ad-hoc Committee on:

6.2.1 IEC:

It was noted that the ad-hoc committee on the IEC was scheduled to meet over lunch time on Tuesday 27 July 1993.

6.2.2 IMC:

It was noted that the ad-hoc committee on the IMC was scheduled to meet today, Monday 26 July 1993 at 12h00.

6.3 Request from the Technical Committee on Constitutional Issues:

The Technical Committee on Constitutional Issues requested that the Technical Committee on Fundamental Human Rights furnishes it with proposed formulations on the structures for the judiciary and administration of justice. This request was agreed to.

7. Agenda for the meeting of the Negotiating Council

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

7.2 It was agreed to recommend to the Negotiating Council that at 17h00, irrespective of what was discussed, the issue of sufficient consensus would be

dealt with.

The meeting adjourned at 11h25.

The meeting reconvened at 16h00. C Eglin was welcomed back.

8. IFP Memorandum

- 8.1 The Sub-Committee gave a reportback to the meeting on its deliberations with regard to the IFP Memorandum.
- 8.2 After discussion, it was agreed to mandate the Sub-Committee to draft a resolution encompassing the following points and taking into account the views expressed in the meeting:
 - * That the Negotiating Council was aware of the problems of the IFP:
 - The IFP's problem around instructions to the Technical Committee on Constitutional Issues could best be addressed by the presence of the IFP.
 - The IFP's problem around the issue of sufficient consensus and the first preliminary report of the ad-hoc committee should be referred to. No inputs have been received from the IFP in this regard. It was suggested that what is in the report, could result in maximum attention being given to the positions of all participants before sufficient consensus is arrived at. It should be noted that they are not seeking a veto power in spite of inferences that have been made.
- 8.3 R Cronje indicated that he had spoken to the IFP and the KP and both were receptive to informal contact between participants.
- 8.4 It was agreed to recommend to the Negotiating Council to delay the constitutional discussions and debates to allow time for the IFP, the Kwazulu Government and KP to return to the process. It was agreed to recommend to the Negotiating Council that the discussion and debate on the Fourth Supplementary Report, the Draft Constitution and the Sufficient Consensus Report should take place on Wednesday 28 July 1993 and the discussion and debate on the Confederation Report should take place on Thursday 29 July 1993.
- 8.5 In the light of the above recommendation it was agreed to further recommend to the Negotiating Council that the Report of the Technical Committee on the TEC and its Sub-Councils be dealt with at the meeting of the Negotiating Council on Tuesday 27 July 1993. It was noted that one member of the

Technical Committee would be present during the meeting of the Negotiating Council on 27 July 1993.

- 8.6 It would be further recommended that on Wednesday 28 July 1993, the discussion and debate in the Negotiating Council should commence with the Eighth Report of the Technical Committee on Constitutional Issues in which certain political decisions were required.
- 8.7 Before the meeting adjourned, a draft resolution was put before the meeting. It was agreed to submit the draft resolution as amended to the Negotiating Council for approval.

9. Attack on the St James Church in Kenilworth

- 9.1 A draft resolution was put before the meeting for approval.
- 9.2 After discussion it was agreed to recommend the resolution as amended to the Negotiating Council for adoption (see Addendum C).

10. Administrative and Financial Matters

10.1 Draft Letter to Ilanga:

- 10.1.1 A draft letter was put before the meeting (see p45 of the agenda documentation).
- 10.1.2 After discussion, it was agreed to forward the letter as is.

10.2 Arbor Day:

- 10.2.1 A letter requesting delegations to take part in a tree planting ceremony was referred to (see p50 of the agenda documentation).
- 10.2.2 It was agreed to recommend that the Negotiating Council agrees to the request.

10.3 Meetings with the National Economic Forum and the Local Government Negotiation Forum:

- 10.3.1 It was agreed that a meeting with the National Economic Forum would take place on Monday 2 August 1993 at 09h30.
- 10.3.2 It was agreed that a meeting with the Local Government Negotiating Forum would take place on Monday 9 August 1993

at 09h30.

- 10.3.3 The Administration was mandated to prepare draft agendas for the two meetings and report back to the Planning Committee.

10.4 Dates for a Plenary Session:

The Administration noted that it would prepare a document for distribution to Planning Committee members, notifying them of the possible dates that were available for a Plenary session. This was for an initial consideration by members.

11. Sufficient Consensus

- 11.1 Recommendations from the ad-hoc committee on the submissions received from participants on its first preliminary report was discussed (see Addendum D).
- 11.2 After discussion and the expressing of various points of view, it was agreed to table the report as is with the Negotiating Council, but that further discussion should take place on this issue before it was debated in the Negotiating Council as due to time constraints the issue could not be adequately debated.

12. The Sub-Committee

The issue of the workload of the Sub-Committee was raised. It was agreed that clarity was needed on this issue and the Sub-Committee was requested to prepare an input in this regard for the Planning Committee.

13. Meetings Schedule

- 13.1 It was agreed to recommend that the Negotiating Council meeting of 27 July 1993 commences at 09h30.
- 13.2 It was agreed to recommend that the Negotiating Council meeting of 28 July 1993 commences at 13h00 and the Planning Committee meets on 28 July 1993 at 12h00 to 13h00. Negotiating Council participants should have their lunch between 12h00 and 13h00.

14. PAC/SA Government Issue

It was noted that B Alexander was still in the process of following up on the

outstanding issues and would report back to the Planning Committee on Tuesday 27 July 1993.

The meeting adjourned at 17h00. PJ Gordhan notified the meeting that he would be unable to attend the proceedings on Thursday 29 July 1993.

The meeting reconvened at 12h30 on Wednesday 28 July 1993. Apologies for non-attendance were noted from M Webb and FT Mdlalose.

15. Agendas for, and structuring and ordering of Reports in the Negotiating Council for the rest of this week and for the week 2-6 August

15.1 Violence:

15.1.1 It was noted that the Sub-Committee had had a meeting with the Technical Committee on Violence.

15.1.2 It was noted that in respect of all the difficult issues, its report would be amended and resubmitted. When the report was resubmitted, the Sub-Committee noted that it would suggest mechanisms for dealing with the report. Furthermore, at that point the Sub-Committee would want to make suggestions about the future of the Technical Committee.

15.2 Constitutional Issues:

No discussion was necessary as the reports were before the Negotiating Council for discussion and debate.

15.3 TEC and its Sub-Councils:

The Technical Committee was busy with work that was referred back to them at the meeting of the Negotiating Council on 27 July 1993. It was noted that the TEC would be ready with its next report by Wednesday 4 August, for discussion at a future meeting of the Negotiating Council.

15.4 Independent Electoral Commission:

It was noted that the deadline of this Technical Committee was dependent on the decision of the Planning Committee with regard to the report of the ad-hoc committee on the IEC.

15.5 Repeal or Amendment of Discriminatory Legislation:

A meeting was being arranged between the TEC and its Sub-Councils

Technical Committee, the Constitutional Issues Technical Committee and this Technical Committee to resolve, amongst others, the issue of the Bill of Rights becoming operational before the election.

15.6 Independent Media Commission and IBA:

It was noted that this Technical Committee's report would be ready for distribution on Thursday 29 July and for discussion on Monday 2 August 1993.

15.7 Fundamental Human Rights during the Transition:

The question of the courts and this Technical Committee had been referred to the ad-hoc committee on Fundamental Human Rights during the Transition. The minutes of the first meeting of this ad-hoc committee were referred to (see Addendum E).

15.8 Commission on Regions:

It was agreed that the report be tabled between 12h00 and 14h00 in the Negotiating Council on Thursday 29 July 1993. A brief background should be given on the report, but discussion should only take place on Monday 2 August or Tuesday 3 August.

16. Future of the TBVC States

16.1 On the basis of the discussion in the Negotiating Council on Tuesday 27 July 1993, this issue had been referred back to the Planning Committee (see Addendum F for the extract from the draft minutes of the Negotiating Council).

16.2 After discussion, it was agreed to request PJ Gordhan to draft, on the basis of the discussion, a recommendation in this regard for the Planning Committee to consider. The recommendation would then be put before the Negotiating Council.

17. Discussion on the Reports from the Technical Committee on Constitutional Issues in the Negotiating Council meeting

17.1 The Negotiating Council meeting should address the Eighth Report and identify the areas where decisions needed to be taken in principle. The issues of Confederation and self-determination would be discussed on Thursday 29 July 1993. On the issue of the TBVC States, it would be recommended to the Negotiating Council that an ad-hoc committee should be appointed to deal with this area of difference.

- 17.2 The Negotiating Council should be requested to mandate the Planning Committee to make a recommendation on the composition of this ad-hoc committee.
- 17.3 The third issue was the issue of languages, symbols, flags, etc. The Sub-Committee was requested to consider the most appropriate composition of an ad-hoc committee to deal with this issue.
- 17.4 It was agreed that bilaterals should be used as a mechanism to deal with areas of differences within a specific time frame.
- 17.5 It was agreed that the Fourth Report should not be discussed during today's Negotiating Council meeting.

18. Sub-Committee

- 18.1 It was agreed that the co-ordination and overall functioning of the ad-hoc committees should be the responsibility of the Sub-Committee.
- 18.2 It was agreed that the Sub-Committee should remind the ad-hoc committees that their function was to resolve areas of political difference only.
- 18.3 It was agreed to deal with the reports/minutes of the ad-hoc committees once a report by the Sub-Committee was submitted to the Planning Committee.
- 18.4 The Sub-Committee was requested to supply the Planning Committee with a list of its responsibilities any requirements it may have to assist it. It was noted that it was necessary to consider as to whether it may be necessary for the Sub-Committee it to be present at all meetings of the Planning Committee. The Sub-Committee was requested to submit proposals in this regard to the Planning Committee.

19. Sufficient Consensus

- 19.1 A letter from the IFP on this issue was referred to (see Addendum G).
- 19.2 It was agreed that R Cronje liaise with the IFP to establish the exact time frames the IFP was referring to.

20. Meetings Schedule

- 20.1 It was agreed to recommend that the Planning Committee meets on Monday 2 August 1993 at 09h30 and the Negotiating Council at 12h00.

- 20.2 R Cronje requested that PJ Gordhan chairs today's meeting of the Negotiating Council as constitutional issues was on the agenda. This was agreed to.
- 20.3 It was agreed to recommend to the Negotiating Council that today's meeting adjourn at 18h00.

The meeting adjourned at 13h40.

The meeting reconvened at 09h35 on Thursday 29 July 1993. Apologies were noted on behalf of PJ Gordhan and FT Mdlalose for non-attendance. D de Villiers attended the meeting as the incoming Chairperson of the Negotiating Council.

21. Commission on Regions

- 21.1 The Sub-Committee gave a reportback on problems the Commission was experiencing. After discussion it was agreed that the Sub-Committee meets with the Chairpersons at 12h00 today and discusses the problems. A further meeting of the Commission should take place to discuss the problems and the minority reports. The Chairpersons of the Commission should indicate when the Commission would be ready to table its report.
- 21.2 The Planning Committee should notify the Negotiating Council that the report was not yet ready to be tabled and would probably be tabled at the beginning of the week commencing 2 August 1993.
- 21.3 A Bernstein should be contacted by the Sub-Committee and the views of the Planning Committee be conveyed to her.

22. Impending Court Action by the Kwazulu Government

- 22.1 The Administration and N Swart of the World Trade Centre gave a report to the Planning Committee on this issue, having been brought to their attention recently.
- 22.2 After discussion it was agreed that the Sub-Committee considers this issue and reportback to the Planning Committee.

23. Report from the Violence Technical Committee

- 23.1 The report was distributed to members of the Planning Committee.
- 23.2 A reportback was given to the meeting by the Sub-Committee. The Sub-Committee had met with the Technical Committee on Violence and the report

had been adjusted. With regard to its internal problems, the Technical Committee had requested guidance from the Planning Committee. The Sub-Committee recommended that the following items be focused on within specific time frames:

- * The Peace Keeping Force : Request the Technical Committee on Violence to complete its recommendations on this issue and submit the recommendations to the TEC and its Sub-Councils Technical Committee within the next fourteen days.
- * The Peace Corps : Request the Technical Committee on Violence to complete its recommendations on this issue and submit the recommendations to the Peace Committee by the middle of August.
- * Mass Demonstrations : Request the Technical Committee on Violence to submit recommendations on this issue by the middle of August.
- * The question of Intimidation : Request the Technical Committee on Violence to submit recommendations on this issue by the last week of August.
- * The item of Weapons : Request the Technical Committee on Violence to submit a report on this issue by the last week of August.

23.3 The proposal addended to the Technical Committee's report by H Vilikazi was referred to and discussed. It was suggested that the Sub-Committee discusses this with him.

23.4 It was agreed that Planning Committee members read the report and address it when the Planning Committee next meets. It was further agreed to review the programme for the meeting of the Negotiating Council at the next meeting of the Planning Committee.

23.5 It was noted that the "Goldstone Bill", as referred to in the reports from the Violence Technical Committee, should be distributed to all participants.

24. **Constitutional Issues**

24.1 **TBVC States:**

A draft recommendation was placed before the Planning Committee. Discussion followed and amendments were suggested. It was agreed that the recommendation be amended and then placed again before the Planning Committee for approval.

24.2 **National Symbols and Language:**

On the issue of national symbols and languages, it was agreed that the Sub-Committee considers this issue and reports back to the Planning Committee with a proposal.

24.3 With regard to the issue of national and regional lists and citizenship it was noted that issues had been referred back to the Technical Committee for discussion with the Technical Committee on the Independent Electoral Commission.

25. **Other Issues relating to Technical Committees**

25.1 It was noted that the Report from the Technical Committee on the TEC and its Sub-Councils would be distributed on 4 August 1993 and discussed in the Negotiating Council on 5 August 1993.

25.2 It was noted that the Sub-Committee had not yet met with the ad-hoc committee on the IEC.

25.3 It was noted that the interim report of the Technical Committee on the IEC was not ready yet for submission to the Planning Committee.

25.4 It was noted that the IMC and IBA report would be distributed on Friday 30 July 1993 and discussed at the Negotiating Council meeting on Monday 2 August 1993.

25.5 It was noted that the progress report from the Sub-Committee on the ad-hoc committee on Fundamental Human Rights during the Transition was not yet available.

25.6 It was noted that the Report of the Technical Committee on Fundamental Human Rights during the Transition would be distributed before lunch at today's meeting of the Negotiating Council and at the Negotiating Council meeting of 30 June 1993.

25.7 It was noted that the progress report from the Sub-Committee on the Technical Committee dealing with the Repeal of Discriminatory Legislation was not yet available.

25.8 It was noted that the Negotiating Council had referred the issue of a name for the Constitution-Making Body to the Planning Committee for recommendation to the Negotiating Council.

●. **Sufficient Consensus and the IFP Position**

- 26.1 A lengthy discussion proceeded on this issue and the issue of the Legal proceedings instigated by the Kwazulu Government. The Sub-Committee gave a report back on the issues concerned.
- 26.2 A press release from the office of the Chief Minister of Kwazulu was referred to (see Addendum H).
- 26.3 After discussion it was agreed to recommend to the Negotiating Council that debate and discussion on sufficient consensus should be scheduled for the Negotiating Council meeting of Monday 2 August 1993.

27. **Procedural Issues**

27.1 **Draft agenda for the meeting with the NEF Process Committee:**

- 27.1.1 The draft agenda was approved of (see Addendum I).
- 27.1.2 It was noted that a list of members who would be attending the meeting from the side of the NEF Process Committee was distributed to the meeting.
- 27.1.3 It was agreed that C Eglin chair the next meeting of the Planning Committee commencing at 09h30 on Monday 2 August 1993.

27.2 **Sub-Committee's Workload:**

- 27.2.1 The following was noted:

- * **Ongoing Tasks:**

- Security
- Co-ordination of the Technical Committees and attending to problems arising therefrom
- All matters relating to the Commission on Regions
- Co-ordination of the ad-hoc committees.

- * **Ad-hoc Tasks:**

- These mostly stem from the Sub-Committee's responsibility with the Technical Committees
- Recommendations on the handling of proposed legislation in Parliament (outstanding)

- Monitoring of the prosecutions resulting from the Attack on the Negotiating Process
- The ad-hoc committee on Sufficient Consensus
- Drafting of Resolutions
- Any other issues referred by the Planning Committee.

27.2.2 The Sub-Committee recommended the following with regard to its position and the supplying of efficient service to the Planning Committee:

- * That the Sub-Committee attend all meetings of the Planning Committee;
- * That the Sub-Committee be given staff and a regular place of work.

These recommendations were agreed to.

27.3 Recommendation to the Negotiating Council with regard to the TBVC States:

It was agreed to put forward the recommendation as amended (see Addendum J).

27.4 Date for a Plenary:

The Planning Committee was requested to consider the following available dates:

- * 20 August 1993
- * 28 August 1993
- * 30 August to 3 September 1993.

These dates were supplied to members for purposes of information only.

28. Administrative and Financial Matters

28.1 Security:

28.1.1 A reportback on this issue was given to the meeting by the Sub-Committee.

28.1.2 It was noted that the Sub-Committee would keep the Planning Committee fully informed on this issue on an ongoing basis.

28.2 Media Embargoes:

- 28.2.1 A letter from the Weekly Mail was referred to (see Addendum K).
- 28.2.2 After discussion it was agreed that the Administration discuss this issue with the Weekly Mail, based on the views expressed in the meeting.
- 28.2.3 A letter from the Economist was noted (see Addendum L).

29. Negotiating Council Agenda for the meeting of Thursday 29 July 1993

- 29.1 It was agreed that the Negotiating Council be informed about the court action, state that the Planning Committee was attending the issue and, once the application had been received, the Planning Committee will submit recommendations to the Negotiating Council on this issue.
- 29.2 The agenda as amended was approved of (see Addendum M).

30. Other Issues

- 30.1 It was noted that with regard to the ad-hoc committee on the IEC, P Soal had approached the convenor, M Webb to join the ad-hoc committee. This was agreed to.
- 30.2 It was noted that the proposed ad-hoc committee to deal with the issue of the TBVC States may at a later stage possibly sub-divide. It was agreed to deal with the composition at a future meeting of the Planning Committee.
- 30.3 It was agreed that the Draft Programme be distributed in the meeting of the Negotiating Council (see Addendum N).

31. Legal Action by the Kwazulu Government

- 31.1 A progress report was given to the meeting by the Sub-Committee.
- 31.2 It was agreed that the Sub-Committee looks into the issue of legal representation for the respondents of this action.

The meeting adjourned at 11h30.

The meeting reconvened at 08h00 on Friday 30 July 1993. Apologies for non-attendance

ere noted on behalf of FT Mdlalose. L Landers was present at the meeting as the incoming Chairperson of the Negotiating Council. Also present was MJ Mahlangu as co-respondent in the citation by the KwaZulu Government.

32. Legal assistance to the two chairpersons who were cited in respect of the KwaZulu Government court action

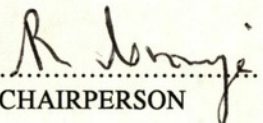
- 32.1 It was agreed to recommend to the Negotiating Council that the process, through CDS, should assist PJ Gordhan and MJ Mahlangu with the cost of legal counsel.
- 32.2 It was agreed that there was a need for immediate legal advice on this issue and on the way forward.
- 32.3 It was agreed to appoint J Slovo, Z Titus and M Webb as the Planning Committee members to monitor and drive the process.
- 32.4 It was suggested that the Planning Committee considers a statement/resolution for the Negotiating Council in this regard. It was agreed to revisit this issue after legal advice had been sought.

33. Schedule of meetings

- 33.1 It was agreed to recommend to the Negotiating Council that no meetings take place on Fridays.
- 33.2 It was agreed to recommend to the Negotiating Council that meetings on Wednesdays commence at 11h00 and last until 19h00.

The meeting was closed at 08h30.

These minutes were ratified at the meeting of the Planning Committee of 3 August 1993 and the amended version signed by the Chairperson of the original meeting on4./8./1993.....


CHAIRPERSON



INKATHA

Inkatha Freedom Party

IQembu leNkatha yeNkululeko

MEMORANDUM FOR SUBMISSION TO THE NEGOTIATING COUNCIL

THE WITHDRAWAL OF THE IFP FROM THE NEGOTIATING COUNCIL AND ITS STRUCTURES

JOHANNESBURG, 19th JULY 1993

1. Statements made by the South African Government in the media and in the Negotiation Council clearly indicate that the Government has difficulty in comprehending the reasons why the IFP left the World Trade Centre negotiations to continue action to correct the very apparent deficiencies in the negotiation process.
2. This is surprising in the light of the following facts.
 - The IFP strongly objected to a date being set for an election before we had any agreement about the form of the future South African state and before we had agreement on the new South African constitution.
 - We supported the notion of the importance of reaching a point at which an election date could be set by lending our agreement to the Declaration of intent, after amendments were accepted, which made the setting of an election date dependent on sufficient progress having been made in constitutional negotiations and in the elimination of violence.
 - We rejected the motion tabled by the South African Communist Party in the Negotiation Council which held that sufficient progress had been made to enable us to set an election date.
 - We rejected the ruling by the Chair in a meeting of the Negotiation Council held on the 15th of June, that sufficient consensus had been reached, and that the Negotiation Council could recommend the 27th April 1994 as an election date to the Negotiating Forum at its next meeting.

President: The Hon. Prince Dr. Mangosuthu G. Buthelezi
National Chairman: Dr. F.T. Mdlalose
Deputy Secretary General: Inkosi S.H. Gumede
Sub Committee Chairmen:
Political Constitutional, and Legal: Dr. D.R.B. Madide
Economic and Finance: Mr. M.A. Nzuza; Social and Cultural: Dr. F.T. Mdlalose; Elections Publicity and Strategy: The Rev. C.J. Mtshali
Appointment and Disciplinary: Mr. E.S.C. Sithabe; Community Development: Mr. M.V. Ngema.

- We rejected this ruling on many grounds, but specifically, on the grounds that the show of hands the Chair called for was contrary to the accepted

notion that sufficient consensus was not to be arrived at through voting procedures. Quite independently of that consideration, the actual count of 8 against, 3 abstentions and 15 for, could hardly be construed as indicative of sufficient consensus.

It is the IFP's contention that in the matter of calling sufficient consensus decisions, chairpersons should take into account, not only the generality of support or opposition to a motion, but also the weight of the nays and yeys in terms of the implications they have for both the way forward and for the final implementation of any decision. South African political realities determine that there can be no sufficient consensus if major players such as the SAG/NP, the ANC Alliance and the IFP/KZG groupings are quite unable to accept a chairpersons ruling that there is sufficient consensus.

We also rejected this ruling by the Chair that there was sufficient consensus, on the grounds that the Chair did not invoke the procedures laid down in the Standing Rules which were adopted to avoid deadlocks.

- We again objected to the ruling of the Chair in the meeting of the Negotiating Forum held on the 2nd July 1993, that there was sufficient consensus to accept the recommendation by the Negotiation Council that 27th April 1994 be accepted as an election date.
3. On the 17th of June the IFP walked out as the only form of protest left open to us, and we again walked out on the 2nd July 1993 because then again that was the only form of protest left open to us.
 4. On both occasions when we walked out we did so to caucus with other parties and to consult with principals. After caucusing with other parties, and after consulting with principals, we confirmed to the Negotiating Council that our opposition to the setting of an election date stood.
 5. In this memorandum we confirm that after walking out in protest from the Negotiating Forum on the 2nd July 1993, we consulted with principals and laid the matter before the IFP's 1993 Annual General Conference on the 18th July 1993 which upheld the IFP decision to campaign for the review of the procedures for the determining of sufficient consensus in the Negotiating Council and the Negotiating Forum from the position of our suspended participation in the Negotiating Process.

6. The relevant resolution of Conference is attached to this memorandum.
7. We hereby confirm to the Negotiating Council that we will not attend any further meetings of the Negotiating Council or its structures until there is a satisfactory solution to the problem of calling sufficient consensus decisions in the face of considerable opposition.
8. We further confirm that there are additional grounds for the action we have taken. These grounds are to be found in the inadequacy of the resolution adopted by the Negotiation Council and the Negotiating Forum instructing the Technical Committee on Constitutional Matters to draw up a draft constitution for an interim period, and our rejection of it.

The IFP reserved its position with regard to the resolution when it was presented to the Negotiating Council on the 30th June 1993. On the 1st July the IFP delegation consulted with a representative caucus of the IFP's leadership and we were instructed to register our withdrawal from the negotiation process until the Technical Committee on Constitutional Matters had tabled the proposed draft resolution, and we had had time to consider its merits and defects.

On the 30th of June it was apparent that there would be difficulty reaching consensus on instructions to the Technical Committee on Constitutional matters on the question of how it should proceed to move towards drafting a constitution. It was agreed that Council should be adjourned to enable parties to caucus on the matter.

A caucus meeting between the IFP and the South African Government/National Party was followed by a caucus meeting between COSAG and South African Government/National Party. The first caucus meeting arrived at agreement about some of the elements which would have to be in the draft constitution for it to be satisfactory. In that caucus it was agreed that these elements be listed and turned into instructions to the Technical Committee. This was also agreed to in a second caucus meeting.

The resolution that was finally presented to the Negotiating Council by the Planning Committee did not reflect the gains in the above mentioned caucus meeting, and the IFP did not accept the wording of the resolution that was finally adopted by a sufficient consensus ruling by the Chair at the Negotiating Forum meeting of the 2nd of July 1993. We rejected the decision that there was sufficient consensus in favour of the motion, and the IFP informed the Forum that it would have to walk out in protest.

9. The IFP challenged the sufficient consensus decisions on the grounds that there was not sufficient consensus both on the occasion of the adoption of the recommendation to the Negotiating Forum by the Negotiating Council that 27th April 1994 be set as an election date, and on the occasion of this recommendation being considered in the meeting of the Negotiating Forum on the 2nd of July 1993, and on the grounds that the Chair did not invoke the procedures laid down in the Standing Rules to be used when a sufficient consensus decision had been declared and was challenged.
10. In summary, the IFP informs the Negotiating Council that it has resorted to taking legitimate democratic action against sufficient consensus decisions it disputed from without the procedures of the Negotiating Council, because it had availed itself of all the procedures laid down by the Standing Rules, but to no avail.

The IFP maintains that its action in doing so has international democratic respectability, and is entirely defensible and even praiseworthy as action by a negotiating party totally committed to the negotiating process, which wishes to attend to process problems which lead to deadlocks and the inability to find a way forward within the process, but can not do so from within the process itself.

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Procedural

**DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON MONDAY 26 JULY 1993 AT 11H00**

Chairpersonship - L Landers assisted by MJ Mahlangu

1. **Moment of Prayer/Meditation**
2. **Welcome and Attendance**
3. **Ratification of Agenda**
4. **Minutes**
 - 4.1 The minutes of the meetings of 19 and 20 July 1993 to be distributed in the course of today's meeting to be dealt with at the meeting of the Negotiating Council on 27 July 1993.
 - 4.2 The minutes of the meeting of 21 July 1993 to be distributed during the course of the day on 27 July 1993 to be dealt with at the meeting of the Negotiating Council on 28 July 1993.
 - 4.3 Planning Committee minutes of 21 June 1993 through to 25 June 1993 to be distributed in today's meeting for noting by the Negotiating Council.
5. **Procedural Issues**
 - 5.1 Sufficient Consensus
 - 5.2 IFP Memorandum
 - 5.3 Resolution on Church Attack
 - 5.4 Ad-hoc Committee on Fundamental Human Rights during the Transition
6. **Substantive Issues**
 - 6.1 Constitutional Issues : Combined Reports of 26 July 1993
7. **Administrative and Financial Matters**
8. **Meetings Schedule and Draft Programme**
9. **Closure**

ADDENDUM

**DRAFT RESOLUTION ON THE ATTACK ON WORSHIPPERS
IN KENILWORTH
ON SUNDAY 25 JULY 1993**

This Negotiating Council meeting on 26 July 1993 at the World Trade Centre in Kempton Park:

Shocked and Saddened:

By the horrendous attack on and murder of innocent, unarmed people assembled in prayer in a place of worship;

Alarmed:

By the desecration of a place of worship;

Concerned:

That such senseless and barbaric acts of violence seem to be repeatedly occurring, as this attack did, on the eve of vital new developments in the negotiating process;

Therefore Resolves To:

Condemn:

In the strongest terms this callous, despicable and unforgivable act of violence against humanity in general and worshippers in particular;

Rededicate:

Ourselves to resist this and all other attempts to disrupt negotiations, demoralise ordinary South Africans and sink our country into chaos and internecine violence;

Call:

- * On all South Africans, black and white to join us and each other in bringing peace and understanding to our country and to help bring the murderers to justice;
- * On government to act decisively to stop these and other violent acts and isolate the "sinister force" that is clearly responsible for some of this violence;
- * On all political formations and leaders to denounce all violence, particularly the use of violence for political objectives, and to refrain from making inflammatory and irresponsible calls on people to arm themselves in order to incite violence;

And:

Convey our heartfelt condolences to those who have lost members of their family in this attack and wish all injured persons a speedy recovery.

**RECOMMENDATION TO AD-HOC COMMITTEE MEMBERS
RE SUBMISSIONS**

1. Concerns

The following are the concerns raised in the submissions to the Ad-hoc Committee (by Ciskei, Bophuthatswana, Dikwankwetla):

- 1.1 Movement forward in the process should not be at the expense of a political settlement;
- 1.2 A quick political solution should be balanced against a lasting political agreement;
- 1.3 Everything possible must be seen to be done to reach consensus generally and by the Chairperson;
- 1.4 Materiality should be taken into account;
- 1.5 No one should feel "cheated".

2. Suggestions

- 2.1 The main "blocs" should be assured that continuation of the process should not adversely affect any;
- 2.2 "Blocs" should be satisfied that any ruling by a Chairperson does not militate against implementation of the decision by any/all parties;
- 2.3 Time Frames : The process should allow enough time, and for "cooling off" period
- 2.4 The Chairperson could be changed if any difficulty is experienced.

3. Recommendation

- 3.1 That the above concerns in Item 1 and suggestions offered by the submissions in Item 2 - with the exception of Item 2.4 - are sufficiently incorporated and catered for in the report;
- 3.2 That a decision be made in consultation with the Planning Committee on 2.4 above;
- 3.3 Subject to 3.2 above, the report as formulated should be put to the Negotiating Council.

Roos

THESE DRAFT MINUTES ARE CONFIDENTIAL AND RESTRICTED TO MEMBERS OF THE AD HOC COMMITTEE ON FUNDAMENTAL HUMAN RIGHTS, THE PLANNING COMMITTEE AND THE TECHNICAL COMMITTEE ON FUNDAMENTAL RIGHTS DURING THE TRANSITION. THE MINUTES ARE STILL TO BE RATIFIED BY THE AD HOC COMMITTEE ON FUNDAMENTAL HUMAN RIGHTS.

DRAFT MINUTES OF THE MEETING OF THE AD HOC COMMITTEE ON FUNDAMENTAL HUMAN RIGHTS HELD AT 16H30 ON TUESDAY 27 JULY AT THE WORLD TRADE CENTRE.

- PRESENT: S Camerer (Convenor)
 H Cheadle
 D Gibson
 SG Mothibe
 P Maduna
- M Hynd (Minutes)

1. **Corrections to Minutes**

The Minutes of the Meeting held on Monday 26 July 1993 were corrected as follows:

- Item 2. Prof. Cheadle had been given authority from his principals to work out mechanisms **for endorsement by them.**
- Item 3.1.4. Remove the words in **the alternative** clause 2(2) etc.
- * Mrs Camerer: Agreed with 3.1.1. and would go along with 3.1.3 but rejected 3.1.2. **Would give consideration to 3.1.4.**
- * Mr Mothibe Agreed with 3.1.1. and would go along with 3.1.3 but rejected 3.1.2. **Would give consideration to 3.1.4.**
- Item 3.3 This was raised under Item 19(2)(d) in the Report.
- The Committee **provisionally agreed it was preferable if it was not included and that this matter should be discussed between the FAHR Committee and the IEC.**
- Item 3.4 After discussion it was **provisionally agreed** that the option 3.4.1. be adopted.

2. **Issues Under Consideration from the Sixth Report**

2.2 **Equality - Item 2(2)**

It was agreed that the Technical Committee be requested to give consideration to the removal of the words "on any ground whatsoever" from this clause.

2.3 **Life - Item 3**

It was agreed that Clauses (2) and (3) were not essential to Item 3 and that 3(1) should stand alone.

2.4 **Detained, Arrested and Accused Persons - Item 19(2)(d)**

The right of prisoners to vote - It was agreed that this should not be added under this Section and the matter should be dealt with under the Electoral Act.

2.5 **Eviction - Item 20**

It was agreed that there was no necessity for inclusion here as provided for elsewhere under the law.

3. **General**

The issue of 'horizontality' and 'verticality' had cropped up continually and it was felt that perhaps a session be devoted to this issue however this would require an extension of this Committee's brief and it was requested that the Planning Committee submit a copy of these Minutes to the Technical Committee.

4. **Date of Next Meeting**

To be advised.

5. **Closure**

Draft Minutes to be faxed to the Committee as soon as possible.

The meeting closed at 18h05.

* The Bophuthatswana Government and the Ciskei Government noted that with regard to the definition of "South Africa" that they should not be included in the definition. Lengthy debate followed on this issue after which it was agreed that the Planning Committee be mandated to look into:

- The issue of the TBVC States and proposed legislation and submit recommendations with regard to process. Furthermore, it was suggested to identify the appropriate Technical Committee that should deal with the question of how to extend the application of the Bills that the Negotiating Council was dealing with.
- The issue of the future of TBVC States. The possibility of a multi-lateral ad-hoc committee to deal with this issue was suggested.

"Democracy means freedom to choose"



INKATHA

Inkatha Freedom Party

Iqembu leNkatha Yenkubuleko

Private Bag X23

Ulundi 3838

Tel: 0358-202432/38

Fax: 0358-202471

M E M O R A N D U M

TO: THE CHAIRMAN
THE PLANNING COMMITTEE
MULTI-PARTY NEGOTIATION PROCESS
WORLD TRADE CENTRE
KEMPTON PARK

FAX NO: 011-397-2211

28 JULY 1993
Ref: *5552

RE: INVITATION TO DISCUSS 'SUFFICIENT CONSENSUS' WITH
THE PLANNING COMMITTEE.

We respond to the invitation by the Planning Committee to make representations to it concerning "sufficient consensus".

This Memorandum serves the purpose of informing you that the IFP delegation to the Negotiating Council will lay before the IFP Central Committee its thinking on this matter and proposals for a way forward.

As soon as this has been done and the Central Committee has formulated a position, we will advise you accordingly. It may be helpful if further discussions on this matter by the Planning Committee could be deferred until the necessary mandate has been received by us from the Central Committee.

Yours sincerely,

F.T. MdLalose
for F.T. MDLALOSE
CHAIRMAN AND HEAD OF DELEGATION

APPENDIX H

PRESS STATEMENT

FROM THE OFFICE OF THE CHIEF MINISTER OF KWAZULU

ULUNDI : JULY 28, 1993

The KwaZulu Government is committed to the establishment of a federation of States in South Africa in which to the member states are reserved all residual powers and to the federal government are devolved only those powers which can not be adequately or properly exercised at state level. The KwaZulu Government has demanded that such a federation of states be established before or at the same time as elections and the empowerment of a new government.

Accordingly the KwaZulu Government has outrightly rejected the notion of a Constituent Assembly charged with the task of shaping the future of the country.

For these reasons since September last year the KwaZulu Government has demanded a preliminary determination of the form of state and the establishment of a process of transformation capable of delivering federalism. The KwaZulu Government's requests in this sense have been constantly ignored by the South African Government and the ANC/SACP alliance.

The process of negotiation has avoided these issues and very subtly and high-handedly entrenched the notion of a unitary state with possible provincial or regional characteristics and a process of transition centred around the empowerment of a Constituent Assembly.

On June 15, 1993 the KwaZulu Government request's for the tabling of a model capable of establishing federalism was rejected and the Negotiating Council proceeded to set an election date before any agreement was reached on the form of state and on the purpose and finality of such an election. On that occasion the KwaZulu Government objected, and its objection was ignored, to the point that it was forced to walk out.

On June 30, 1993 the Negotiating Council decided to instruct the Technical Committee on Constitutional Matters to draft a constitution which excludes federalism and empowers a Constituent Assembly. The KwaZulu Government's objections were again totally disregarded. Therefore it is clear that in the present course of negotiations fundamental decisions on the future of our country can be taken by the ANC/SACP alliance along with the South African Government-National Party irrespective of whatever the other participants in the process want and irrespective of the true, needs, wants and aspirations of the people of South Africa.

This has been made possible by the application of the notion of sufficient consensus which no longer reflects the original understanding which brought the participants together, and is

now supporting a process in which we are relegated to do nothing more than rubber-stamping
● a decisions taken by the ANC/SACP alliance and the SAG-NP.

Therefore as a last resort once all the remedies have been exhausted the KwaZulu Government has today been forced to file an action in the Supreme Court of South Africa, Transvaal Provincial Division to challenge the action and the application of sufficient consensus. Moreover, our action seeks to invalidate the decision setting an election date before agreement is reached on the form of state.

Furthermore, the action will also aim at setting aside the instructions given to the Technical Committee on Constitutional Matters on the basis of which the disgraceful and outrageous interim draft constitution presently under consideration by the Negotiating Council was drafted. Now that the notion of sufficient consensus is *sub judice* the KwaZulu Government hopes that through the intervention of the Courts there will be an opportunity in the negotiating process to reach clarity on what is required to commit the future of our country and to ensure that the vision of federalism and of a final constitution by 1994 is finally submitted to the consideration and scrutiny of the Negotiating Council.

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ADDENDUM I

**DRAFT AGENDA FOR THE MEETING BETWEEN
THE MPNP PLANNING COMMITTEE AND THE NEF PROCESS COMMITTEE
TO BE HELD ON MONDAY, 2 AUGUST 1993 : 09H30 - 10H15
AT THE WORLD TRADE CENTRE**

1. **Welcome and Introduction**
2. **NEF Input led by Mr B Godesell (10 minutes) covering:**
 - 2.1 Background to the NEF
 - 2.2 NEF work programme
 - 2.3 Issues for discussion with Planning Committee
 - * Constitutional proposals and interaction with Technical Committee
 - * Transitional Executive Council, sub-councils on finance and foreign affairs, focussing on interaction with the Technical Committee and TEC (once established)
 - * Fundamental Human Rights during transition
3. **Response from Planning Committee and Discussion**
4. **Way Forward**
5. **Closure**

**PROPOSAL ON THE ESTABLISHMENT OF
AN AD-HOC COMMITTEE ON THE TBVC STATES**

That an Ad-Hoc Committee on the TBVC States, consisting of 6/7 persons, is established with the following Terms of Reference:

1. To discuss and make recommendations on the position of the TBVC States in relation to the drafting and adopting of the Constitution for the Transitional Period and in particular:
 - 1.1 The timing when a decision on the issue of reincorporation is necessary; and
 - 1.2 To identify the issues which must be addressed and to recommend a process and the mechanisms to follow in the event of reincorporation being agreed.

Assoc. P. 1
KTE

THE WEEKLY MAIL *The Guardian Weekly*

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27 July 1993

FAX MESSAGE : ONE PAGE ONLY

FAX NO. : 397-2211

Dr Theuns Eloff,
Multi-Party Negotiating Process,
World Trade Centre.

Dear Dr Eloff,

I write to inform you that The Weekly Mail is no longer prepared to comply with the embargo system as it is being applied to documents issued by the multi-party negotiating forum.

The embargo system - the release of documents with a specified time lapse before publication - is designed purely to give reporters additional time to prepare their reports, to ensure accuracy. It has become apparent that the negotiating forum is using the embargo for a completely different purpose, to prevent leaks by participating parties.

I have given instructions to our political staff that any unreasonable embargo purportedly placed on documents emanating from your office is to be ignored until such time as the system is reformed. I would be happy to discuss the matter further if you should wish to contact me.

Yours faithfully,

ANTON HARBER
Co-Editor

Addendum L

● Attention Theuns Eloff

Management Multi-Party Negotiating Process

World Trade Centre

27th July 1993

From Patrick Laurence

Johannesburg

Dear Theuns,

As you may know, the Economist - to which I contribute - carried an article on the draft constitution on July 23 - I.E. before the expiry of the embargo.

I want you to know that I DID NOT write the article. Nor did I leak details on the draft constitution to The Economist. My attitude was that I had to honour the embargo.

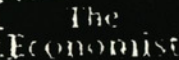
The article was written by Stephen Hugh-Jones, international editor of The Economist. It was based on telephonic interviews that he conducted with political actors involved in the negotiations. The decision to publish was his, not mine.

I send for your interest copies of the article published in The Economist - which expressly acknowledges that I personally honoured the embargo - and of the letter which Hugh-Jones sent to me explaining why The Economist decided to break the embargo.

Yours sincerely

Patrick Laurence

Patrick Laurence

The
Economist

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Patrick Laurence

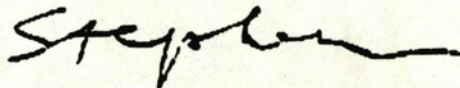
July 23, 1993

Dear Patrick,

You will have got by fax the article I wrote yesterday.
Just to confirm what I said on the phone:

1. I think anyone who distributes the country's leading news to scores of politicians and implores them not to discuss it publicly for five days is off his rocker. And if he gives the same document to journalists under the same five-day embargo, frankly he seems to me be stretching that useful procedure well beyond its limits (indeed, though this isn't our business, should be told so collectively by the press concerned).
2. That said, we entirely accept your attitude to this embargo. We here, if we have accepted news under embargo do not break the embargo; and--for the same very good reasons--we would not expect our overseas correspondents to behave differently. If other people want to talk to us, that is up to them; and, since we have had no sight of the document, to us. I trust any embargo-setter understands this normal convention.
3. You can with absolute truth assure your editor or anyone else that not a word of our story was drawn from from you; nor was it even discussed with you when I had written it. We might have had a better story, and I would certainly have spent less time on the blower talking to other people, if it had been!

With regards



Stephen Hugh-Jones
International Editor

South Africa's ray of light

SOUTH AFRICA was offered a new—draft, incomplete and temporary—non-racial constitution this week. It has been drawn up mainly by the African National Congress and the National Party and, though the document is still officially under wraps, a blazing reaction from the Inkatha Freedom Party is already foreseeable.

The document provides for a new, permanent constitution to be drawn up within two years by a new body composed of a national assembly and a senate, sitting together. Election to this new body would be based on party-list proportional representation. The make-up of its executive would also reflect party votes; a government of national unity, in effect, though proposals for its powers are not even drafted yet.

The new body would have to follow constitutional principles now being negotiated; these would later be embodied in a bill of rights within the permanent constitution. To pass clauses of that constitution, majorities of two-thirds would be required.

So far, so reasonable. The trouble will come from the provisions for breaking potential deadlocks. If no two-thirds majority is available, a simple majority can send the draft to a body of experts and, with their approval, ultimately to a national referendum, where a 60% vote will be enough. If that is not reached, in the last resort the con-

stitution-making body can be dissolved and re-elected—and from then on a simple majority will suffice.

The jargon is dense, the meaning simple: the safeguards that minority parties such as the Afrikaner diehards and Inkatha may count on can be watered down. Even the entrenched principles and their application can be referred to the constitutional court. That should prove more of a safeguard for minorities than the reverse. Whether they think so is another matter.

A second big point is the power of regional governments, dear to Inkatha, which reckons it will dominate the Zulu areas. These too will spring from assemblies elected by PR, and they too will have PR-based executives—which could put a spoke, at least for a time, in Inkatha's wheel.

The regions will have no real say in fixing national budgets, and limited powers of their own; the general principle being that if the central government can do the job more efficiently, then it shall. How that is to be—indeed can be—decided is not clear.

One thing, though, is certain: the regions will have no police powers. Given South Africa's ethnic oddities, that could well benefit those who belong to what is, locally, a minority. But again, those who look forward to holding at least regional power may see things differently.

The proposed bill of rights too may come under fire. Though it will cover the usual headings, one "right" significant in South Africa is not among them: land-ownership. The bill will not forbid capital punishment, only too familiar in South Africa.

Inkatha, already boycotting the constitutional talks, seems unlikely to return to them on this basis. How others will react—not least the ex-army officers busy thundering on the Afrikaner right—is unclear. The draft, though given to the negotiators and the press, is under a fierce embargo (rigorously respected by *The Economist's* local correspondent, by the way) until it is formally tabled on July 26th.

For many South Africans, the document, even in draft, must be a beacon of light. For the first time in a century, black and white are to be put, in law at least, though economic reality is another matter, on equal footing. For some, it is a ray at best, even a ray of darkness. As ever when empires fade, the conflicts that they suppressed have sprung up afresh.

Appendix M

**DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON THURSDAY 29 JULY 1993 AT 11H00**

Chairpersonship - DJ de Villiers assisted by L Landers

1. **Moment of Prayer/Meditation**
2. **Welcome and Attendance**
3. **Ratification of Agenda**
4. **Minutes**
 - 4.1 Adoption of the minutes of the meetings of 21 July 1993 and 26 July 1993.
 - 4.2 Matters arising from the minutes of the minutes of 21 July 1993 and 26 July 1993.
5. **Reportback from the Planning Committee**
 - 5.1 TBVC States resolution
 - 5.2 Sufficient Consensus Report and Court Action
 - 5.3 Report of Commission on Regions
6. **Substantive Issues**
 - 6.1 Constitutional Issues
 - 6.1.1 Eighth Report of the Technical Committee
 - 6.1.2 Draft outline for the Constitution
 - 6.1.3 Fourth Supplementary Report (Outstanding Constitutional Principles)
7. **Procedural Issues**
8. **Administrative and Financial Matters**
 - 8.1 Distribution of Seventh Progress Report of the Technical Committee on Fundamental Rights during the Transition
9. **Meetings Schedule and Draft Programme**
10. **Closure**