

ADOPTED RESOLUTIONS

OF THE

MULTI-PARTY

NEGOTIATING PROCESS

5 March 1993 to 17 November 1993

ADOPTED RESOLUTIONS OF THE MULTI-PARTY NEGOTIATING PROCESS

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RESOLUTION 1

DECISION OF FACILITATING COMMITTEE ON THE PROCESS OF DECISION-MAKING IN THIS PLANNING CONFERENCE AND THE FACILITATING COMMITTEE

1. All decisions are to be taken by general consensus.
2. If this cannot be achieved, conference will use the method of sufficient consensus.
3. This means that :
 - * there is a lack of general consensus;
 - * there is enough agreement from enough participants to enable the process to move forward;
 - * parties who disagree can record their objections or rejections formally, but will, in the spirit of co-operation, not hinder the process from going forward.
4. The ruling that there is consensus/sufficient consensus or not, should be taken by the chair in his/her discretion. This can, however, be challenged by any party who disagrees. The meeting will then deal with it as is appropriate.

RESOLUTION 2

RESOLUTION ON THE NEED FOR THE RESUMPTION/COMMENCEMENT OF MULTI-PARTY NEGOTIATIONS

We, the parties, organisations and administrations assembled in this the Multi-party Planning Conference:

AWARE of the responsibility we individually and collectively bear for the wellbeing of our country;

BELIEVING that the problems of our country should be resolved peacefully through a process of negotiation;

REALISING the urgent need for the economic development of the country;

AGREEING that the resources of the country need to be preserved, developed and improved for the benefit of all the people of this country and for future generations;

ACCEPTING that all the people of this country and the whole community of nations throughout the world look to us to move the country forward towards a non-racial, non-sexist and fully democratic future;

NOW RESOLVE TO:

1. Commit ourselves, individually and collectively, to the resumption/commencement of multi-party negotiations within the next month, in order to move as speedily as possible towards the attainment of our primary objective, which is the drafting and adoption of a new Constitution for South Africa;

AND FURTHER RESOLVES THAT:

2. The multi-party forum shall be reconvened as a matter of national urgency, not later than 5 April 1993;
3. Each participating organisation will send two delegates and two advisers.
4. The first meeting will determine, inter alia:
 - 4.1 mechanisms and procedures (including chairpersonship);
 - 4.2 how to accommodate the views of those participants who were not in CODESA in relation to the agreements reached in CODESA;
 - 4.3 how these agreements can serve as a constructive foundation for the resumed/commenced negotiations process to build on;
 - 4.4 how this forum shall be structured and named;
 - 4.5 the role of the international community.
5. The Facilitating Committee of this conference will have the responsibility of deciding upon and implementing the steps that are necessary to give effect to this resolution.
6. All participants are required to make an unqualified commitment to this process as a pre-requisite for their participation.

RESOLUTION 3

RESOLUTION ON VIOLENCE

The Multi-Party Negotiations Planning Conference expresses its utmost indignation and condemnation for the despicable murder of 10 innocent people which took place on Table Mountain, Pietermaritzburg, on 5 March 1993. This unspeakable crime has taken place at a time when all the political parties, organisations and administrations of South Africa have finally joined together once again to express their commitment to address and solve South Africa's problems through negotiations. Irrespective of their political affiliation, the victims of this massacre have fallen prey to a climate of escalating violence which could jeopardise the success of negotiations. The Multi-Party Negotiations Planning Conference reiterates its unwavering rejection of all instances of political violence and actions leading to the promotion of violence. We offer our condolence to all those who have suffered deeply and commit ourselves to work relentlessly to end the violence, promote law and order and bring about a climate of peace, inter alia, through constitutional negotiations.

RESOLUTION 4

RESOLUTION ON THE TRANSITION PROCESS

1. We, the participants at the Negotiating Forum meeting at the World Trade Centre, Johannesburg on 1st and 2nd April 1993, having,
 - 1.1 Received a report from the Negotiating Council on the CODESA reports and the transition process;
 - 1.2 Identified some of the issues concerning constitutional matters which the Negotiating Council must consider.
2. Resolve to instruct the Negotiating Council to consider and report on all matters arising from the Consolidated Report, including the following and other Constitutional issues:
 - * Form of State and Constitutional Principles
 - * Constitution-Making Body/Constituent Assembly
 - * Transitional/Interim Constitution
 - * Transitional Regional/Local Government
 - * Fundamental Human Rights during the Transition
 - * Transitional Executive Council, its Sub-Councils, the Independent Elections Committee and the Independent Media Committee
 - * Future of the TBVC States
 - * Self-determination
3. The Negotiating Council shall present reports on progress made on the above issues to the Negotiating Forum.

RESOLUTION 5

THE NEGOTIATING FORUM, MEETING ON 1 APRIL 1993

RESOLUTION ON VIOLENCE

We, the participants at the Negotiating Forum meeting at the World Trade Centre on 1 And 2 April 1993:

- | | | |
|------------------|---|---|
| NOTING | * | With revulsion the unacceptable escalation of violence that is engulfing our country; |
| OUTRAGED | * | At the killings particularly of women and children; |
| CONCERNED | * | About the damage violence is inflicting on all aspects of the economy, on relations among people and organisations and the consequent deepening of divisions; |
| AWARE | * | That violence poses a threat to the negotiating process which if it continues could wreck the process and plunge our country into an era of unprecedented conflict. |

DO HEREBY UNEQUIVOCALLY

- | | | |
|-------------------------|---|--|
| CONDEMN | * | Without reservation the wanton killing and maiming of the citizens of our country; |
| EXPRESS | * | Our sympathy and condolences to all those who are suffering in consequence; |
| COMMIT OURSELVES | * | To effective joint action by all of us leading to the eradication of violence and to the attainment of peace in our country as soon as possible; |
| | * | To peaceful negotiations as the only way to resolve differences. |

AND THEREFORE RESOLVE TO

1. Identify those issues that cause violence and which threaten the negotiating process and the undermining of the effective implementation of the National Peace Accord.
2. Mandate the Negotiating Council to establish what urgent steps and mechanisms are required to resolve the above issues as a matter of national priority. The Negotiating Council shall report to the next meeting of the Negotiating Forum.

RESOLUTION 6

RESOLUTION ON THE DELIMITATION, POWERS AND FUNCTIONS OF REGIONS

Whereas there appears to be broad agreement that the most suitable form of government for the future will be one which involves an allocation of powers to central and regional governments, while the differences that exist relate essentially to the boundaries, powers and functions of the regions and the process whereby such differences may be resolved;

Realising that regional boundaries will be relevant to the electoral process, as well as to the structures of the Constitution;

Accepting that the powers and functions of the regions are crucial to issues such as the form of state and self-determination, and will be a fundamental part of the constitution;

Convinced that while the demarcation of boundaries is a task which appropriately should be performed by a broadly based body of suitably qualified people, who will hear representations from the public at large and from different areas of the country, issues regarding the functions and powers of regions can at this stage of the negotiations best be dealt with by a smaller technical committee; and

Determined to ensure that we achieve a peaceful and negotiated agreement on the democratic transformation of our country within the time frames we have set for ourselves.

Hereby resolve:

1. **That** the Technical Committee on Constitutional Issues be charged with formulating as a matter of urgent priority, recommendations on the structures, powers and functions of regions, on constitutional principles and on the constitution making process.
2. **That** a Commission be appointed to make recommendations to the Negotiating Council within six weeks of its appointment, on the delimitation of regions.

3. **That** for the purpose of its recommendation the Commission should be charged to take into consideration, inter alia, the following criteria:
 - 3.1 Historical boundaries, including provincial, magisterial and district boundaries and infrastructures.
 - 3.2 Administrative considerations including the availability or non-availability of infrastructures and nodal points for services.
 - 3.3 The need or otherwise to rationalise existing structures (including the TBVC States, self-governing territories and regional government).
 - 3.4 The necessity of limiting financial and other costs as much as is reasonably possible.
 - 3.5 The need to minimise inconvenience to the people.
 - 3.6 The need to minimise the dislocation of services.
 - 3.7 Demographic considerations.
 - 3.8 Economic viability.
 - 3.9 Developmental potential.
 - 3.10 Cultural and language realities.
4. **That** the Commission should be required to allow interested parties and persons to submit their views and recommendations within a specified period which should not be less than one month after an invitation in this regard has been published; and that the Commission should take these into account for the purposes of formulating its recommendations.
5. **That** the Commission should also be free to take cognisance of any other material it might wish to collect for the purposes of its recommendations.
6. **That** the Commission should also for the purposes of its recommendations take cognisance of any progress made in the Negotiating Council by way of agreements on constitutional matters.
7. **That** this Council shall from time to time review the progress made towards the reaching of agreements regarding the structures, functions and powers of regional governments under the Constitution replacing the present Constitution, and consider

the advisability of a Commission also being required to submit recommendations on such matters.

8. **That** the Commission should be composed of ten members agreed upon in this Council; that the members should be persons of acknowledged personal integrity and suitably qualified specifically or in general for the task assigned to the Commission; that participants be called upon to submit names of candidates to the Administration before 12h00 Friday 21 May 1993 and that the Planning Committee make a recommendation in this regard to this Council.
9. **That** the Planning Committee, with the assistance of the Technical Committee on Constitutional Issues, prepare draft Terms of Reference for the Commission for consideration by this Council.

RESOLUTION 7

EXPLANATORY MEMORANDUM ACCEPTED BY ALL PARTICIPANTS ON 30 APRIL 1993 IN THE MULTI-PARTY PROCESS RELATING TO PROPOSALS ARISING FROM THE MULTI-PARTY FORUM RESOLUTION ON THE NEGOTIATION PROCESS.

1. The Negotiation Process involves reaching agreement on a number of key elements. Discussion around any particular element gives rise to suspicion and fears that agreement on it would lead to that agreement being implemented before agreement has been reached on ALL the key elements that constitute a package around the negotiation process.
2. Such fears were addressed in the CODESA process in Working Group 3 whose report appears in the Consolidated Document on pages 22-29. This Report states that "These agreements (that is, relating to the first stage of the transition, namely the TEC) and their implementation are dependent upon agreement being reached by CODESA in respect of the second stage of the Transition, including an Interim Constitution, and general Constitutional Principles". (cf clause 4 of the Agreement on page 22).
3. Mindful that the above proviso is contained in the CODESA Agreements which are treated in the Multi-Party Forum as points of reference, and not as binding agreements; mindful also that some of the participants in the current Multi-Party Forum have specifically indicated that they consider themselves bound by the agreements reached in CODESA; while there are other participants in the current Multi-Party Forum who have specifically indicated that they do not consider themselves bound by the said agreements; it therefore becomes necessary that participants in the Multi-Party Forum should commit themselves to a similar type of provision so that the proposals based on the Multi-Party Resolution on the Negotiation Process may be addressed in a manner that removes any fears that agreement on any particular proposal necessarily implies agreement on their implementation.
4. The proposals contained in the first report of the Sub-Committee deals with the need for the setting up of technical committees on the following aspects:
 - 4.1 The Independent Electoral Commission
 - 4.2 The Independent Media Commission and the Independent Telecommunications Authority
 - 4.3 The Amendment or repeal of legislation impeding free political activity and discriminatory legislation
 - 4.4 On the TEC and its Sub-councils with the proviso that the question of security forces and all armed formations shall be given priority attention.
 - 4.5 On strengthening the National Peace Accord
 - 4.6 On the Peace Corps

5. The second report of the Sub-Committee on other constitutional matters proposes two more technical committees;
 - 5.1 On fundamental rights in the Transition
 - 5.2 On other constitutional matters namely, Form of State and Constitutional Principles, Constitution Making Body/ Constituent Assembly, Transitional/Interim Constitution, Transitional Regional Government, the Future of the TBVC States and Self Determination.
6. It is expressly understood by all participants that each of the above proposals and the documentation emanating from such technical committees shall be discussed in the Negotiating Council with the view to arriving at an agreement on these matters. Furthermore that as when agreement is reached on each of these matters the Council shall expressly determine when and how the specific agreement shall be implemented. This provision is made so as to ensure participants have a clear understanding of the package of agreements which would constitute the key elements of the transition process.
7. Technical committees are not fora for negotiating substantive issues. They are instruments of the Negotiating Council in order to produce systematic documentation to facilitate discussion and negotiating in the Negotiating Council. Documentation produced by each of these technical committees shall be discussed at the Negotiating Council and on the basis of those discussions sent back to the technical committees for further development. This process would be repeated until agreement is reached in the Negotiating Council on a final document on the issue in question.

RESOLUTION 8

DECLARATION OF INTENT ON THE NEGOTIATING PROCESS ADOPTED BY THE NEGOTIATING COUNCIL ON 7 MAY 1993

This meeting of the Negotiating Council, held on 7 May 1993 at the World Trade Centre

1. Noting That There Is An Urgent Need To:

- 1.1 Inspire confidence in the negotiating process and our ability to resolve our problems peacefully;
- 1.2 Offer a clear vision of the major milestones in the negotiating and transition process;
- 1.3 Create conditions which eliminate violence in South Africa;

2. And recognising wide acceptance of the need for democratic elections in South Africa;

3. Therefore Commit Ourselves:

- 3.1 To reach agreements on binding constitutional principles, the constitutional framework and the constitution-making process in terms of which elections will be held;
- 3.2 To provide for an adequate time-frame for the implementation of decisions on these matters and procedures for elections; and
- 3.3 To ensure that the negotiating process moves forward sufficiently over the next four weeks at which stage to set the exact date for an election that should take place not later than the end of April 1994, subject to 3.1 and 3.2.

RESOLUTION 9

RESOLUTION ON INTOLERANCE AND ASSASSINATIONS ADOPTED BY THE NEGOTIATING COUNCIL ON 18 MAY 1993

This Negotiating Council, meeting at the World Trade Centre on 18 May 1993:

1. Notes with outrage:

- 1.1 The rising tide of political intolerance in South Africa;
- 1.2 The recent increase in actual and threatened political assassinations and violence; and is

2. Profoundly disturbed:

By the threats to the lives of certain political leaders, including the recently uncovered plan to assassinate the leader of a delegation in the Negotiating Council;

3. Believing:

That a political climate in which there is no violence, assassinations and intolerance is essential to the success of the negotiation process;

4. Therefore resolves to:

- 4.1 Express our sincere solidarity with and concern for the safety of all members of delegations;
- 4.2 Condemn the use of assassinations and other forms of political violence to resolve political differences;
- 4.3 Call on all to create the conditions which discourage violent attacks on political opponents and to ensure suitable legal action is taken against those contemplating assassination and similar violent acts.

RESOLUTION 10

RESOLUTION ADOPTED BY THE NEGOTIATING COUNCIL ON 25 MAY 1993

This Negotiating Council meeting on Tuesday 25 May 1993 at the World Trade Centre:

Notes with Concern and Condemns:

1. The insensitive manner in which the recent actions and arrests against the Leadership of the PAC were undertaken;

Is Appalled At:

1. The possible negative impact of these events on the Negotiation Process and unnecessary delay in the proceedings of the Negotiating Council;

Call on the South African Government To:

1. Immediately charge or release those that have been arrested;
2. Return all materials seized from the PAC;
3. Take all necessary steps to remedy this unfortunate situation and undo the damage done to the Negotiation Process;

And Resolves To:

1. Meet on Thursday 27 May 1993 at 19h00 to examine matters arising from this issue in greater detail.

RESOLUTION 11

RESOLUTION ADOPTED AFTER THE SPECIAL SESSION OF THE NEGOTIATING COUNCIL OF 27 MAY 1993

This Negotiating Council meeting at the World Trade Centre on Thursday 27 May 1993:

Concerned:

That the Negotiating Process must continue uninterrupted and reach a conclusion which will inspire confidence and optimism in all sections of South African society;

Resolves:

1. To urge all participants to comply with the relevant resolutions already passed;
2. To urge the PAC to remain part of the Negotiating Process;
3. To request the PAC and the Government to have a bi-lateral discussion as a matter of urgency to resolve their differences;
4. That the Negotiating Council is kept informed of the progress in the bi-lateral talks;
5. That Governments, Administrations, Political Organisations and the security forces are hereby urged to do everything possible to create harmony, peace and a conciliatory climate for the Negotiation Process.

RESOLUTION 12

ADOPTED RESOLUTION OF THE NEGOTIATING COUNCIL MEETING OF 28 MAY 1993 ON THE COMMISSION ON REGIONS/STATES/PROVINCES

WHEREAS there appears to be broad agreement that the most suitable form of government for the future will be one which involves an allocation of powers to national and regional governments, while the differences that exist relate essentially to the boundaries, powers and functions of the regions/states/provinces and the process whereby such differences may be resolved;

REALISING that regional boundaries will be relevant to the electoral process, as well as to the structures of the Constitution;

ACCEPTING that the powers and functions of regions/states/provinces are crucial to issues such as the form of state and self-determination, and will be a fundamental part of the constitution/s;

CONVINCED that while the demarcation of boundaries is a task which appropriately should be performed by a broadly based body of suitably qualified people, who will hear representations from the public at large and from different areas of the country, issues regarding the functions and powers of regions/states/provinces can at this stage of the negotiations best be dealt with by a smaller technical committee;

DETERMINED to ensure that we achieve a peaceful and negotiated agreement on the democratic transformation of our country within the time frames we have set for ourselves; and

HAVING charged a technical committee with formulating as a matter of priority, recommendations on the structures, powers and functions of regions/states/provinces, on constitutional principles and on the constitution making process;

WE, THE NEGOTIATING COUNCIL hereby appoint

Dr Bax Nomvete and Professor Flip Smit

as Co-Chairpersons, and

1. Basson Dion, Prof
2. Bernstein Ann, Ms
3. Daphne Paul, Mr
4. Du Plessis Attie, Mr
5. Govinden Betty, Ms
6. Gwagwa Lulu, Ms
7. Malefo Beauty, Dr
8. Muthien Yvonne, Dr
9. Burns-Ncamashe, Chief
10. Nkuhlu Wiseman, Professor
11. Rautenbach Ignus, Professor
12. Reyneke Koos, Mr
13. Steyn Anna, Professor

as members of a Commission on Regions/States/Provinces to make recommendations to us, the Negotiating Council within six weeks, on the delimitation of regions/states/provinces.

FOR THE PURPOSES of its recommendations, the Commission shall:

1. Take into consideration, inter alia, the following:
 - 1.1 Historical boundaries, including provincial, magisterial and district boundaries and infrastructures;
 - 1.2 Administrative considerations including the availability or non-availability of infrastructures and nodal points for services;
 - 1.3 The need or otherwise to rationalise existing structures (including the TBVC States, self-governing territories and regional governments);
 - 1.4 The necessity of limiting financial and other costs as much as is reasonably possible;
 - 1.5 The need to minimise inconvenience to the people;
 - 1.6 The need to minimise the dislocation of services;
 - 1.7 Demographic considerations;
 - 1.8 Economic viability;
 - 1.9 Development potential;
 - 1.10 Cultural and language realities;

2. Allow interested parties and persons to submit their views and recommendations within a specified period, which should not be less than one month after an invitation in this regard has been published, and take these into account;
3. Be free to take cognisance of any other material it might wish to collect; and
4. Take cognisance of any progress made in the Negotiating Council by way of agreements on constitutional matters.

RESOLUTION 13

RESOLUTION ON CONSTITUTIONAL ISSUES ADOPTED BY THE NEGOTIATING COUNCIL ON 1 JUNE 1993

HAVING NOTED:

The clear linkage between constitutional principles, the constitution-making process and constitutional structures, powers and functions of SPR's as apparent in paragraph 6.3 of the Second Report of the Technical Committee on Constitutional Issues.

IT IS RESOLVED THAT:

1. The Negotiating Council proceeds to negotiate and endeavour to agree on the constitutional principles recommended by the Technical Committee as set out in paragraph 2 of its Third Report, and the detailed principle dealing with the allocation of powers to different levels of government as set out in paragraph 3 of its Third Report.
2. There is a need for the adoption of a Constitution for the transitional period, the text of which is agreed to at the Multi-Party Negotiating Process:
 - 2.1 Which shall be drafted in accordance with the constitutional principles agreed upon in so far as they may be applicable;
 - 2.2 Which will provide, inter alia, for justiciable fundamental rights, the structures of national and regional governments and their respective powers, functions and authority; and
 - 2.3 As well as which will provide for the procedures relating to the drafting and adoption of a Constitution by the elected constitution-making body.
3. Now therefore the Negotiating Council instructs the Technical Committee on Constitutional Issues to make recommendations to it on:
 - 3.1 The powers, functions and structures of the SPR during the transitional period;
 - 3.2 The constitution-making process to be followed, including the structures that need to be established for that purpose;
 - 3.3 The procedures to be followed in the drafting and adoption by the Multi-Party Negotiating Forum of a Constitution for the transitional period;

- 3.4 The procedure to be followed thereafter in the drafting and adoption of a Constitution by an elected constitution-making body.

RESOLUTION 14

RESOLUTION ON AN ELECTION DATE

ADOPTED BY THE NEGOTIATING COUNCIL ON 3 JUNE 1993

The Negotiating Council recommends to the Negotiating Forum of 25 June 1993 that the date of the election shall be 27 April 1994, but however with a view to maximise consensus on this matter, the Negotiating Council decides to finalize this matter on 15 June 1993.

Should a final settlement be reached at an earlier date to enable an election to be held earlier, the Negotiating Council should set an earlier date; while the period over which the election is to be held will have to be decided upon in co-operation with the Independent Electoral Commission.

RESOLUTION 15

RESOLUTION ADOPTED BY THE NEGOTIATING COUNCIL MEETING OF 17 JUNE 1993

1. That discussions in the Negotiating Council continue on Constitutional Principles and other reports of the Technical Committee that are before the Negotiating Council.
2. Request the Technical Committee on Constitutional Issues to, in view of submissions received, consider and report on:
 - 2.1 Alternative ways of drafting and adopting a new constitution, including the bottom-up and top-down approaches, and
 - 2.2 Alternative views regarding the need for SPR constitutions and different options for such constitutions.
3. That the Explanatory Memorandum accepted by all participants on 30 April 1993 in the Multi-Party Process relating to proposals arising from the Multi-Party Forum resolution on the Negotiation Process is re-affirmed and the Negotiating Council specifically reiterates its acceptance of paragraph 6 of the Explanatory Memorandum:

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

RESOLUTION 16

DECLARATION ON CESSATION/SUSPENSION OF HOSTILITIES, ARMED STRUGGLE AND VIOLENCE

Put to the Negotiating Council on Tuesday 22 June 1993

1. Recognising:

That our country and people urgently require stability and peace in order to progress to a democratic and harmonious future;

2. Mindful:

- * That we are all products of a conflict ridden society and emerging from a long period of tension and hostilities;
- * That many forms of political violence still persist in the resolution of political differences;

3. Believing:

- * That participants in the Negotiating Process have a responsibility to inculcate a new spirit of tolerance;
- * That political rivalry and competition does not require the use of violence;
- * That it is necessary for all participants to categorically eschew violence in all forms;
- * There is a need for cessation/suspension of hostilities/armed struggle/violence for peaceful negotiations to move forward;
- * That Governments, Administrations, Political Organisations and the security forces must do everything possible to create harmony, peace and a conciliatory climate for the Negotiation Process.

4. Aware:

That an invaluable opportunity now exists to decide on our future through a process of peaceful negotiations;

5. Now Therefore Declare:

That as from this 22nd day of June 1993 we, the parties subscribing to this declaration, commit/recommit ourselves to peaceful resolution of conflict and, where applicable, cease/suspend any form of hostilities/armed struggle/violence in pursuance of political objectives and in the resolution of political differences and further ensure that the conduct and utterances of all are consistent with this declaration.

RESOLUTION 17

FURTHER RESOLUTION TO THAT ON CESSATION/SUSPENSION OF HOSTILITIES ACCEPTED BY THE NEGOTIATING COUNCIL ON 22 JUNE 1993

This Negotiating Council meeting at the World Trade Centre on Tuesday 22 June 1993:

Noting:

1. The Resolution passed after the special Negotiating Council meeting of 27 May 1993;
2. The Joint Statement by the South African Government and the Pan Africanist Congress of Azania dated 28 May 1993;
3. The Declaration on Cessation/Suspension of Hostilities, Armed Struggle and Violence tabled at the meeting of the Negotiating Council on 18 June 1993;
4. Noting that provision is made for dealing with armed formations in both the Reports of the Technical Committees on Violence and the TEC and its Sub-Councils;

Therefore Resolves That:

1. Matters which remain unresolved in relation to paragraph 1 and 2 above shall be implemented immediately and a written report thereon be placed before the Negotiating Council not later than Thursday 24 June 1993.

RESOLUTION 18

RESOLUTION ON THE INDEPENDENT MEDIA COMMISSION ACCEPTED BY THE MEETING OF THE NEGOTIATING COUNCIL OF 22 JUNE 1993

1. The Negotiating Council agrees in principle that an Independent Media Commission should be established with the following objectives:
 - 1.1 To ensure equitable treatment of political parties by broadcasting services;
 - 1.2 To ensure that state-financed publications and state-information services are not used to advance the interests of any political party;

so as to contribute towards the promotion and creation of a climate favourable to free political participation and a free and fair election.

RESOLUTION 19

RESOLUTION ON CONDITIONS THAT SHOULD BE CREATED TO ELIMINATE VIOLENCE

ACCEPTED BY THE NEGOTIATING COUNCIL MEETING ON 22 JUNE 1993

This meeting of the Negotiating Council:

Noting that:

The Technical Committee on Violence has submitted four reports (including its report on the conditions that should be created to eliminate violence in accordance with the " Declaration of Intent on the Negotiating Process" adopted on 7 May 1993); and

Further noting:

That these recommendations should be read in conjunction with these reports;

Hereby resolves that:

1. The National Peace Committee finalise proposed amendments to the Peace Accord as a matter of urgency so as to strengthen the Accord, empower the Peace Structures and increase their effectiveness;
2. The Negotiating Council recommends that the signatories to the Peace Accord meet as a matter of urgency to reaffirm their commitment to the Accord and to approve the proposed amendments to it;
3. Non-signatories should give urgent and immediate attention to signing the Peace Accord, after consultation with the National Peace Committee.
4. That the Technical Committee on the Independent Electoral Commission develops:
 - 4.1 A code of conduct for all parties, organisations, administrations and governments taking into account the code of conduct of the Peace Accord; and
 - 4.2 Appropriate compulsory sanctions/punitive measures against those who transgress the code.
5. Any party organising a public demonstration or any other form of mass action must comply with the guidelines set out in paragraph 6.2 of the Fourth Report of the Technical Committee on Violence;

6. The National Peace Committee submit proposed amendments to the Regulation of Gatherings Bill as a matter of urgency;
7. A series of phased confidence-building measures which would include the future of all armed formations, their personnel and arsenals, be adopted leading to the creation of impartial, legitimate and effective security forces with the consequent dissolution of all other armed formations. A distinction be drawn between statutory and non-statutory armies on the one hand and police forces on the other hand. The Technical Committee on the TEC and its sub-councils to make proposals on precise mechanisms to be adopted;
8. Parties between whom conflicts exist, which have contributed to violence, in addition to participating in the MPNP, meet bi-laterally to seek joint solutions to the conflicts between them;
9. The principle of an independent peacekeeping force and its practical implementation should be considered by the Technical Committee on Violence in consultation with the Technical Committee on the TEC.
10. Every party to the MPNP commits itself without reservation to a holding of a free and fair election and to do everything possible to ensure that the electorate and the leaders and candidates of political parties are able to conduct their election campaigns and other political activities freely without being intimidated or obstructed and without fear of being injured or killed;
- 11.1 The Technical Committee on Violence prepare detailed proposals on the desirability, financing, establishment and composition of a Peace/Youth Services Corps.
- 11.2 The National Peace Committee and the members of the Technical Committee on Violence be entrusted with the initial drawing up of structures for a Peace Corps.

RESOLUTION 20

RESOLUTION ON THE INDEPENDENT ELECTORAL COMMISSION ACCEPTED BY THE NEGOTIATING COUNCIL OF 22 JUNE 1993

The Negotiating Council agrees in principle that an Independent Electoral Commission be established, whose object shall be to administer and conduct a free and fair democratic electoral process of the new Parliament/Constituent Assembly/SPR Governments, including responsibility for any other matter connected therewith.

RESOLUTION 21

RESOLUTION ON STEPS TO BE TAKEN FOR THE PURPOSES OF ESTABLISHING A NEW CONSTITUTIONAL ORDER ADOPTED BY THE NEGOTIATING COUNCIL ON 30 JUNE 1993

1. The Negotiating Council agrees on the following steps to be taken for the purposes of establishing a new constitutional order:
 - 1.1 The MPNP shall adopt the Constitutional Principles, including principles of regional government, providing for both strong regional government and strong national government;
 - 1.2 The Constitutional Principles shall be binding on the Constitution-Making Body and shall be justiciable by a Constitutional Court/Tribunal;
 - 1.3 The Commission on Delimitation/Demarcation appointed by the MPNP will make recommendations to the MPNP on regional boundaries for the purposes of elections and regional government for the transitional phase;
 - 1.4 The MPNP shall agree on legislation to make provision for the following structures for the purpose of levelling the playing field and promoting conditions conducive to the holding of free and fair elections:
 - 1.4.1 A Transitional Executive Council;
 - 1.4.2 An Independent Electoral Commission;
 - 1.4.3 An Independent Media Commission and an Independent Broadcasting Authority;
 - 1.5 The MPNP shall agree on details of discriminatory legislation to be repealed;
 - 1.6 The MPNP shall agree on a Constitution for the transitional period;
2. The Negotiating Council accordingly requests the Technical Committee on Constitutional Issues to draft a Constitution for the transition which shall make provision for:
 - 2.1 The election according to a system of proportional representation of a Constitution-Making Body, legislature and national government for the transitional phase which will include a national and regional component. With regard to constitution making, this Constitution shall provide for dead-lock breaking and special majorities by which decisions will be taken;

- 2.2 The election of regional legislatures and the establishment of regional governments in the transition;
 - 2.3 The powers, functions and structures of regions for the transitional period;
 - 2.4 Fundamental human rights on a justiciable basis during the transitional period;
 - 2.5 A Constitutional Court/Tribunal to ensure the justiciability of the Constitutional Principles, of the fundamental rights and of the Constitution itself;
3. Participants are given until the 12th of July 1993, to make further inputs to the Technical Committee with regard to the above draft Constitution for the transition.
 4. This is agreed against the background of paragraph 6 of the Explanatory Memorandum adopted by the Negotiating Council on 30 April 1993.

RESOLUTION 22

RESOLUTION ADOPTED BY THE NEGOTIATING FORUM ON 2 JULY 1993 ON THE CONTINUATION OF THE NEGOTIATING PROCESS

This meeting of the Negotiating Forum held on Friday 2 July, 1993;

Having noted:

The adoption by this Forum of the reports and recommendations tabled by the Negotiating Council at this meeting;

Hereby:

1. **Confirms** the date for the election as the 27 April 1994;
2. **Instructs** the Negotiating Council to:
 - 2.1 Take note of the fact that a constitution for the transition period will have to be adopted and to identify the other agreements to be reached as well as the implementation steps to be taken before the election can take place;
 - 2.2 Prepare time scales for the agreements and the implementation steps to be undertaken for the election to take place;
 - 2.3 Determine whether the election can be held on an earlier date than the 27 April 1994 if a final settlement on the substantive issues should be reached earlier; and
 - 2.4 Determine the precise number of days over which the elections will be held in co-operation with the Independent Election Commission.

RESOLUTION 23

**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.

RESOLUTION 24
RESOLUTION ON FACILITATING THE RETURN OF
THE IFP, THE KWAZULU GOVERNMENT AND THE KP
TO THE NEGOTIATING PROCESS

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

Noting:

That the Technical Committee on Constitutional Issues has tabled reports dealing with Confederation and a Draft Outline of a Constitution for the transition.

Noting Further:

1. That the Planning Committee has tabled its first report on the issue of Sufficient Consensus and the procedures which could facilitate its application.
2. That the Negotiating Council allowed for submissions to be made by all the participants by 23 July, on the report on Sufficient Consensus.
3. That the only participants who have made submissions are Ciskei, Bophuthatswana and the Dikwankwetla Party.
4. That the IFP/Kwa Zulu Government and the Conservative Party have expressed concerns about
 - * Sufficient consensus and its application
 - * Reports on the Constitution for the transition
 - * Confederation and self-determination.

Resolves:

That the Negotiating Council, in order to afford the IFP/Kwa Zulu Government and the KP an opportunity to participate in the debate and make their contribution in this regard, hereby postpones its debates according to the following schedule:

1. Wednesday, 28 July 1993 at 13h00:
 - * Sufficient Consensus
 - * Draft Outline for the Constitution and Eighth Report of the Technical Committee
 - * Fourth Supplementary Report on Constitutional Principles.
2. Thursday, 29 July 1993:
 - * Report of the Technical Committee on Confederation.

Therefore urges:

The IFP/Kwa Zulu Government and the KP Delegations to return to the Negotiating Council and participate fully in the debates on these and other issues.

RESOLUTION 25

RESOLUTION ON THE REPORT OF THE COMMISSION ON THE DELIMITATION/DEMARCATIION OF REGIONS AND THE WAY FORWARD ADOPTED BY THE NEGOTIATING COUNCIL ON 10 AUGUST 1993

This Negotiating Council meeting on 9 August 1993 at the World Trade Centre in Kempton Park:

1. **Noting** the various discussions on the Report of the Commission on the Delimitation/Demarcation of SPR's;
2. **Confirms** that the Report of the Commission provided a useful starting point to the discussion on the delimitation/demarcation of SPR's.
3. **Takes note** of a number of areas of agreement and some areas of disagreement on the Report identified by the Negotiating Council.
4. **Emphasises** that the people and communities who would be directly affected by the boundaries of SPR's, should have a further opportunity to contribute to the process of regional delimitation/demarcation, particularly in respect of a more detailed consideration of the boundaries of SPR's, including those highly sensitive areas identified by the Negotiating Council.

Therefore resolves:

To convey its sincere gratitude to the Commission for its valiant effort to prosecute the extremely difficult and strenuous brief given to it by the Negotiating Council, notwithstanding the extreme limitations of time and opportunity to consult more broadly.

And further resolves that the process be taken further through the following steps:

1. That further submissions are invited from participants in the Negotiating Council and from people and organisations in the sensitive areas identified in the debate in the Negotiating Council.
2. That the Co-Chairpersons of the Commission will work out the modalities for carrying out the undermentioned tasks in consultation with the Planning Committee and invite members of the Commission and the Technical Support Team to assist them to:
 - 2.1 Receive oral evidence in respect of the sensitive areas;

- 2.2 Analyse these submissions;
 - 2.3 Prepare a Technical Report which indicates the application of the criteria and the reasons for and against the options in respect of the different recommended regions;
 - 2.4 Evaluate and report on the information available to it with a view to assisting the Negotiating Council to take a decision on boundaries to be incorporated into the Constitution for the transitional period.
3. That the Planning Committee recommends appropriate time frames for this process in consultation with the Commission.

RESOLUTION 26

RESOLUTION ADOPTED BY THE NEGOTIATING COUNCIL ON A COMMISSION ON NATIONAL SYMBOLS: 10 AUGUST 1993

1. **Whereas** in the deliberations concerning a constitution for the transitional period, the question of national symbols will have to be addressed;
2. **And** whereas this is an extremely emotional issue that will have to be dealt with with the utmost sensitivity;
3. **But** whereas cultural, artistic and technical aspects are also to be taken into account;
4. **We**, the Negotiating Council, hereby appoint

as members of a Commission on National Symbols to make recommendations before the end of October 1993 to us, the Negotiating Council, or to any body that might at that time have replaced the Negotiating Council, on a national flag, a coat of arms, a seal and an anthem for the Constitution for the transitional period.

- 5 **The Commission is requested to -**
 - 5.1 invite proposals from all interested persons or parties and to allow at least one month for submissions to be made;
 - 5.2 take into account the diversity of the South African population but concentrate on the unifying function that national symbols must serve;
 - 5.3 and in its recommendations submit at least four alternative flags and coat of arms.

RESOLUTION 27

RESOLUTION ON WALVIS BAY ADOPTED BY THE NEGOTIATING COUNCIL ON 16 AUGUST 1993

This Negotiating Council meeting on 16 August 1993 at the World Trade Centre in Kempton Park:

Noting:

1. The strong views expressed in the Council that Walvis Bay and the off-shore islands should not form part of any demarcation/delimitation of regions for South Africa but that it should be incorporated in Namibia as soon as possible;
2. The report of the Commission on the demarcation/delimitation of regions dated 31 July 1993 does not contain a recommendation that Walvis Bay and the off-shore islands should be included in any proposed SPR;
3. The agreement between the Government of the Republic of South Africa and the Republic of Namibia dated 1 November 1992 establishing a joint administration for Walvis Bay and its off-shore islands as an interim arrangement pending an eventual settlement of the question thus creating a sui generis position for Walvis Bay and its off-shore islands;
4. That the two Governments have been in touch with one another on the issue of the incorporation of Walvis Bay and the off-shore islands into Namibia.
5. The assurance by the Namibian Government that every possible consideration will be given to the legitimate rights and interests of South African citizens in Walvis Bay in accordance with the Namibian Constitution, the relevant laws of the country as well as the existing bilateral agreements signed between the two Governments.
6. With appreciation the information supplied to the Negotiating Council by the South African Government and the concern of the South African Government that there are further important matters including issues such as vested rights, property rights and the transfer of administrative structure without disruption of service to the public that must be resolved between the Governments of South Africa and Namibia;
7. The indication by the South African Government that it is in principle not opposed to the early incorporation/reintegration of Walvis Bay and the off-shore islands into Namibia and to resolving certain important matters identified above;

Endorses:

1. The incorporation/reintegration of Walvis Bay and the off-shore islands into Namibia.

Resolves:

1. To request the South African and Namibian Governments to meet on an urgent basis to finalise the outstanding matters in order for incorporation of Walvis Bay and the off-shore islands into Namibia to take place at the earliest opportunity; and
2. To request the South African Government in the meantime to prepare legislation to this end as a matter of urgency.
3. That the South African Government informs the Negotiating Council and/or the TEC Subcouncil on Foreign Affairs of progress in respect of the above within a month from today.

RESOLUTION 28

RESOLUTION ON THE PROCESSING OF THE THREE ACCEPTED BILLS ADOPTED BY THE NEGOTIATING COUNCIL ON 2 SEPTEMBER 1993

This Negotiating Council meeting on Thursday 2 September 1993 at the World Trade Centre in Kempton Park:

Notes with acclaim

1. That the Independent Media Commission Bill, Independent Electoral Commission Bill and the Independent Broadcasting Authority Bill have been adopted by general consensus by this Council.

Noting further

1. That the following are the steps that are to be followed:
 - 1.1 Agreement on Bill in the Negotiating Council
 - 1.2 Passage of Bill through Parliament
 - 1.3 Promulgation of the Act in Gazette
 - 1.4 Putting into operation of the Act
2. That the Bills passed through Parliament will not be put into operation until an explicit decision to that effect has been taken by the Plenary of the Multi-Party Negotiating Process having approved the total package of agreements, that is the Independent Electoral Commission, the Independent Media Commission, the Independent Broadcasting Authority, the Transitional Executive Council and the Constitution for the transitional period including fundamental rights and the constitutional principles.

Believing

That these Bills must now be introduced in Parliament as soon as possible and that an agreement in the Negotiating Council to this effect will boost confidence in the negotiating process.

Therefore resolves

That this Negotiating Council requests the South African Government to introduce these Bills in Parliament for attention during the Parliamentary session starting on 13 September 1993.

And further resolves

1. That, in terms of clause 6 of the Explanatory Memorandum adopted by the Negotiating Council on 30 April 1993 and quoted hereunder, the Council will expressly determine the date when each agreement arrived at by the Council and passed by Parliament and after their passage through Parliament will be implemented; and

"6. It is expressly understood by all participants that each of the above proposals and the documentation emanating from such technical committees shall be discussed in the Negotiating Council with the view to arriving at an agreement on these matters. Furthermore that as when agreement is reached on each of these matters the Council shall expressly determine when and how the specific agreement shall be implemented. This provision is made so as to ensure participants have a clear understanding of the package of agreements which would constitute the key elements of the transition process."
2. That the Planning Committee shall plan for the implementation and practical application of the three Bills, including informal preparations for the operation of the structures provided for in the Bills, in order to facilitate their implementation.

RESOLUTION 29

RESOLUTION ON THE PROCESSING OF THE ACCEPTED TEC BILL ADOPTED BY THE NEGOTIATING COUNCIL ON 7 SEPTEMBER 1993

This Negotiating Council meeting on Tuesday 7 September 1993 at the World Trade Centre in Kempton Park:

Notes with acclaim

1. That the Transitional Executive Council Bill has been adopted by sufficient consensus by this Council.

Noting further

1. That the following are the steps that are to be followed:
 - 1.1 Agreement on Bill in the Negotiating Council
 - 1.2 Passage of Bill through Parliament
 - 1.3 Promulgation of the Act in Gazette
 - 1.4 Putting into operation of the Act
2. That the Bills passed through Parliament will not be put into operation until an explicit decision to that effect has been taken by the Plenary of the Multi-Party Negotiating Process having approved the total package of agreements, that is the Independent Electoral Commission, the Independent Media Commission, the Independent Broadcasting Authority, the Transitional Executive Council and the Constitution for the transitional period including fundamental rights and the constitutional principles.

Believing

That this Bill must now be introduced in Parliament as soon as possible and that an agreement in the Negotiating Council to this effect will boost confidence in the negotiating process.

Therefore resolves

That this Negotiating Council requests the South African Government to introduce this Bill in Parliament for attention during the Parliamentary session starting on 13 September 1993.

And further resolves

1. That, in terms of clause 6 of the Explanatory Memorandum adopted by the Negotiating Council on 30 April 1993 and quoted hereunder, the Council will expressly determine the date when each agreement arrived at by the Council and passed by Parliament and after their passage through Parliament will be implemented; and

"6. It is expressly understood by all participants that each of the above proposals and the documentation emanating from such technical committees shall be discussed in the Negotiating Council with the view to arriving at an agreement on these matters. Furthermore that as when agreement is reached on each of these matters the Council shall expressly determine when and how the specific agreement shall be implemented. This provision is made so as to ensure participants have a clear understanding of the package of agreements which would constitute the key elements of the transition process."
2. That the Planning Committee shall plan for the implementation and practical application of this Bill, including informal preparations for the operation of the structures provided for in the Bills, in order to facilitate their implementation.

RESOLUTION 30

RESOLUTION ON THE COMMISSION ON NATIONAL SYMBOLS ADOPTED BY THE NEGOTIATING COUNCIL ON 7 SEPTEMBER 1993

1. **Whereas** in the deliberations concerning a constitution for the transitional period, the question of national symbols will have to be addressed;
2. **And** whereas this is an extremely emotional issue that will have to be dealt with with the utmost sensitivity;
3. **But** whereas cultural, artistic and technical aspects are also to be taken into account;
4. **We**, the Negotiating Council, hereby appoint :

Prof Elize Botha as Chairperson

Mrs P G P Maluleka as Vice Chairperson, and

Mr F G Brownell

Prof Lynda Gilfillan

Mr Bill Jardine

Prof P H M Kapp

Ms Barbara Masekela

Dr C Pama

Prof C J Reineke

Prof Themba Sirayi

Dr Musa Xulu

Prof Fatima Meer

Ms Rosette Nothemba Mlonzi

as members of a Commission on National Symbols to make recommendations before the end of October 1993 to us, the Negotiating Council, or to any body that might at that time have replaced the Negotiating Council, on a national flag, a coat of arms, a seal and an anthem for the Constitution for the transitional period.

5. **The Commission is requested to -**

- 5.1 invite proposals from all interested persons or parties and to allow at least one month for submissions to be made;
- 5.2 take into account the diversity of the South African population but concentrate on the unifying function that national symbols must serve;
- 5.3 and in its recommendations submit at least four alternative flags and coats of arms.

RESOLUTION 31

RESOLUTION ON ENSURING THAT SOUTH AFRICAN CITIZENS HAVE DOCUMENTS TO VOTE

ADOPTED BY THE NEGOTIATING COUNCIL ON 5 OCTOBER 1993

The Negotiating Council resolves that the Planning Committee be mandated to investigate, and thereafter recommend to the Negotiating council on:

1. The practical steps which need to be taken to ensure that those South African citizens qualified to vote will be in possession of the requisite documents when the next election is held on 27 April 1994; and
2. The steps which need to be taken to ensure that citizens of the TBVC States, who may qualify to vote at the next election, are issued with the requisite documents as urgently as possible.

The Planning Committee is authorised to recommend appropriate structures or task teams should this be thought necessary to facilitate the process.

RESOLUTION 32

RESOLUTION ON THE EARTHQUAKE IN INDIA

ADOPTED BY THE NEGOTIATING COUNCIL ON 7 OCTOBER 1993

This Negotiating Council meeting on 7 October 1993 at the World Trade Centre in Kempton Park:

Shocked:

By the horrific earthquake that struck central India;

Saddened:

By the loss of tens of thousands of lives and injury to many others;

Aware:

Of the close and special relationship over many years between India and South Africa;

Extends:

Its deepest sympathies and condolences to the government and people of India and in particular to those who have lost their loved ones in this tragedy;

Further Believing:

That it is the responsibility of the world community, and particularly us in South Africa to extend assistance to the affected people in this hour of need;

Resolves:

1. That relief aid in the form of a financial contribution, or in any other form if necessary, be provided to the affected people;
2. That the Planning Committee is mandated to negotiate the precise details with the South African Government immediately and keep the Negotiating Council informed in this regard.

RESOLUTION 33

RESOLUTION BY THE NEGOTIATING COUNCIL ON THE REPORT OF THE CO-ORDINATING COMMITTEE OF THE AD-HOC COMMITTEES ON THE DEMARCATION/DELIMITATION OF SPR's

4 NOVEMBER 1993

1. The attached report of the Co-ordinating Committee of the Ad-Hoc Committees and the recommendations of the Planning Committee are hereby tabled before the Negotiating Council for its consideration.
2. Having considered the above report, the Planning Committee believes:
 - 2.1 That the differences reflected in the reports of the Ad-Hoc Committees might not be resolved in the limited time available before the Constitution for the Transitional Period is finalised by the Negotiating Council;
 - 2.2 That the issues in this regard are very emotionally charged and contentious and should not be concluded by the Negotiating Council without further processes being put into place by the Negotiating Council;
 - 2.3 That extensive consultation with, and optimal participation by, the local people and organisations is a pre-requisite to a harmonious resolution of the differences; and
 - 2.4 That appropriate mechanisms must be considered to give effect to 2.2. and 2.3.
3. The Planning Committee therefore recommends to the Negotiating Council that:
 - 3.1 The boundaries recommended by the Commission on the Delimitation/Demarcation of Regions be incorporated in a Schedule of the Constitution for the Transitional Period, subject to 3.2, 3.3, 3.4 and 3.6;
 - 3.2 Further attempts to reach consensus by lunchtime on Wednesday 10 November 1993, inter alia, by way of bilateral discussions should be undertaken in respect of the areas identified in paragraphs 1.2, 2, 4.1.2 and 6 of the report by the extended Co-ordinating Committee on the Demarcation/Delimitation of SPR's;
 - 3.3 The recommendations of the Ad-Hoc Committees in respect of the following is accepted:
 - 3.3.1 That the current Provincial/State boundary between Natal/KwaZulu and Transkei should be retained as an interim measure. That would imply that the district of Umzimkulu would remain with the remainder

of Transkei whilst the magisterial districts of Alfred and Mount Curry would remain with Natal/KwaZulu;

- 3.3.2 That Groblersdal should be included in the Northern Transvaal;
 - 3.3.3 That KwaNdebele be transferred to the Eastern Transvaal; and
 - 3.3.4 That Sasolburg be included in the Orange Free State.
 - 3.4 The Multi-Party Negotiating Process establishes a structure (which the successor to the Multi-Party Negotiating Process will continue to manage and to which it will report) which will be charged with the responsibility of finalising those matters which still remain outstanding in respect of the areas mentioned in paragraphs 1.2, 2, 4.1.2 and 6 of the report by the extended Co-ordinating Committee on the Demarcation/Delimitation of SPR's, by way of:
 - 3.4.1 Taking cognisance of all submissions and reports on the boundaries;
 - 3.4.2 Continuing with further negotiations on the disputed areas; and
 - 3.4.3 Implementing appropriate mechanisms which will ensure optimal participation of people from the affected areas with a view to eliciting their opinions, inter alia, as recommended by the extended Co-ordinating Committee on the Demarcation/Delimitation of SPR's.
- That structure will complete this task within a time consistent with the requirements of the electoral process.
- 3.5 Provision is made in the appropriate Schedule of the Constitution for the Transitional Period for the content of the Schedule to be amended, if necessary, by proclamation before the elections.
 - 3.6 The Planning Committee reviews progress in respect of any matter still outstanding by 11 November 1993 with a view to presenting further recommendations to the Negotiating Council.

Note:

It was minuted that clause 3.3.1 was referred back to the relevant Ad-Hoc Committee.

RESOLUTION 34

THE ROLE OF TRADITIONAL LEADERS AT ALL LEVELS OF GOVERNMENT

**ACCEPTED BY THE NEGOTIATING COUNCIL ON
11 NOVEMBER 1993**

The Negotiating Council hereby resolves as follows:-

1. General

- 1.1 All matters pertaining to indigenous law/customary law shall be regulated by statute.
- 1.2 Traditional leaders shall have the following roles at local, regional and national levels:

2. At Local Level

- 2.1 Traditional authorities shall continue to exist and exercise their functions in terms of indigenous law, as prescribed and regulated by enabling legislation.
- 2.2 There shall be an elected local government which shall take political responsibility for the provision of services in its area of jurisdiction.,
- 2.3 The (hereditary) traditional leaders within the area of jurisdiction of a local authority shall be ex-officio members of the local government.
- 2.4 The chairperson of any local government shall be elected from amongst all the members of the local government.

3. At Regional Level

- 3.1 There shall be a House of Traditional Leaders in provinces with existing traditional authorities, composed of traditional leaders and elected by an Electoral College of that Province which shall meet when necessary, for the purposes set out in the paragraphs hereafter.
- 3.2 All legislation pertaining to traditional leadership; traditional authorities; indigenous law and custom, including any other matter having a bearing thereon, shall in a particular province, be referred to the House in that Province for its consideration and comment. In its comment the House shall also indicate whether it supports such legislation or not. Such comment shall

not be withheld for a period longer than 30 days from the date of receipt.

- 3.3 The comments of the House, if any, shall be submitted to the Provincial Legislature for it to consider whether to proceed with such legislation or not.
- 3.4 Should the House in its comment express opposition to the legislation, such legislation if passed by the Provincial Legislature shall be delayed for 30 days before final approval by the Provincial Legislature.
- 3.5 Appropriate procedures shall be framed by the Provincial Legislature to facilitate the above provisions.
- 3.6 The number of persons to be elected to the House of Traditional Leaders in each province will be determined by legislation/resolution of the Provincial Parliament in consultation with the Traditional Leaders within 6 months of the establishment of such Parliament.

4. At National Level

- 4.1 There shall be a Council of Traditional Leaders, composed of not more than 20 traditional leaders elected by an electoral college composed of the various Houses of Traditional Leaders at provincial level, which shall meet when necessary, for the purposes set out in the paragraphs hereafter.
- 4.2 Legislation and constitutional amendments pertaining to traditional leadership, traditional authorities, indigenous law and custom, shall be referred to the Council for its consideration and comment. In its comment the Council shall also indicate whether it supports such legislation or not. Such comment shall not be withheld for a period longer than 30 days after date of receipt.
- 4.3 Passage of legislation through the National Assembly and Senate shall not be delayed whilst proposed legislation is referred to the Council as set out above. To ensure that undue delay is avoided, proposed legislation shall be referred to the Council simultaneously with its submission to the Senate.
- 4.4 Should the Council in its comment express opposition to the legislation, such legislation if passed by the National Assembly shall be delayed for thirty days before final approval by the National Assembly.
- 4.5 The Council of Traditional Leaders will be entitled to advise the Government from time to time on any matter which it considers to be relevant to indigenous/customary law, tradition and custom.
- 4.6 The State President may seek the advice of the Council of Traditional Leaders on matters of national interest.

STANDING RULES OF PROCEDURE

1. Application

These Rules of Procedure apply at Plenary meetings and at meetings of the Negotiating Forum and the Negotiating Council.

2. Participants

The participating parties entitled to be represented at meetings are those listed in the List of Participating Parties annexed hereto. The Negotiating Forum can add parties to or delete parties from the list, on the recommendation of the Negotiating Council. Observers can be admitted as decided.

3. Delegates

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

3.1.1 Ten delegates (women must be included in the delegation) at Plenary meetings;

3.1.2 Four delegates (at least one of whom would be a woman) and two advisers at meetings of the Negotiating Forum;

3.1.3 Two delegates (at least one of whom would be a woman) and two advisers at meetings of the Negotiating Council; the leader of the delegation can appoint an adviser to take his/her place as an alternate if necessary.

3.2 Each participating party shall submit and register the names of its delegates and advisers with the [name of the forum] Administration.

3.3 Advisers can be substituted at any time provided that the substituting advisers are registered with the Administration in advance and that the leaders of the delegations notify the Chairpersons whenever an adviser is substituted during the course of a meeting.

3.4 In the event of a dispute concerning the credentials of a delegate or an adviser, the issue will be decided by the meeting itself upon the receipt of a factual report and recommendation of the Planning Committee.

4. **Agreements and Decisions**

- 4.1 All agreements are to be arrived at and decisions taken by general consensus.
- 4.2 If general consensus cannot be achieved, the method of sufficient consensus will be used.
- 4.3 Sufficient consensus means that:
 - 4.3.1 There is a lack of general consensus;
 - 4.3.2 There is enough agreement from enough participating parties to enable the process to move forward;
 - 4.3.3 Parties who disagree can record their objections or rejections formally, but will, in the spirit of cooperation, not hinder the process from going forward.
- 4.4 The ruling that there is consensus/sufficient consensus or not, shall be taken by the Chair in his/her discretion. However, before ruling that there is sufficient consensus or not, the Chair shall ensure that the disagreeing parties, especially those who consider themselves materially affected, as well as the meeting, shall have had sufficient opportunity to utilise a variety of mechanisms in order to reach the widest possible consensus.

In particular, such mechanisms shall include adjournments to enable informal discussions between participants, setting up technical committees composed as the meeting deems appropriate for the particular matter under consideration, as well as allowing participants to consult their principals.

The Chair and the meeting shall decide upon the specific mechanism/s on the basis of the nature of the issues around which the disagreement exists, with the view to arriving at consensus/sufficient consensus. These mechanisms are intended for resolving substantive issues and not for formal and administrative decisions.

- 4.5 The ruling that there is consensus/sufficient consensus or not can however be challenged by any party who disagrees. The meeting will then deal with it as is appropriate.

5. **Quorum**

The Chair may declare a meeting open and permit the debate to proceed when delegates of at least two-thirds of the participating parties are present.

6. Speeches and interventions

- 6.1 Every delegate shall be entitled to speak.
- 6.2 If a speaking order has been agreed upon, the Chair shall call the speakers in that order.
- 6.3 In general, the Chair shall call on speakers in that order in which they signify their desire to speak. The Chair however, shall ensure that each delegation is afforded a reasonable opportunity to speak.
- 6.4 The Chair shall apply the standard rules applicable to meetings, except as otherwise stipulated herein.

7. Chairing of meetings

- 7.1 Plenary meetings shall be chaired by an independent Chairperson/s to be decided upon by the Negotiating Council.
- 7.2 The Negotiating Forum and the Negotiating Council shall be chaired by a core panel of Chairpersons (assisted by two persons from within the Negotiating Council), appointed on merit and capability by the Negotiating Council from its own ranks and serving on a rotating basis. This principle of rotation should be applied from time to time as decided by the Negotiating Council, bearing in mind the principle of continuity.

8. Minutes and Documentation

- 8.1 The proceedings of Plenary meetings shall be recorded and transcribed and copies of the transcript made available to all delegates.
- 8.2 The proceedings of meetings of the Negotiating Forum and Negotiating Council shall be recorded in full, but only agreements and decisions shall be minuted.
- 8.3 Where a member or members specifically request that their objection is noted, their objection will be so minuted.

9. Media

All meetings of the Plenary, The Negotiating Forum and The Negotiating Council shall be open to the media, with the proviso that the Negotiating Council may, in terms of its own procedures, decide on which part of its meetings should be closed to the media